



CITY OF HOBART

# **AGENDA**

## **Finance and Governance Committee Meeting**

### **Open Portion**

**Tuesday, 20 July 2021**

**at 4:30 pm**

**Council Chamber, Town Hall**

### **SUPPLEMENTARY ITEM**

#### **ORDER OF BUSINESS**

- 10 LOCAL GOVERNMENT ASSOCIATION OF TASMANIA GENERAL MEETING MOTIONS..... 3**

**The Chief Executive Officer reports:**

“That in accordance with the provisions of Part 2 Regulation 8(6) of the *Local Government (Meeting Procedures) Regulations 2015*, these supplementary matters are submitted for the consideration of the Committee.

Pursuant to Regulation 8(6), I report that:

- (a) information in relation to the matter was provided subsequent to the distribution of the agenda;
- (b) the matter is regarded as urgent; and
- (c) advice is provided pursuant to Section 65 of the Act.”

**10 Local Government Association of Tasmania General Meeting  
Motions  
File Ref: F21/65743**

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Memorandum of the Chief Executive Officer of 16 July 2021 and attachments.

Delegation: Council

**REPORT TITLE: LOCAL GOVERNMENT ASSOCIATION OF TASMANIA  
GENERAL MEETING MOTIONS****REPORT PROVIDED BY:** Chief Executive Officer**1. Report Purpose and Community Benefit**

- 1.1. The purpose of this report is to consider the Council's position on a range of motions to be discussed at the Local Government Association of Tasmania's (LGAT) General Meeting on 5 August 2021.
- 1.2. In considering the motions to the LGAT General Meeting, the Council has the opportunity to influence local government policy for the betterment of its community.

**2. Report Summary**

- 2.1. The August General Meeting will consider a number of motions put forward by member councils.
- 2.2. This report provides a recommended position for the Council to take on these motions.

**3. Recommendation*****That:***

1. ***In accordance with Attachment A to this report, the Council endorse the motions recommended for support, to be considered at the Local Government Association of Tasmania General Meeting to be held on Thursday 5 August 2021.***

**4. Background**

- 4.1. The LGATs General Meeting to be held on 5 August 2021 is set to consider a range of motions which have been raised by councils for consideration at the meeting.
- 4.2. The motions submitted this year fall under the following categories:

**Roads and Infrastructure**

Malicious Vandalism of Public Facilities

Heavy Motor Vehicle Road Tax Distribution

**Sector Profile and Reform**

Code of Conduct Training Costs

**Sector Capacity**

Renewable Energy Project Developments on Crown Land

Workplace Health and Safety Review for Elected Members

**Land Use Planning and Environment**

Statewide Planning Scheme Provisions

Integrated Regional Housing Supply Strategy

Review of State Regional Land Use Strategies

Coastal Hazards Management

Community Based Engagement Strategy

Parks and Wildlife Service Maintenance of Infrastructure

EPA Role in Planning Assessment

Cost Shifting

**Public Policy General**

Introduction of Referendums

Recognition of Assistance Dogs

4.3. A suggested position and supporting comments can be found at Attachment A.

4.4. Background information, including comment from the LGAT and Tasmanian Government Agencies can be found at Attachment B.

**5. Proposal and Implementation**

5.1. It is proposed that the Council consider the motions listed at Attachment A which have been submitted to the LGATs August General Meeting.

**6. Financial Implications**

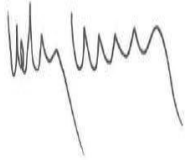
6.1. Funding Source and Impact on Current Year Operating Result

6.1.1. Not applicable.

**7. Delegation**



7.1. This matter is delegated to the Council.

*As signatory to this report, I certify that, pursuant to Section 55(1) of the Local Government Act 1993, I hold no interest, as referred to in Section 49 of the Local Government Act 1993, in matters contained in this report.*



Kelly Grigsby  
**CHIEF EXECUTIVE OFFICER**

Date: 16 July 2021  
File Reference: F21/65743

Attachment A: Suggested Position and Supporting Comments ↓   
Attachment B: Background Information ↓ 

LGAT Motions – Suggested Council position and supporting comments

Motion	Support/Not Support/Abstain	Comment
That the LGAT investigate the option of the introduction of <b>“propositions” (referendums)</b> for local and state elections, and that a mechanism for this change be initiated. (Burnie City Council)	Not support	Whilst council officers are not opposed to this motion, they do not see the need for it.
That LGAT continue to lobby the State Government to implement funding change by- a. A 3 year, phased in reinstatement of the equitable distribution of the <b>heavy motor vehicle road tax distribution</b> to the percentage of funds collected; and b. A one off additional annual payment allocation of the heavy motor vehicle road tax distribution as compensation for 25 years of no indexation of the funding allocation and to support enhanced road infrastructure development in all local government areas. (Circular Head Council)	Support	The current heavy motor vehicle road tax has been fixed at \$1.5m since 1996-97 for distribution to council. The distribution to council is calculated based on the product of tonnage carried over local roads and the distance over which it carried, for example the City of Hobart received 3.86% (\$57,853) for 19/20 FY.  If supported, the amount of distribution to the City is likely to increase.
That LGAT Lobby the State Government to develop an <b>integrated regional housing supply strategy</b> in partnership with the federal government and the private sector to deliver a diversified housing supply to all the areas of housing undersupply across the state. (Circular Head Council)	Support	The undersupply of affordability housing and the limited nature of the housing stock is a state wide phenomena. Having a clear coherent strategy to address this fundamental need is considered warrant and therefore worthy of support.

Motion	Support/Not Support/Abstain	Comment
That LGAT lobby the State Government on behalf of all Local Councils for the early completion of <b>Coastal Hazards Management for Existing Settlements and Values project</b> , with a final report and recommendations being made publicly available. (Circular Head Council)	Support	Climate change and the rise in sea levels will continue to put coastal settlements under pressure from inundation and erosion. Having State Government support to complete this related project at the earliest should provide both levels of government greater guidance as to how best to respond to this increasing hazard.
That LGAT lobby the State Government on behalf of all Local Councils for the implementation of a <b>local community based engagement strategy</b> to inform and empower local communities to have better understanding of the policy contents and opportunities for social and economic wellbeing through enhancing a <b>strong and growing renewables industry</b> across Tasmania. (Circular Head Council)	Support	The City is supportive of the development of a community engagement strategy as we recognise the importance of including the community in decisions which affect their lives. However, there is some concern around the use of the word 'empower' in this context. Based on the IAP2 public participation spectrum, 'empower' promises to place the final decision making power in the hands of the public. 'Encourage' may be a better choice of words in this instance.
That LGAT lobby the State Government on behalf of all Local Councils for the implementation of a coordinated <b>long term 10 Year strategic asset management plan</b> to be implemented by the <b>Tasmanian Parks and Wildlife Service</b> for all their customer facing public use assets and infrastructure services. (Circular Head Council)	Support	Limited impact on Hobart, but would be very beneficial to understand the works coming up and be reassured asset management is a priority of the Agency.



Motion	Support/Not Support/Abstain	Comment
That LGAT lobby the State Government on behalf of all Local Councils for the implementation of a state development policy to make suitable <b>crown land</b> made available for all types of <b>renewable energy project developments</b> to support social and economic benefit to Tasmania. (Circular Head Council)	Support	Potential to support considerations for future investment attraction strategies and meet net zero 2050 targets.
That LGAT lobby the State Government on behalf of all Local Councils for significantly stronger <b>penalties for malicious damage and vandalism</b> to public facilities and infrastructure. (Circular Head Council)	Support	Help to act as a deterrent of vandalism.
That LGAT Lobby the State Government to activate a comprehensive <b>review of all state regional land use strategies</b> given the expanding development growth demands and statewide housing shortages being experienced in most local government areas. (Circular Head Council)	Support	This motion is consistent with the Council resolution of 10 May 2021.
That LGAT lobby the State Government on behalf of all Local Councils for improved & mandated <b>Environment Protection Authority (EPA) transparency</b> , community facing participation and engagement processes in the assessment of development proposals for which the Environment Protection Authority have levels of responsibility in determining recommendations and approvals. (Circular Head Council)	Support	An enhanced ability for the community to be engaged in these deliberations provides the opportunity to foster greater exchange of information that may assist in the subsequent decisions of the EPA. A more informed EPA should lead to better planning outcomes.

