



# **ANNUAL GENERAL MEETING**

# **AGENDA**

**To be submitted to the**  
**ONE HUNDRED AND THIRD SESSION OF THE ASSOCIATION**

**Will be held on**  
**22 July 2015**

**Commencing**  
**10.30am**

**The Tramsheds**  
**Launceston**



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\* Denotes Attachment

## **FORMAL NOTICE OF MEETING**

**NOTICE IS HEREBY GIVEN THAT**

***The Annual Conference of  
Local Government in Tasmania  
will be held  
commencing  
Wednesday 22 July, 2015***

**NOTICE IS ALSO GIVEN THAT  
the Association's Annual General Meeting  
will be held at  
The Tramsheds, Launceston.  
Commencing at 10.30am  
on  
Wednesday 22 July, 2015.**

**NOTICE IS ALSO GIVEN THAT THE  
One Hundred and Third General Meeting  
of the Association  
will be held at  
The Tramsheds, Launceston  
commencing immediately following the conclusion  
of the  
Annual General Meeting  
on Wednesday 22 July, 2015**

**To consider  
Local Government Policy and Motions  
from Member Councils**

***Katrena Stephenson  
CHIEF EXECUTIVE OFFICER***

## 2015 CONFERENCE PROGRAM



### WEDNESDAY 22 JULY 2015

10.30am	<b>AGM</b>	
	<b>General Meeting</b>	Commences immediately following the conclusion of AGM
12.30pm	<b>Lunch</b>	<i>With thanks to <b>Aerus Technologies</b></i>
1.30pm	<b>Meetings continue</b>	
4.15pm	<b>JLT Night at the Museum</b>	

### THURSDAY 23 JULY 2015

8.00am	<b>Registration Desk Opens</b>	
8.45am	<b>Welcome and Opening</b>	
9.00am	<b>Ian McBurney</b>	
9.45am	<b>Moving Moment</b>	
9.55am	<b>Associate Professor Roberta Ryan</b>	
10.30am	<b>Morning Tea</b>	<i>With thanks to <b>Dial Before You Dig</b></i>
11.15am	<b>Local Government Awards for Excellence</b>	
11.50am	<b>Mayor Troy Pickard</b>	
12.30pm	<b>Lunch</b>	<i>With thanks to <b>Dial Before You Dig</b></i>
1.30pm	<b>Workshop Program</b>	
3.00pm	<b>Afternoon Tea</b>	<i>With thanks to <b>Commonwealth Bank</b></i>
3.45pm	<b>Panel Discussion</b>	
4.45pm	<b>Happy Hour</b>	<i>With thanks to <b>Commonwealth Bank</b></i>
7.15pm	<b>MAV Insurance Conference Dinner</b>	

### FRIDAY 24 JULY 2015

9.00am	<b>Workshop Program</b>	
10.30am	<b>Morning Tea</b>	<i>With thanks to <b>Integrity Sampling</b></i>
11.15am	<b>Sir Bob Barker</b>	
12.10pm	<b>Moving Moment</b>	
12.15pm	<b>Mayor Brad Pettitt</b>	
1.05pm	<b>Conference wrap up</b>	
1.15pm	<b>Lunch</b>	<i>With thanks to <b>Integrity Sampling</b></i>

## 2015 ANNUAL GENERAL MEETING

The Acting President, Mayor Daryl Quilliam, will welcome Members, accept apologies and declare the Annual General Meeting open.

A copy of the Rules of the Association are available on the Association's website at - [LGAT Rules](#)

### 1 PRESIDENT'S REPORT

#### Decision Sought

**That the President's report be received.**

The President will present his report to the 2015 Annual General Meeting.

### 2 MINUTES OF 102ND ANNUAL GENERAL MEETING \*

#### Decision Sought

**That the Minutes of the 102nd Annual General Meeting, held 23 July, 2014 be confirmed.**

The Minutes of the 102nd Annual General Meeting of the Local Government Association of Tasmania, held in Hobart on 23 July, 2014 as circulated, are submitted for confirmation.

The Minutes are at **Attachment to Item 2.**

<b>3 FINANCIAL STATEMENTS TO 30 JUNE 2014 *</b>
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<b>Decision Sought</b>
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<b>That the Financial Statements for the period 1 July 2013 to 30 June 2014 be received and adopted.</b>
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The General Management Committee recommends consideration and adoption of the Association's Financial Statements for the period 1 July 2013 to 30 June 2014, an abridged version of which is included at **Attachment to Item 3**.

A full version is available from the Association's offices.

A copy of the Association's Profit and Loss report for the period 1 July 2014 to 16 June 2015 is also included at **Attachment to Item 3** to provide members with an indication of the current financial position of the Association.

At the time of preparation of this report two weeks remained to the end of the Financial Year with year end adjustments also pending. It is anticipated that there will be a small surplus with items below being of note -

Workshops/Training	There was higher than anticipated uptake of training by Elected Members, in particular by the new Elected Members. An LGAT Training Program and Regional Breakfast Series were introduced resulting in increased registration income.
Membership	The return of Hobart City Council resulted in additional pro-rata subscription membership income.
Departure of the CEO	While reducing staff entitlement accruals there were non-budgeted recruitment expenses.
Council Careers	There is an amount of unexpended funds that have been earmarked for additional advertising in July 2015
Salaries	The Procurement Officers term was extended to the end of this financial year and this position has been budgeted going forward.

<b>Decision Sought</b>
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<b>That the Financial Statements for the period 1 July 2013 to 30 June 2014 be received and adopted.</b>
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**4 PRESIDENT AND VICE PRESIDENT HONORARIUMS**

**Decision Sought**

**That the President's and Vice President's allowance for the period 1 July 2015 to 30 June 2016 be adjusted in accordance with the movement in the Wages Price Index.**

The Rules of the Association provide that the Annual General Meeting will grant an annual allowance to the President and Vice President.

In the past an independent review of allowances was undertaken in the same financial year as the review of allowances for Local Government Elected Members, with the last review undertaken in 2009. The result of that review was to retain the basis of the present allowances unchanged for the two positions with movements to be in conjunction with the wages price index. This brought the escalation factor for allowances in line with Elected Member allowances across councils.

The escalation factor used for elected member allowances remains the wages price index and it is deemed appropriate that the President and Vice President Honorariums continue to escalate on the same basis.

If in the future, the escalation of Elected Member Allowances is reviewed or alters, the Honorariums can also be reviewed.

The resultant application of the wages price index has meant allowances for 2014/15 were:

- President allowance \$44,185 per annum.
- Vice President allowance \$11,046 per annum.

**5 SUBSCRIPTIONS 1 JULY 2015 TO 30 JUNE 2016 \***

**Decision Sought**

**That subscriptions be increased by 2.48% to meet the operating costs of the Association.**

The application of the LGAT formula for subscriptions involves using the Total Assessed Revenue of councils, in accordance with State Grants Commission data, with an application of the Council Cost Index then applied across the various categories of councils.

The result this year sees Glamorgan Spring Bay and Latrobe moving up a category with Break O'Day, West Coast and Waratah Wynyard moving down a category.

The total to be received from subscription revenue next year is \$1,049,081. It should be noted that the payment structure associated with outstanding subscriptions from Hobart City Council is not reflected in the budget as the debt is recognised in the balance sheet. The Hobart instalment attributable to its past subscription will be reflected in a change to debtors in the balance sheet.

A copy of the Subscriptions are at **Attachment to Item 5** for reference.



**6 BUDGET FOR THE TWELVE MONTHS 1 JULY 2015 TO 30 JUNE 2016 \***

**Decision Sought**

**That the Meeting adopt the Budget as presented.**

There are only minor variations to the budget for the upcoming year. GMC has determined to reduce the salary of the incoming CEO and this has been reflected in the budget. However, salaries remain largely unchanged as the salary of the officer managing the sector procurement task has been brought into the budget proper. This function was previously funded from some savings achieved in the broader salary budget. With the revenue being generated from procurement activity and the demands being placed on the role by councils seeking to improve their procurement processes and access to goods and services, much of the salary will be offset by the increase in income received via commissions on goods purchased. In fact a further \$10,000 is anticipated in revenue for fees and commissions this year. A projected 3% increase in salaries has been built into the budget.

Other employee entitlements have been reduced by almost \$20,000. This acknowledges the provision made for Long Service Leave and untaken annual leave. The outgoing CEO had significant balances in both areas while an incoming CEO will have no accruals to be provisioned for.

Provision has been made for the secondment of an officer to the Drafting Team of the Planning Task Force. This is effectively an in and out entry with LGAT simply collecting the funds from councils and on paying them to the State Government/host council as a contribution to salary of that officer.

The budget bottom line is break even with the imposition of an increase in subscriptions of 2.48% in line with the Council Cost Index.

A copy of the budget is at **Attachment to Item 6**.