Motion	Support/Not Support/Abstain	Comment
That LGAT lobby the State Government on behalf of all Local Councils for the <b>inclusion of assistance animals into the Dog Control Act 2000</b> section 28(2) as they provide a valuable community wellbeing service. (Circular Head Council)	Support	<p>All Councils have different requirements for assistance animals. Some recognise and register assistance animals and others do not. COH does not recognise assistance dogs as a category of registration as there is no legislative basis to do so. An amendment to the Act would ensure consistency across the state.</p> <p>This motion is strongly aligned with the City of Hobart's <i>City for All: Community Inclusion and Equity Strategy</i> and the <i>Draft Equal Access Commitment</i>. Assistance animals support members of the community to have the opportunity, choice and freedom to participate fully in the life of the City. Assistance animals should be included in the <i>Dog Control Act 2000</i> legislation on the same basis as guide or hearing dogs.</p>
<b>Workplace Health and Safety Review for Elected Members</b>	Support	City of Hobart motion
That LGAT lobby the State Government to urgently review recent Resource Management and Planning Appeal Tribunal and Supreme Court planning decisions with a view to amending the <b>statewide planning scheme</b> provisions to take account of any recent issues and to ensure <b>loopholes</b> are not exploited resulting in development contrary to the intention of the provision of the scheme. (Northern Midlands Council)	Support	A review of the use of part 5 agreements in planning provision in light of this case should assist all Planning Authorities.

Motion	Support/Not Support/Abstain	Comment
<p>That LGAT lobby the State Government to increase the <b>resourcing for cat management and control of weeds.</b> (Northern Midlands Council)</p>	<p>Support (in relation to weed control) Support (in relation to cat management)</p>	<p>Resources are currently limited, additional funding would help with weed management.</p> <p>While COH recognises cat management actions under the Act are at the discretion of Council, there is an expectation in the community for Councils to act and fund the cost of such actions. The COH does not have any cat management officers nor does it have current resources to dedicate officers to cat management. It is difficult for Councils to address complaints and community expectations without the issue of resourcing being addressed.</p>
<p>That LGAT lobby the State Government to <b>change S 28ZNA (2) of the Local Government Act 1993</b> to require that 'if, as a result of a determination report, a Councillor is required to undergo training, the costs associated with that training are to be borne by the relevant Councillor, and not the rate payer'. (Kingborough Council)</p>	<p>Support</p>	<p>The training requirements are imposed as a penalty for breaching a code of conduct and so the cost of that training being borne by the individual is consistent with that.</p>

## Motions For Which Notice Has Been Received

### 10 ROADS AND INFRASTRUCTURE

#### 10.1 Stronger Penalties for Malicious Vandalism of Public Facilities Council – Circular Head

##### Decision Sought

That LGAT lobby the State Government on behalf of all Local Councils for significantly stronger penalties for malicious damage and vandalism to public facilities and infrastructure.

##### Background Comment

The recent impacts of vandalism across the spectrum of public facilities both at the local and state government provided level has periodically been subject to malicious vandalism and destruction.

These behaviours are causing considerable concern to all local authorities and state agencies as this escalates the costs of sustaining services to the wider user public and when malicious vandalism occurs places considerable additional costs back to community funds to continually repair and or replace infrastructure.

##### LGAT Comment

There have been no previous motions on this matter.

Tasmanian Police crime data indicates that the number of 'Injure/Destroy Property' offences recorded rose by 4 per cent (130 offences) in 2019-20 compared with the previous year. This followed a 3 per cent fall in 2018-19 compared with 2017-18. The 2019-20 rate of 3,291 sits slightly above (0.5 per cent) the median rate over the last five years to 2015-16 (3,273) suggesting rates of this offence are stable. Injure/Destroy Property offences recorded in 2019-20 occurred most frequently at a residential location (52 per cent), followed by in the street/footpath (14 per cent).

The Australian Government's Australian Institute of Criminology notes that around 25 per cent of vandalism is premeditated or malicious, and the reasons for these activities are complex, and therefore require an integrated approach to address.

##### Tasmanian Government Agency Comment

The Department of Police, Fire and Emergency Management does not believe there is a need for increased penalties for vandalism. There are currently a range of offences, and associated penalties, that may be applied to such conduct, with existing penalties already being significant.

For example, the maximum fine for marking graffiti (including drawing, writing or otherwise defacing property) is up to 20 penalty units (currently \$3,440). In the case of adult offenders, police may also issue on-the-spot infringement notices with a penalty of \$860.

In other cases where property is damaged or destroyed, offenders may be charged with either summary or indictable offences, dependent on the extent of the damage. Under section 37 of the *Police Offences Act 1935*, the maximum penalty for the summary offence is 10 penalty units (\$1,720) or imprisonment for up to 12 months. While in the case of the indictable offence under section 273 of the Criminal Code, the maximum penalty is up to 21 years imprisonment.

A more significant factor in deterring such offences is likely the perception of apprehension. Police work hard to investigate reported damage and hold offenders to account. However, there are a range of practical measures councils can take to aid in this and deter offending such as the deployment of CCTV cameras to assist in identifying offenders.

## 10.2 Heavy Motor Vehicle Road Tax Distribution Council – Circular Head

### Decision Sought

That LGAT continue to lobby the State Government to implement funding change by-

- a. A 3 year, phased in reinstatement of the equitable distribution of the heavy motor vehicle road tax distribution to the percentage of funds collected; and
- b. A one off additional annual payment allocation of the heavy motor vehicle road tax distribution as compensation for 25 years of no indexation of the funding allocation and to support enhanced road infrastructure development in all local government areas.

### Background Comment

Council previously considered the information presented below-

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%)

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; and
- 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 State Grants Commission publication referenced above Circular Head Council'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 and Circular Head Council's share would be \$627,582. This would represent an equivalent 4.9 rate rise in the general rate for the \$348,030 increase in revenue (and would cut our forecast 2019/20 deficit from \$1.1million to \$0.75million).

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 Circular Head Council.

The situation has not changed, and or improved and the equitable distribution of funds remains unaddressed. A much more detailed and targeted approach is now required. A direct change of focus by LGAT to develop a lobbying strategy to engage key stake holders is seen as the best way forward to formulate a change outcome to engage key non-government industry stake holders.

**LGAT Comment**

This issue has a long history. LGAT received similar motions in 2005 and 2006 and essentially the same motion, split into its two component parts, in 2019.

LGAT has advocated many times on this issue. For example, LGAT 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. LGAT has highlighted this issue in parallel advocacy with regards to the Australian Government's current and related program of Heavy Vehicle Road Reform<sup>8</sup>.

For the 2019 motion, LGAT met with Department of State Growth officials and wrote to the, then, Minister for Transport. The Minister responded in a similar manner as the Tasmanian Government Agency Comment, by avoiding addressing the purpose of collecting the Heavy Vehicle Motor Tax, being for road wear and tear caused by heavy vehicle road usage, and so also avoiding addressing that the tax should be distributed in the same manner, according to heavy vehicle road usage.

The Tasmanian Government comment on this motion does not:

- Respond to the absence of indexation;
- Explain how the funding approach supports their road management and heavy vehicle access goals for the Tasmanian road network, or
- Address why, when motor tax revenue is increasing, local government distribution should be declining in real terms.

More explanation of the Heavy Vehicle Motor Tax can be found on the Department of State Growth website<sup>9</sup>.

**Tasmanian Government Agency Comment**

The State Government considers there has been no change in circumstances that would warrant a deviation from the Government's position in July 2019, when LGAT last considered this issue.

Accordingly, the State Government does not support implementing a three year phased increase to its \$1.5 million annual contribution to supplement local council road maintenance programs.

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<sup>8</sup> See: <https://www.infrastructure.gov.au/roads/heavy/proposed-changes-consultation-submissions.aspx>

<sup>9</sup> See: [https://www.transport.tas.gov.au/fees\\_forms/registration\\_fees](https://www.transport.tas.gov.au/fees_forms/registration_fees)

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 payment 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.

Given the State Government does not support any increase in its \$1.5 million annual contribution to supplement local council road maintenance programs, it also does not support the provision of a one off payment allocation as compensation for the grant not being indexed.



**11 SECTOR PROFILE AND REFORM****11.1 Code of Conduct Training Costs  
Council – Kingborough****Decision Sought**

That LGAT lobby the State Government to change S 28ZNA (2) of the Local Government Act 1993 to require that 'if, as a result of a determination report, a Councillor is required to undergo training, the costs associated with that training are to be borne by the relevant Councillor, and not the rate payer'.

**Background Comment**

Council recently received a Code of Conduct Panel Determination Report in relation to a complaint.

The Panel determined that multiple Parts of the Councillors Code of Conduct had been breached.

The sanctions imposed included a requirement to undertake at least six hours training and/or counselling in anger management and appropriate workplace behaviour. Under the current requirements of the legislation this counselling/training will be paid for by Council.

The cost of the counselling/training is estimated to be approximately \$3000.

This expense to Council is on top of the cost of the Panel Hearing, estimated to be approximately \$7,000 which is also to be paid by Council.

This motion seeks to gain the support of Councils in Tasmania to have the legislation changed to require that where a Panel determines that a Councillor is required to undertake counselling/training that the cost should be borne by the relevant Councillor and not the rate payer.

**LGAT Comment**

Over the years there have been a number of motions on the Code of Conduct framework. The most recent from last year:

- Seeking a full review of the entire Code of Conduct process and upfront mandatory mediation process funded by the Local Government Division; and
- Declaring no confidence in the Code of Conduct process and call on the Minister for Local Government to urgently take a more active role in resolving the issues.

The combination of a new Local Government Minister and the consultation on the Discussion Paper – Local Government Code of Conduct Framework, recently commenced offer the sector the best opportunity to resolve many of the well documented issues with the Code of Conduct framework.

**Tasmanian Government Agency Comment**

Section 28ZNA of the *Local Government Act 1993* (the Act) provides that if a councillor is required to undergo training as the result of a sanction imposed by the Code of Conduct Panel, then the costs of that training are to be borne by the relevant council.

Councillors are elected by their communities and are ultimately accountable to those communities for the decisions and actions which they take. The Code of Conduct framework is consistent with this accountability framework and it is for this reason that the community is financially liable for the actions of their representative councillors, but is equally empowered through normal democratic processes to judge those actions. Additionally, in consultation with the sector, the Code of Conduct framework was first implemented with a view to establishing a mechanism that holds individual councillors to account, without creating financial barriers which may potentially obstruct or inhibit democratic representation. For these reasons, the Government is not supportive of this change.

Following the regional forums undertaken with the sector in October and November 2020, the Minister for Local Government has recently endorsed public consultation on targeted reforms to the Code of Conduct framework. While this consultation process is seeking feedback on a number of specific reforms previously discussed with the sector, this will nonetheless provide an opportunity for feedback on some associated aspects of the framework. Specifically, the reforms propose that the sector explore dispute resolution procedures, which may present a genuine opportunity for the sector to change workplace culture to minimise the need for Code of Conduct complaints to be escalated in the first place.

**12 SECTOR CAPACITY****12.1 Renewable Energy Project Developments on Crown Land  
Council – Circular Head****Decision Sought**

**That LGAT lobby the State Government on behalf of all Local Councils for the implementation of a state development policy to make suitable crown land made available for all types of renewable energy project developments to support social and economic benefit to Tasmania.**

**Background Comment**

The recent announcement of the State Government promoting the virtues of the Renewables Tasmania Draft Renewable Energy Coordination framework makes clear reference to what the framework delivers in section four of the document. This section identifies and established objective three which is referenced as Partnering with Communities.

However, there is little reference in the narrative of how the state can partner with local communities and promote renewable energy projects on state owned land. The maximisation of development potential will clearly require the participation of state owned land resources to facilitate long term intergenerational infrastructure to be built and operated for long term community benefit. The implementation of such a policy would facilitate confidence in the investment required to bring forward a new generation of renewable projects and the wider social and economic benefit to the Tasmanian community.

**LGAT Comment**

There have been no previous motions on this matter.

**Tasmanian Government Agency Comment**

The draft Framework is currently being revised and will be released in mid-2021. The Framework provides the core structure in which a suite of inter-related work streams will be undertaken. An initial core task will be for Renewables Tasmania to assess areas/regions with a high potential for renewable energy development. Through this process, we will understand the parcels of Crown Land that meet the development criteria.

This assessment will ultimately inform discussions with Crown Land managers, developers and local communities on appropriate areas, including Crown Land, to support the planned growth in renewables. Providing clear policy direction on Crown Land access and resources management to support the State's renewable energy objectives will also be part of the Framework's implementation.

Community benefit analysis will also be a key focus for the initial implementation of the Framework to identify opportunities to maximise community benefits from the anticipated renewable energy growth within the regions.

Under the current access arrangements, proponents can make applications to access and use Crown Land. Such applications are to the relevant Crown Land managing authority through a standard assessment and approvals process.

All renewable energy projects on Crown Land are assessed for their compatibility with the reserve type. Assessments may include local, State and Federal processes depending upon the scale of the proposal, its location, and the values that are impacted by the proposal. It is not appropriate or necessary for land to be made available until there is a defined proposal that is able to be assessed on its merits.

In the case of the West Coast Renewable Energy Project, this energy park is now being led across Government by the Office of the Co-ordinator-General as the proposal impacts the Strategic Prospectivity Zone of the West Coast. It is envisaged that a similar coordinated approach may be taken to State Significant projects of this scale.

The West Coast Renewable Energy Project, is a very large and complex project involving a significant tract of Crown Land of various tenures and with competing interests regarding the use of that land, including interaction with Strategic Prospectivity Zones. The proposal must be considered with all the complexities that lie within it.

A Crown Licence has been executed for the purposes of undertaking wind resource modelling to inform the wind farm's business case and the company has also now gained the necessary approvals to undertake time critical studies in relation to fauna (such as the orange-bellied parrot). It is understood that these studies have commenced.

## **12.2 Workplace Health and Safety Review for Elected Members Council – City of Hobart**

### **Decision Sought**

**That LGAT calls on the State Government to commission Equal Opportunity Tasmania to undertake a review of the workplace health and safety of the Local Government sector for elected representatives.**

### **Background Comment**

In 2019, in response to several resignations by young women in Local Government, LGAT conducted a survey for elected members about bullying and harassment online. One third of

elected members responded and 60% reported that they have experienced bullying and harassment and were not clear of their legal protections in terms of workplace safety.

In 2021 more than 40 Tasmanian local government representatives from 16 Councils signed a joint statement expressing concern about workplace culture, particularly for women in Local Government.

The workplace health and safety of the Tasmanian Parliament will be the subject of an Inquiry by Equal Opportunity Tasmania and the Victorian Auditor General completed an Inquiry into sexual harassment in Local Government.

#### **LGAT Comment**

In 2019 there were concerns raised inside and outside of the sector regarding issues of online bullying and harassment of elected representatives. In response to these concerns, LGAT undertook a survey looking at online bullying and harassment via social media (only).

The survey received 57 responses, with 60% (34) respondents reported experiencing online bullying and harassment.

LGAT undertook a number of actions, framed around building member capacity across online bullying and harassment. These included:

- Mayors Workshop roundtable (which included the Minister for Local Government);
- Two speakers at the Elected Representatives weekend on resilience;
- Training on social media which included managing online bullying;
- Development of a social media resources page on the [LGAT Extranet](#). The resources cover the following areas:
  - Social Media, Local Government and Legislation;
  - Social Media Overview, Statistics and Data;
  - Using Social Media as an Effective Engagement Tool;
  - Cyberbullying and trolls;
  - How to respond to negative social media; and
- Presented at the 2020 One Day Conference on resilience and mental health.