**7 MOTIONS**

**7.1 Term Of Office Of President  
Council - Derwent Valley**

**Decision Sought**

**That the Local Government Association of Tasmania Rules 27 Regarding Term of Office of President, be amended that in the event that the President vacates office, the Vice President is to hold the position of President until the next election.**

**Background Comment**

The rule change proposed is in the event that the President vacates office for one of the following reasons:

- (i) Resigns by notice in writing addressed to the Chief Executive Officer;
- (ii) Is absent without leave for three consecutive meetings of the General Management Committee; or
- (iii) Ceases to be a Councillor or Alderman;

And if the office of President becomes vacant more than six months before the next AGM where the President is due to take up office in accordance with Rule 27(a), a new President shall be elected in accordance with the procedures in Rule 26.

It is council's view that to save the cost of an election consideration should be given to the following option:

That in the event that the President vacates office in the 12 month period prior to the next AGM, the Vice-President shall assume the office of President and that an election for President be held at the next appropriate election date.

**LGAT Comment**

It should be noted that this motion was not in response to the death of Barry Jarvis, having been received well in advance.

However, if the rule was in existence, it would have been applied in this instance. While unusual circumstances, in that the President had by resolution had his term extended and was not facing election this year, which meant the Vice President, Mayor Quiliam would have been filling the vacancy created for two years without an election.

**7.2 Motion – Voting Entitlements \*  
Council – Derwent Valley**

**Decision Sought**

**That the Local Government Association of Tasmania Rules Regarding Conduct of General Meeting be amended by deleting from rule 16 voting by population categories and replacing it with one (1) vote per Council.**

**Background Comment**

This matter has been discussed at General Meetings and rejected on the basis of the Scale of fees payable, but it is our view that the Local Government Association of Tasmania does not represent the public (ratepayers) they represent the member councils.

The current process in our view is not democratic by having weighted voting at meetings of the Local Government Association of Tasmania.

In reading the rules of the Municipal Association of Victoria for meetings and for State Council meetings the rules state as follows:

14. Voting Entitlements at Meetings

At any meeting of the Association other than a meeting of State Council members will vote by a show of hands and the Chairperson in taking the sense of the meeting will put the question first in the affirmative, then in the negative, and the result of the vote will be recorded in the minutes.

15. Voting Entitlements at State Council Meetings

15.1 At any meeting of State Council, voting entitlements on any motion or amendment will be

15.1.1 the representative of each participating member council paying an annual subscription to the Association which exceeds the mid point between the lowest and highest subscriptions will have two (2) votes; and

15.1.2 the representative of each participating member council paying an annual subscription to the Association which does not exceed that mid point will have one (1) vote.

15.2 and questions will be decided on the basis of the votes of the representatives voting.

Should there be an equality of votes on any question before a meeting the Chairperson has the casting vote.

The method used in Victoria appears slightly better than that used in Tasmania, but that is only because the maximum vote is two (2) as opposed to four (4) in Tasmania.

It would in our view, be an option for the Local Government Association of Tasmania to trial for a twelve month period one (1) vote for all members councils and then review the situation at a future Annual General Meeting.

This matter was further discussed at a General Meeting of the Association on 13 February 2015. At that meeting after much discussion Council was asked to provide details in relation to subscriptions as a percentage of Council Rate Income. This spreadsheet is appended to this Agenda Item.

This matter was the subject of some debate at the last Annual General Meeting of the Association. It is the view of the Derwent Valley Council that that Local Government should cease the practice of weighted voting, and replace it with one vote per council.

### **Motions on Notice LGAT General Meeting 13<sup>th</sup> February 2015**

At the General Meeting in November 2014, Derwent Valley Council raised the following items for discussion:

1. That the Rules Of The Association be amended to provide for one vote per council.

Council prior to that meeting was requested to provide additional information and this was as follows:

I wish to advise that through the process of election for President of the LGAT one of our councillors wrote to each person who nominated asking for their comments in regard to the one vote per Council. The response received from most was that they were prepared to consider this matter at a future meeting of the Association if they were successful in their endeavors to become President. It is for this reason that we request further discussion in regard to this matter, bearing in mind it was raised by Derwent Valley at the most recent Annual General Meeting of the Association and was not supported.

At the meeting in November Council advised that as a percentage of rates smaller councils were contributing a greater portion, this comment received some sympathy and we were asked to provide this information for further debate on the matter.

At **Attachment to Item 7.2** is a spreadsheet detailing the percentage of rates required to service the LGAT Subscriptions. The spreadsheet also shows subscriptions based on rate revenue and population.