Currently, LGAT is supporting Our Watch with the Workplace Equality and Respect (WER) Standards for officers. This work could be expanded to encompass Elected Representatives with appropriate funding.

#### **Tasmanian Government Agency Comment**

The Government supports safe and respectful workplaces for all individuals and is committed to supporting the local government sector to explore options to address issues raised about

discrimination in local government workplaces, including any alleged bullying and harassment of women.

The Director of Local Government has been actively engaging with the sector and other relevant agencies on these issues. In May 2021, the Director met with the Lord Mayor and other local government representatives, including the Chief Executive of the Local Government Association of Tasmania to discuss a review of culture in the local government sector.

Subsequent to that meeting, the Director agreed to:

- Write to all mayors and invite them to consider jointly sponsoring an independent review into the practices and procedures of councils, including the chamber workplace, existing complaints mechanisms, frameworks and any cultural and structural barriers to reporting alleged discrimination or harassment;
- Invite all mayors to sign a workplace equality and respect statement for each of their councils, committing to supporting a safe, welcome and inclusive environment for councillors, employees and visitors;
- Subject to the sector's response to the two points above, propose that LGAT and the Director will hold a meeting with mayors to discuss these matters in greater detail; and
- Support LGAT to investigate whether the Our Watch Program and other applicable training can be extended to local government including elected members.

The Director further undertook to write to all councillors as part of a process of building awareness in relation to this important matter.

Consistent with the above, the Government considers that an independent review of the workplace health and safety of councillors is most appropriately led by the local government sector. This could include a review into the practice and procedure of councils, including the chamber workplace, existing complaints mechanisms, frameworks and any cultural and structural barriers to reporting alleged discrimination or harassment.

The Government is also of a view that as part of any exploration into these issues, there exists opportunity for the sector to first increase awareness around councillors' broad obligations and responsibilities under the *Anti-Discrimination Act 1998* (AD Act), which provides the foundational framework most relevant to the prevention of discriminatory behaviour. Under the AD Act, councils *must* create a workplace that is free from discrimination and harassment. All organisations in Tasmania, regardless of size, must adhere to the AD Act.

Additionally, under the AD Act, councillors collectively have obligations to ensure that all councillors and employees are aware of what amounts to discrimination or other similarly prohibited conduct, and further ensure that persons within council do not engage in such



conduct. A council may be liable under that Act for a failure to take appropriate steps to this effect. Importantly, whilst Mayors and Councillors have limited immunity under section 341 of the *Local Government Act 1993*, they may still find themselves personally liable should they breach the provisions of the AD Act.

Equal Opportunity Tasmania encourages all organisations, including councils to have their own grievance procedures in place to provide an appropriate mechanism to resolve anti-discrimination complaints. There is also an ability to escalate a complaint to the Anti-Discrimination Commissioner if council's own grievance process is inadequate.

In building the sector's awareness around these obligations, Equal Opportunity Tasmania provides a range of training and education materials, these could be tailored to the sector's requirements and further information can be found at [www.equalopportunity.tas.gov.au/training](http://www.equalopportunity.tas.gov.au/training). The Director of Local Government and the Anti-Discrimination Commissioner are open to engaging further to explore appropriate and ongoing training opportunities for councillors.

While it was always intended as a measure of last resort, the local government Code of Conduct framework also provides a mechanism to deal with inappropriate behaviour of councillors. The Local Government Division, through its regional forums conducted with the sector in October and November 2020, has encouraged the development of dispute resolution policies to deal with complaints before they are escalated to a Code of Conduct Panel. In keeping with the recommendations of Equal Opportunity Tasmania, the implementation of these policies would provide a genuine opportunity to address grievances with behaviours in the council generally and could extend to workplace equality.

## 13 FINANCIAL SUSTAINABILITY

No Motions Received

**14 LAND USE PLANNING & ENVIRONMENT****14.1 Statewide Planning Scheme Provisions  
Council – Northern Midlands****Decision Sought**

That LGAT lobby the State Government to urgently review recent Resource Management and Planning Appeal Tribunal and Supreme Court planning decisions with a view to amending the statewide planning scheme provisions to take account of any recent issues and to ensure loopholes are not exploited resulting in development contrary to the intention of the provision of the scheme.

**Background Comment**

The Northern Midlands Council was recently unsuccessful in the appeal of *Northern Midlands Council v Smith* [2021] TASSC 8.

In 2018 the Northern Midlands Council approved an application for visitor accommodation on a Rural Resource zoned property.

In 2019 the Northern Midlands Council received an application for a permit to subdivide that property into two lots in order to place the existing house on one lot and the approved visitor accommodation on another lot.

Clause 26.4.2 P1 b) of the zone requires that subdivision is for the purpose of creating a lot for an approved non-agricultural use other than a residential use.

The application was approved with a condition that a Part 5 agreement be entered covenanting the lot in question to be used only for visitor accommodation.

The decision was appealed to the Resource Management Planning Approvals Tribunal who upheld the appeal. The condition was removed.

Council appealed the Tribunal's decision to the Supreme Court. The appeal was dismissed.

Subdivision of the original property could not have been approved if it was for residential use, due to it being in the Rural Resource Zone. Subdivision was allowable under the performance criteria for development of visitor accommodation in the Rural Resource Zone. However, once a building for visitor accommodation has been erected, there is great difficulty in enforcing that the building is not used in future for residential use, given the definition of visitor accommodation in Planning Directive 6 allowing for it to be provided to the general public at



no cost. There is no way to ensure protection of the Rural Resource Zone objectives and provisions due to this loophole.

Council is now concerned that a precedent has been set for a loophole to be exploited in the planning scheme and seeks support to amend the state provisions to close this loophole.

**LGAT Comment**

The LGAT General Meeting has previously considered motions on the Tasmanian Planning Scheme (TPS), but this is the first regarding this specific issue.

The State Planning Provisions are required to be reviewed at the end of every five years under Section 30T the *Land Use Planning and Approvals Act 1993*. As noted in the Tasmanian Government comment, the first review is due in March 2022. LGAT is aware that some councils operating under the TPS are collating items to be amended. LGAT has begun the conversation with the Tasmanian Government about informing the next review and subsequent amendment process.

**Tasmanian Government Agency Comment**

The State Planning Provisions (SPPs) have only been in operation for around 10 months in Burnie and have recently taken up operation in Meander, Brighton, West Coast and Circular Head. Notwithstanding the short period of operation, the SPPs are scheduled for their statutory five year review in March 2022 and it is expected that this review will take into account any recent decisions made by the Resource Management and Planning Appeal Tribunal in relation to matters that relate to the content or operation of the SPPs.

At this stage, only very few issues have been raised about the operation of the SPPs as opposed to their policy intent.

The specific issue raised by the Northern Midlands Council is dealt with differently in the SPPs as are the provisions relating to establishing visitor accommodation uses in these zones. While a visitor accommodation use is similar to a residential use, it does involve a change of use that requires a planning permit. Irrespective of the definition of 'visitor accommodation' including where it can be provided to the public at no cost, it relates to short term accommodation not long-term residential use.

In the SPPs the ongoing protection of the Rural zone objectives is managed by the required setbacks in the zone for both residential and visitor accommodation uses.

The Government is aware that by establishing the Tasmanian Planning Scheme it has a responsibility to ensure the ongoing currency and appropriate operation of the SPPs.

**14.2 Integrated Regional Housing Supply Strategy**  
**Council – Circular Head****Decision Sought**

**That LGAT Lobby the State Government to develop an integrated regional housing supply strategy in partnership with the federal government and the private sector to deliver a diversified housing supply to all the areas of housing undersupply across the state.**

**Background Comment**

Housing supply has now become a key issue for many regions of the state as a result of some key growth outcomes and project development.

The recent strong economic and positive population success of the state is now challenging the local community, awakening the opportunity to grow and providing new community aspirations.

**LGAT Comment**

Housing shortages and escalating affordability problems have become common now in many parts of Australia. However, as a market with smaller housing stock, Tasmania can be particularly sensitive to market shifts, with house price growth often outpacing the traditional hotspots of Sydney and Melbourne. There can be many drivers of housing shortages, so a robust response should look at all of them, including land availability, land banking or release reluctance, infrastructure planning, delivery and financing, construction industry capacity.

LGAT will participate in Tasmanian Government consultations regarding housing affordability and engage the local government sector at every opportunity.

**Tasmanian Government Agency Comment**

The Tasmanian Government acknowledges the mover of this motion and agrees with the intention. The Government now has in place such an integrated approach, *Tasmania's Affordable Housing Strategy 2015-2025*, supported by *Tasmania's Affordable Housing Action Plan 2015-2019* (Action Plan 1) and *Tasmania's Affordable Housing Action Plan 2019-2023* (Action Plan 2). This is a strategy to improve affordable housing and help those most in need of safe and secure housing. Record investment of \$300 million is assisting around 5,000 Tasmanians in housing need, including supply of around 2,350 social housing dwellings by 30 June 2023.

The Tasmanian Liberal Government recently announced a \$2 million commitment towards a comprehensive Tasmanian Housing Strategy that will be developed and implemented as a long-term strategy over 20 years to ensure that public and private housing meets the growing needs of the community. This will address a range of issues such as population growth, land

availability, taxes, planning approval, construction workforce, infrastructure and sustainable housing.

Broad consultation with the Tasmanian community will be undertaken to develop the Tasmanian Housing Strategy. This will involve key expert groups, including local government to be engaged in the consultation process. This will include exploring the needs of particular cohorts and population groups, as well as regional issues.

The new strategy is supported by a range of funding commitments including \$315 million additional funding towards social and affordable housing and homelessness initiatives across the state, and investment of \$3.45 million to conduct reviews of Tasmania's three regional land use strategies. The three regional land use strategies have not been substantially reviewed since they came into effect in 2010 and updated strategies based on demand analysis will ensure the planning system remains fit for purpose and continues to promote sustainable residential development and infrastructure.

This brings the Government commitment towards housing to \$615 million over seven years. This is a well-funded and comprehensive approach to addressing a range of housing issues across the state, including the private and public sectors. The Tasmanian Housing Strategy will meet the broad needs of addressing housing issues, and therefore a regional housing supply strategy will not be required.

#### **14.3 Review of State Regional Land Use Strategies** **Council – Circular Head**

##### **Decision Sought**

**That LGAT Lobby the State Government to activate a comprehensive review of all state regional land use strategies given the expanding development growth demands and statewide housing shortages being experienced in most local government areas.**

##### **Background Comment**

The regional land use strategy has been mentioned by the present Minister for Planning in the current election campaign and a follow up with the subsequent LGAT AGM motion is recommended.

##### **LGAT Comment**

LGAT has been steadily intensifying our advocacy to the Government for an update to the

Regional Strategies<sup>10</sup>, with this issue one of LGAT's major platforms in our State Election Advocacy 2021<sup>11</sup>. Indeed, it is likely that the PESRAC recommendation and subsequent commitment by the Tasmanian Government to commit a further \$3.45 million to a comprehensive review of the Regional Strategies can be, in part, attributed the LGATs sustained advocacy efforts.

#### **Tasmanian Government Agency Comment**

The LGAT motion aligns with the recent PESRAC recommendation to comprehensively review the three regional land use strategies to assist with guiding major investments in the State.

The Government has started work on an integrated program for reviewing the regional land use strategies including providing the policy basis, improved regional planning framework as well as a means of bringing forward projects at a local council and regional level that will address immediate issues and inform the review program. This recognises that while undertaking comprehensive reviews of the three regional land use strategies is a 2-3 year exercise, there are opportunities for substantial work to address local issues that can be carried out over coming months if they are contained within a common program and integrated later into the comprehensive reviews. This program will concurrently develop the Tasmanian Planning Policies and a proper legislative framework and governance structure for ongoing preparation and amendment of the regional land use strategies.

In the 2020-21 Budget the Government committed \$550,000 to assist with undertaking short-medium term reviews and updates to the three strategies – such as co-funding regional/sub-regional supply and demand analyses, reviews of settlement growth management strategies, and establishing a consistent methodology and template for settlement structure plans to help inform updates to the strategies. These opportunities are already being discussed with local councils at a regional level in the north.

In line with the election commitment, a further \$3.45m will be made available to ensure the comprehensive reviews of all three strategies including the adoption and continuity of this early work into them.

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<sup>10</sup> See LGAT's 2021 Media Releases, Opinion Editorial – Tasmania needs to plan for housing:  
<https://www.lgat.tas.gov.au/media-and-publications/media-releases>

<sup>11</sup> See: <https://www.lgat.tas.gov.au/member-services/lgat-advocacy/state-election-2021>

**14.4 Coastal Hazards Management  
Council – Circular Head****Decision Sought**

**That LGAT lobby the State Government on behalf of all Local Councils for the early completion of Coastal Hazards Management for Existing Settlements and Values project, with a final report and recommendations being made publicly available.**

**Background Comment**

This has previously been an active area of LGAT advocacy for Councils, with some discussion at the PLGC meeting and a follow up meeting with the Department Secretary of DPIPW.

In addition, LGAT is also actively involved in the Tasmanian Climate Change Office's *Coastal Hazards Management for Existing Settlements and Values* project, examining coastal hazards management in Tasmania. The project is a consultative investigation into the state of play of coastal hazards management in the state, identifying gaps and areas for improvement.

Councils have been involved in consultation workshops in each of the three regions. The project was to include advice on the DPIPW/Crown Land Services strategy for coastal erosion mitigation retreat or defence. To date the Tasmanian Climate Change Office's *Coastal Hazards Management for Existing Settlements and Values* project report has not been finally communicated other than the crown lands position that natural processes will occur and there will be no funding for infrastructure.

**LGAT Comment**

Members passed a motion in November 2010 that touched on these issues, that sought legislative protection for local government in relation to coastal protection issues. In 2018-19 LGAT responded to growing concerns from councils who were experiencing problems when helping their communities deal with DPIPW on coastal hazards. Landowners were finding it impossible to understand DPIPW's stance on coastal hazard management, detailed in LGAT's December 2018 General Management Committee meeting<sup>12</sup>.

LGAT advocated strongly on this issue through the Premier's Local Government Council<sup>13</sup> and was successful in securing DPIPW's commitment, and subsequent publication of its internal coastal hazard management policy, which is now available.

<sup>12</sup> See Dec 2018 GMC meeting: <https://www.lgat.tas.gov.au/events/meetings/lgat-general-management-committee>

<sup>13</sup> See May and December 2019: [http://www.dpac.tas.gov.au/divisions/local\\_government/plgc](http://www.dpac.tas.gov.au/divisions/local_government/plgc)



The next climate change action plan is currently under development with LGAT making a submission<sup>14</sup> in May 2021 just prior to the election. As indicated by the Tasmanian Government's response it appears likely that coastal hazard management will be included to some degree.

**Tasmanian Government Agency Comment**

The Tasmanian Climate Change Office has supported Tasmania's coastal managers to help them identify and manage coastal hazards to existing settlements and values.

Four information gathering workshops with coastal managers and relevant staff from State and local governments and government business enterprises were held across the State in late 2018. Workshop participants identified the following options to strengthen Tasmania's framework for managing coastal hazards:

- Policy framework – further develop Tasmania's State-wide coastal management policy framework to provide consistent direction, and a contemporary approach that balances the environmental, social and economic values of the coastal zone while addressing the threats from coastal hazards, climate change and population growth. The upcoming development of the Tasmanian Planning Policies was identified as an opportunity.
- Guidance material – preparation of best-practice coastal hazards management guidance material that links to the Tasmanian Planning Scheme and the State-wide coastal hazards mapping, will assist coastal managers to undertake adaptation planning for their communities.
- Roles and responsibilities – work with stakeholders involved in coastal hazards management to clarify roles and responsibilities for coastal hazards management.
- Leadership and governance – demonstrate proactive leadership across all tiers of government. Governance structures at various levels of government, such as regional council groups focused on coastal hazards management, was identified as a success factor.
- Legal liability – analyse the potential legal liability issues associated with carrying out coastal hazards management works.
- Hazard mapping – the State-wide mapping of coastal erosion and coastal inundation publicly available on LISTmap was identified as a valuable existing resource that assists coastal managers in identifying locations that are at risk of coastal hazards. Participants highlighted the importance of ensuring this mapping and data are kept up to date, and that future mapping opportunities are identified.
- The further development of downscaled, localised coastal hazards mapping, similar to the mapping produced as part of Tasmanian Coastal Adaptation Program, would be a valuable tool for at-risk communities.
- Funding mechanisms – analyse potential funding mechanisms for coastal hazards

<sup>14</sup> Available at: [https://www.lgat.tas.gov.au/\\_data/assets/pdf\\_file/0027/886221/Climate-Change-Act-and-Action-Plan-LGAT-Submission-Draft-2021.pdf](https://www.lgat.tas.gov.au/_data/assets/pdf_file/0027/886221/Climate-Change-Act-and-Action-Plan-LGAT-Submission-Draft-2021.pdf)

management, which may include grants, no-interest loans, public private partnerships and cost-share initiatives.

- A summary of workshop findings was provided to workshop participants.

The findings from the workshops will be used to inform the development of the Tasmanian Government's ongoing approach to managing coastal hazards for existing settlements and values as part of the development of Tasmania's next climate change action plan.

The Department of Primary Industries, Parks, Water and Environment (DPIPWE) supports and participates where possible with the *Coastal Hazards Management for Existing Settlements and Values* project run by DPAC, as outlined above and looks forward to the finalisation of the project and the associated report.

The information below explains DPIPWE's contribution to coastal hazards management – and a link to this web page is also listed below.

As a public land manager, DPIPWE faces ongoing decisions regarding issues on coastal land due to the increasing risks from a range of coastal hazards including storm surge, erosion and inundation.

DPIPWE will continue to review and where appropriate update its approach to the management of coastal land as knowledge of climate change impacts improves and in accordance with any future Tasmanian coastal policy and legislation.

The Crown is bound by the current *State Coastal Policy 1996*, which in relation to coastal processes and hazards, states that:

*1.4.1. Areas subject to significant risk from natural coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise will be identified and managed to minimise the need for engineering or remediation works to protect land, property and human life.*

*1.4.2 Development on actively mobile landforms such as frontal dunes will not be permitted except for works consistent with Outcome 1.4.1.*

DPIPWE has adopted the following principles to:

1. communicate its approach and responsibilities to the management of coastal land; and
2. underpin its land-use planning and decision-making in coastal risk areas.

Coastal processes and hazards such as flooding, storms, erosion, landslip, littoral drift, dune mobility and sea-level rise are natural processes and the risks to properties from these processes appropriately rest with the property owners, whether they be public or private.

Under both statute and common law, the Crown does not have, nor does it accept, specific future obligations to repair or reduce the impacts of natural coastal hazards on private property.

Unless otherwise agreed, the Crown does not accept obligations to repair or reduce the impacts of natural coastal hazards on any non-Government owned or managed assets sited on public land.

DPIPWE will use an open, evidence-based, risk-based approach to land use planning and decision making in coastal hazard areas and will consider both the short and longer-term consequences of planning and land use decisions.

Best practice coastal protection works can reduce the risk of coastal hazards, however coastal defences and other physical interventions with the coastline that are not informed by appropriate and relevant professional expertise, can have expensive and unforeseen consequences (potentially shifting, exacerbating or not resolving coastal hazard issues in the longer-term).

On land that DPIPWE manages in coastal hazard areas, DPIPWE will generally avoid intensifying use or development, and will progressively reduce vulnerable infrastructure as resources permit.

DPIPWE will work with other organisations and agencies in assisting the development of whole-of government strategies to deal with ongoing and changing or developing coastal processes and hazards.

DPIPWE will support individuals and organisations to understand risks from coastal processes and hazards through the provision of information and advice.

For further information on undertaking work on Crown land please see the following DPIPWE [Property Services\[1\]](#) page.

Also see [Managing Coastal Hazards | Department of Primary Industries, Parks, Water and Environment, Tasmania \(dpipwe.tas.gov.au\)](#)



**14.5 Community Based Engagement Strategy**  
**Council – Circular Head****Decision Sought**

**That LGAT lobby the State Government on behalf of all Local Councils for the implementation of a local community based engagement strategy to inform and empower local communities to have better understanding of the policy contents and opportunities for social and economic wellbeing through enhancing a strong and growing renewables industry across Tasmania.**

**Background Comment**

The recent public engagement processes surrounding the Renewables Tasmania Draft Energy Coordination Framework has left a void in community understanding of the importance of the policy document at the grass roots level in community. The lack of good community understanding of the policy document undermines a genuine community engagement and places any decision making at risk of poor community acceptance. The renewables vision communicated and yet to be understood by community requires far more on the ground communication with key community influences and stake holders. This present void in vision and knowledge sharing remains to be addressed to determine true community opportunity for maximising benefits.

**LGAT Comment**

There have been no previous motions on this matter.

**Tasmanian Government Agency Comment**

Implementing a community engagement strategy is a key output of the implementation of the Renewable Energy Coordination Framework. The draft Framework is being updated in response to the feedback received and is due to be released in mid-2021. Before the annual general meeting, the Government can update its status and the key actions relevant to the motion.

The Framework seeks to coordinate the renewable energy growth required to deliver shared benefits to Tasmanians. The focus is on the efficient, collaborative and sustainable implementation of policy and projects. Renewables Tasmania will use the Framework to inform energy planning and coordination advice to the Director of Energy Planning and guide policy implementation to achieve the Government's vision to transform Tasmania into a global renewable powerhouse.

The Framework will be implemented in phases with the initial focus on the strategic assessment and analysis of scenarios towards the delivery of long term goals to 2040 – such as Tasmania's 200% renewable energy target.

A community engagement strategy will form part of the initial phase to be delivered by 2022. This strategy will outline a consistent approach across the suite of implementation workstreams. It aims to work with agencies, stakeholders and communities to shape decisions and actions required to implement the Framework.

A focus will be on embedding collaboration and partnering engagement practices to identify community benefit opportunities and develop a shared vision for the priority regions identified for growth.

Early engagement with the local community will be built into the Tasmanian engagement strategy. Local government will be a critical stakeholder in the development and delivery of this engagement strategy. Other stakeholders are likely to include community representative groups.

#### **14.6 Parks and Wildlife Service Maintenance of Infrastructure Council – Circular Head**

##### **Decision Sought**

**That LGAT lobby the State Government on behalf of all Local Councils for the implementation of a coordinated long term 10 Year strategic asset management plan to be implemented by the Tasmanian Parks and Wildlife Service for all their customer facing public use assets and infrastructure services.**

##### **Background Comment**

The ongoing cycle of Parks and Wildlife infrastructure development and maintenance is causing considerable grief to customers and community without a coordinated long term strategic asset management plan in place. The lack of user transparency of asset servicing and renewal alongside the fluctuations of improvements and decline does not serve the visitor economy or local community users reliably. The lack of infrastructure maintenance reliability provides for poor recovery in the visitor economy of local communities across the state.

##### **LGAT Comment**

The LGAT General meeting passed a similar motion that was limited to roads (July 2015), and has previously sought an increase for Parks and Wildlife's funding for infrastructure (2004) and operational funding (June 2009).

##### **Tasmanian Government Agency Comment**

The PWS has a comprehensive asset management and maintenance program in place to manage priority and critical assets across all reserved land in the State of Tasmania.

It is recognised that these assets underpin tourism and therefore regional economic activity throughout the State. The PWS annually allocates significant capital and maintenance funding towards the replacement, repair and restoration of assets.

Over the past four years, approximately \$4 million per annum has been invested in reserve land maintenance and the forward capital program is over \$43 million in new and replacement developments.

The PWS is open to discussions regarding lease or transfer of responsibility of appropriate key assets to local governments who are prepared to take responsibility for reserve maintenance.

#### **14.7 Environment Protection Authority Role in Planning Assessment Council – Circular Head**

##### **Decision Sought**

**That LGAT lobby the State Government on behalf of all Local Councils for improved & mandated Environment Protection Authority (EPA) transparency, community facing participation and engagement processes in the assessment of development proposals for which the Environment Protection Authority have levels of responsibility in determining recommendations and approvals.**

##### **Background Comment**

The role the Environment Protection Authority (EPA) plays in development assessment is vital to community confidence in the assessment process. At present the assessment and regulatory functions of the EPA is not open to any community engagement and this is clearly a source of much ongoing community frustration. The enhancement of community confidence by being more transparent and accessible will be an assistance to better community engagement with significant projects and the role the EPA plays in assessment of development and regulatory functions.

##### **LGAT Comment**

There have been no previous motions on this matter.

##### **Tasmanian Government Agency Comment**

Circular Head Council are moving a motion that is intended to seek from Government a commitment that the EPA Board will take a greater role in public engagement with communities where large-scale developments are proposed, and before the environmental impact statement (EIS) is advertised for public consultation.

The *Environmental Management Pollution Control Act 1994* does not provide a mechanism for the EPA Board to undertake any public consultation prior to a proposal being advertised by a Council, where a *Land Use Planning and Approvals Act 1993* permit is required (90% of the time), or when the EPA releases the EIS for public comment if a permit is not required (10%) of the time.

In instances where a proposal is a class 2C (significant), the EPA Board advertises the project guidelines that the EIS must be prepared against for comment. This has typically been for wind farms, tailings storage facilities and mines.

The EPA Board will shortly be considering a proposal to have the legislative step of issuing guidelines for a project as the first point that a project is detailed on the EPA website. This will mean the public get some basic information about a project between 6-12 months before it is formally released for public input. This approach may address some of the concerns expressed by the Council.

#### **14.8 Cost Shifting Council – Northern Midlands**

##### **Decision Sought**

**That LGAT lobby the State Government to increase the resourcing for cat management and control of weeds.**

##### **Background Comment**

Cat management is an ongoing issue in local government areas. Feral and stray cats cause a range of issues, including but not limited to killing wildlife, the spread of disease such as toxoplasmosis and trespass onto neighbouring properties.

The *Cat Management Act 2009* requires cat owners to desex their cats, however, this is not enforced by either local or state government. The *Cat Management Act 2009* requirements do not assist in the management of feral cats, which, particularly in rural areas are a serious issue.

The State Government has developed the Tasmanian Cat Management Plan 2017-2022. The development of the plan is a step in the right direction to more effective cat management however, it raises concerns about the expectation of local government to achieve the objectives set out in the plan.

The State Government should fund the enforcement of the *Cat Management Act 2009* and allocate funding and support to implement the objectives of the Cat Management Plan, with particular focus on a strategy to bring feral cat populations under control.

Weed management is an ongoing issue in local government areas. The *Weed Management Act 1999* is the central legislation covering weed control and eradication in Tasmania. It is the responsibility of the State Government to enforce the *Weed Management Act 1999*, however it is noted that a Council, with the approval of the Secretary may appoint any person as an inspector for the purposes of the *Weed Management Act 1999*.

The Northern Midlands Council is receiving an increase in reports of declared weeds within its municipality. Council does not have an appointed inspector and its protocol is to write to the property owner advising Council has received a report of a declared weed, requesting removal and, also notifying the Department of Primary Industries, Parks, Water and Environment.

It would appear the Department of Primary Industries, Parks, Water and Environment does not have adequate resources to deal with the volume of complaints regarding weeds and thus enforcement action is rare.

The State Government should fund the resources to adequately enforce the *Weed Management Act 1999*.

#### **LGAT Comment**

Calls for adequate resourcing to councils to manage cats and weeds has a long history.

Four motions related to cats have been carried since 2006. They address feral cats and the confinement, microchipping and de-sexing of owned cats. Councils provided in-principle support for the State Government's 2020 amendments to the *Cat Management Act*. Critically noted was that adequate resourcing must accompany any increase in councils' workload. This workload includes an increase in community expectations on councils and the resulting demands created by requests for information and action. Local governments acknowledges the valuable work of regional Cat Management Coordinators and the value of the Tasmanian Cat Management Project. However, the funding of this program has not addressed the increasing cost to councils from the flow on effect of the new cat management regulations.

Six motions have been carried since 2006 on increased resourcing for the management of weeds. In 2014 the sector called for additional weed officers in each of the three regions. While in 2017 it was moved that there be a more coordinated approach to weed management, including the collaboration of all relevant agencies to map weeds across Tasmania and the development of an action plan for responding to infestations. In 2019 the sector called for new increased and sustained resourcing across all relevant agencies to manage weeds on public land.

The training authorised weeds officers is welcome and the benefits of the Weed Action Fund are acknowledged. However, the government appears not understand the unique role that councils play in their communities in regards to weed management, which the training and



the Weeds Action Fund do not address. Better outcomes would be achieved if the State Government sought to understand the expectations that communities have of councils and the increasing cost to councils and ratepayers from the weed management regulations.

**Tasmanian Government Agency Comment**

Participation by local government in enforcing both the *Weed Management Act 1999* and *Cat Management Act 2009* is entirely at a council's discretion. Both Acts provide mechanisms for councils to utilise all, or parts of those Acts as appropriate.

Biosecurity Tasmania provides annual authorised officer training for the Weed Management Act, without any cost to local government, or other participants. Letters inviting participation are sent to all general managers, each year.

Biosecurity Tasmania works closely with councils and provides support to authorised officers within councils as required. There are 21 councils with officers authorised under the Weed Management Act.

The State Government has provided \$5 million over five years for the Tasmanian Weeds Action Fund, to provide support to landowners to deal with priority weed problems. A number of councils have received funding through this program.

Council officers authorised under the *Dog Control Act 2000* are automatically authorised under the Cat Management Act. Biosecurity Tasmania intends to run authorised officer training on the Cat Management Act for local government, as well as its own officers in 2021, and invite all councils to send officers to this training. There will be no cost to attend the training.

The State Government has provided \$1.44 million over four years for three regional cat management coordinators. One of the key roles of the coordinators is to work with councils in relation to improving levels of responsible cat ownership.

The management of feral cats (i.e. cats existing outside of human environments), is provided for under the *Biosecurity Act 2019*, while the management of domestic and socialised cats is provided for under the Cat Management Act.

**15 COMMUNITY HEALTH**

No Motions Received

**16 PUBLIC POLICY GENERAL****16.1 Introduction of Referendums  
Council – Burnie City****Decision Sought**

**That the LGAT investigate the option of the introduction of “propositions” (referendums) for local and state elections, and that a mechanism for this change be initiated.**

**Background Comment**

The purpose of this motion is to investigate and introduce mandatory “propositions” at both State and local government levels.

Many jurisdictions around the world allow for referenda (propositions), but there is significant divergence in their form, initiation requirements and effect. In Australia, the Commonwealth Constitution provides for referenda, but only with respect to amending the Constitution and success requires a double majority of all the votes cast and within the majority of States. The history of successful referendum in Australia has been very limited and the use of plebiscites, such as that held on marriage equality, has also been very limited in Australia.

The *Local Government Act 1993* (Tas) provides for ‘Elector Polls’, at Part 6, Division 2. Polls can be initiated by Council (section 60B) or through petition signed by 5% of electors in the municipal area or 1,000 of those electors, whichever is the lesser (section 60C). Elector Polls can be held at an election or independently of an election, depending on the circumstances of its initiation and is conducted by or under the authority of the Tasmanian Electoral Commission.

The outcome of an Elector Poll is non-binding, Council is simply required to discuss the result at its next ordinary Council meeting (section 60E).

Elector Polls have been used in Tasmania. For example, in 2019 Hobart City Council conducted one on control of building heights in the Hobart CBD through the planning scheme. The result was in support of building height limits and other recommendations made by Council’s planning officers.

Also in 2019 Tasman Council conducted an Elector Poll on a proposed amalgamation with Sorell Council. The result was that approximately 69% of those electors who voted opposed amalgamation.

At the State level, Tasmania has no mandatory referenda provisions. For example, a simple parliamentary majority can alter the State Constitution, except for provisions concerning the duration of the House of Assembly term, which needs a two-thirds majority.

Tasmania has conducted three State-wide referendum, on hotel closing hours in 1916 in association with a State general election; in 1968 concerning a casino at Wrest Point; and in 1981 concerning a hydro-electric dam on the Franklin/Gordon Rivers. In all these instances the popular will expressed through the referendum was enacted by the State Parliament, although the dam on the Gordon below Franklin was subsequently overturned by legislative action of the Commonwealth Government, confirmed as constitutionally valid in a subsequent High Court case.

Mechanisms currently exist that in part meet the thrust of this notice of motion. Referenda (plebiscites, propositions) can be conducted at State level and Elector Polls at local government level. The outcome of both are not binding, but the history of their use in Tasmania indicates that State and local governments have either implemented, or sought to implement, the popular will of the people as expressed through these mechanisms.

It is of course possible, via legislative amendment, to make the outcome of Elector Polls mandatory, but this would represent a significant change in current legal arrangements and a case would need to be made to justify such a departure from the current system, which appears to effect popular will.

At the State level there is no standing legal mechanism for conducting referenda. Those conducted in the past have been done through specific legislation. It would, presumably, be open to Parliament to legislate that the outcome of a referendum be binding, but ultimately that would be a matter for the Tasmanian Parliament.

#### **LGAT Comment**

There are no previous motions on this matter.

#### **Tasmanian Government Agency Comment**

The historical contribution of Burnie City Council to citizen initiated motions and the elector poll provisions in the *Local Government Act 1993* is acknowledged.

While a variety of arguments may be mounted for or against the benefit of direct democratic mechanisms and citizen-initiated polls and referenda, in this instance it is somewhat unclear what the motion seeks to implement and why. As observed, constitutional referenda are a feature of the Commonwealth of Australia's democratic processes but are used infrequently



and have tended to fail. Tasmania's *Referendum Procedures Act 2004* already makes procedural provision for referenda initiated by the Parliament of Tasmania; however, as noted, referenda have not been a common feature of Tasmanian political process, either.

Arguments for or against notwithstanding, it would be a significant departure from any established Australian legal or democratic framework for issues-based referenda or other forms of public polling to be binding on councils or the Parliament of Tasmania. That proposition is not supported. As noted, governments of any level are free to undertake politically to implement the popular will as expressed in the outcome of referenda and similar processes.

It is noted that an approved reform under the Local Government Legislation Review will increase the threshold to compel a council to hold an elector poll. The Local Government Bill specifies that a petition signed by 20 per cent of electors (and following a public meeting) is required, compared to 5 per cent or 1000 electors, whichever is the lesser, in the *Local Government Act 1993*. Requiring the support of a higher proportion of electors is considered to better balance the significant costs of elector polls to councils with their potential democratic benefits, noting the results of those polls are not binding and elector participation optional.

The new local government legislative framework will also strengthen the imperative for councils to involve their communities in decision-making through a new requirement for councils to develop, maintain, and implement Community Engagement Strategies.

#### **16.2 Recognition of Assistance Dogs Council – Circular Head**

##### **Decision Sought**

**That LGAT lobby the State Government on behalf of all Local Councils for the inclusion of assistance animals into the Dog Control Act 2000 section 28(2) as they provide a valuable community wellbeing service.**

##### **Background Comment**

The positive use of assistance and companion animals is well recognised as a valuable contribution to many in local communities and the wellbeing of many individuals. The growing emergence of increasing numbers of assistance animals allows for many community members to participate and be active across many more community pursuits both social and wellbeing focused. The ability to maintain all connections with community under life changing events and circumstances, is a critical role assistance animals play for many in our community.

At present the provisions in the Dog Control Act 2000 legislation is deficient in sustaining a positive connection between the rights individuals are afforded under the Disability Discrimination Act 1992 requirements for their assistance animals. The provisions of section 28(2) of the Dog Control act does not allow for the recognition of assistance animals in public places by the virtue of its wording as listed below -

#### **DOG CONTROL ACT 2000 - SECT 28 Prohibited public areas**

#### **DOG CONTROL ACT 2000 - SECT 28**

#### **Prohibited public areas**

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

Penalty: Fine not exceeding 5 penalty units.

- (2) This section does not apply to –
  - (a) a guide dog that is accompanying a wholly or partially blind person or is in training for that purpose; or
  - (b) a hearing dog that is accompanying a wholly or partially deaf person or is in training for that purpose; or
  - (c) a pet shop; or
  - (d) the premises of a veterinary surgeon; or
  - (e) a pet-grooming shop; or
  - (f) any other premises related to the care and management of dogs.

The only animals recognised are those of the description of guide or hearing dog. The provisions of the Disability Discrimination Act are listed below for Part 1 clause 9.

#### **DISABILITY DISCRIMINATION ACT 1992 - SECT 9**

#### **Carer, assistant, assistance animal and disability aid definitions**

Meanings of [carer or assistant](#) , [assistance animal](#) and [disability aid](#)

- (1) For the purposes of this Act, a [carer or assistant](#), in relation to a person with a [disability](#), is one of the following who provides assistance or [services](#) to the person because of the [disability](#):
- (a) a carer;
  - (b) an assistant;
  - (c) an interpreter;
  - (d) a reader.
- (2) For the purposes of this Act, an [assistance animal](#) is a dog or other animal:
- (a) accredited under a law of a [State](#) or [Territory](#) that provides for the accreditation of animals trained to assist a persons with a [disability](#) to alleviate the effect of the [disability](#); or
  - (b) accredited by an animal training organisation prescribed by the regulations for the purposes of this [paragraph](#); or
  - (c) trained:
    - (i) to assist a person with a [disability](#) to alleviate the effect of the [disability](#); and
    - (ii) to meet standards of hygiene and behaviour that are appropriate for an animal in a public place.
- Note: For [exemptions](#) from Part 2 for discrimination in relation to [assistance animals](#), see [section 54A](#).
- (3) For the purposes of this Act, a [disability aid](#), in relation to a person with a [disability](#), is equipment (including a palliative or therapeutic device) that:
- (a) is used by the person; and
  - (b) provides assistance to alleviate the effect of the [disability](#).

**LGAT Comment**

There have been no previous motions on this matter.

**Tasmanian Government Agency Comment**

The Commonwealth Government's *Disability Discrimination Act 1992* (the DDA) protects the rights of people with a disability to use certified assistance animals to facilitate their active participation in public life and for personal activities. The State's *Dog Control Act 2000* (the Dog Control Act) and the *Guide Dogs and Hearing Dogs Act 1967* (the Guide Dogs Act) specifically regulate and make provision for the accreditation of assistance dogs for people who are hearing or visually impaired. The DDA operates alongside the Tasmanian legislation and, to the extent that there is any inconsistency, Commonwealth legislation will override the Tasmanian legislation.

The Guide Dogs Act is administered by the Minister for Disability Services, the Hon Sarah Courtney MP, whereas the Dog Control Act is administered by the Minister for Local Government and Planning, the Hon Roger Jaensch MP.

The Australian Government's Department of Social Services has convened a National process to develop a consistent approach to the accreditation and regulation of assistance animals across States and Territories. As part of this process, the Department of Communities Tasmania (Communities Tasmania) is working with its partners in other jurisdictions to develop policy options that improve certainty and reduce regulatory burden for people with disability using assistance animals.

While the National reform process is in its early stages, the Department of Premier and Cabinet (DPAC) is working with Communities Tasmania to ensure that there will be opportunities for local government input and that the implications for the Dog Control Act and its enforcement are understood. The Government welcomes the opportunity to discuss this matter with the Local Government Association of Tasmania (LGAT), including the extent to which this process could address the sector's concerns about the recognition of assistance dogs in Tasmania's legislation.

**17**            **CLOSE**