<b>8</b> <b>REPORTS FROM BOARD REPRESENTATIVES *</b>
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Listed below are the bodies on which the Association had statutory representation in the 2014/15 financial year.

Representatives on Bodies are requested to provide a report for Conference and are also requested to provide regular reports back to the Association during the year.

- **Animal Welfare Advisory Committee**  
Clr Andrew Downie
- **Assessment Committee for Dam Construction (ACDC)**  
Mr Neil Blaikie
- **Community Review Committee - Threatened Species Protection Act 1995**  
Ms Liz Quinn, Kingborough Council
- **LGAT Assist**  
Mr Kay Reeves
- **Local Government Board**  
Mrs Liz Gillam
- **Marine Farming Planning Review Panel**  
Mayor Jock Campbell, Clarence City Council
- **State Fire Commission**  
Mr Rod Sweetnam, Launceston City Council, Clr Hannah Rubenach, Break O'Day Council
- **State Fire Management Council**  
Dr Stephen Bresnehan, Hobart City Council
- **State Grants Commission**  
Mr Grant Atkins and Mr Rodney Fraser
- **Tasmanian Heritage Council**  
Ms Danielle Gray, Kingborough Council; Ald Robin McKendrick, City of Launceston
- **Tasmanian Library Advisory Board**  
Ald Sandra French, Burnie City Council, Ald Doug Chipman, Clarence City Council and Clr Susan Nolan, Kingborough Council, Ms Kym Matthews, Break O'Day Council;
- **Tasmanian Planning Commission**  
Ms Sandra Hogue

The reports received for presentation are at **Attachment to Item 8.**

<b>Decision Sought</b>
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| <p>(a)      <b>That the reports from representatives on various bodies be received and noted.</b></p> <p>(b)      <b>That Conference acknowledges the time and effort put in by all Association representatives on boards, working parties, advisory groups and committees etc.</b></p> |
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<b>9</b> <b>CLOSURE</b>
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**Item 7.2 Local Government (Code of Conduct) Amendment Bill**  
**Contact Officer: Katrena Stephenson**

**Decision Sought**

- A: That the Meeting agree that Mayors will write to MLCs in support of the Local Government (Code of Conduct) Bill, noting the significant consultation that has occurred with councils since 2010.**
- B: That the Meeting vote on the following recommendations (the recommendations relate to the numbered items in the background section):**
- 1. That the single Code of Conduct Panel be able to investigate, hear and determine code of conduct complaints.**
  - 2. Provide for some flexibility for councils to expand upon core elements in the Regulated (Model) Code of Conduct.**
  - 3. Only allow for complaints regarding incidents/matters that have happened in the preceding 90 days.**
  - 4. That there continue to be a requirement to pay a fee to lodge a complaint, noting that the fee is reimbursed if the complaint is upheld.**
  - 5. That there remain an ability to withdraw a complaint.**
  - 6. That given the need to contain costs and to deal with complaints expeditiously, legal representation not be allowed in Standard Panel Hearings**
  - 7. That the legislation allow for a Code of Conduct complaint to be submitted locally to the General Manager to check that proper procedure has been adopted before forwarding to the Standards Panel.**
  - 8. That the one month suspension sanction be changed to allow for up to three months suspension in order to offer and effective deterrent for bad behaviour.**
  - 9. That the holding of an AGM is optional, to be determined by Council.**
  - 10. That the Council be able, through a majority vote, to direct the General Manager to provide complete information (not redacted or removed) that the General Manager has withheld on the basis of deeming it private and confidential information relating to a person.**

Below is some explanatory material for each of the recommendations.

1. It is proposed to Amend the Bill to remove the inquiry/investigation powers of the Standards Panel (to sit with another body) and the Panel would just hear and determine the case. LGAT asserts this fails to recognise that the nature of complaints, are on the whole, relatively low order behavioural matters that do not require extensive investigation. This is a vastly different model than has been in place and does not relate to any issues raised by the sector at any time. It would

significantly increase the complexity of determining cases and the costs and would require a substantial rewrite of the Bill and further consultation further delaying any improvements to the current process.

It should be noted that the Director of Local Government can already undertake higher order investigations regarding alleged breaches of the Act and that indeed these must be referred to the Director by the Standards Panel. Further in the Bill currently before Parliament, a code of conduct complaint regarding half or more councillors is referred to the Director because such a complaint may be indicative of a potential breach of powers or functions of councillors under the Act. It also might be an indication of other systemic issues within a council that require further investigation.

A related amendment proposed suggests removing references to the Panel conducting an investigation but this would mean that, as is currently the case, the Standards Panel would have to have a hearing on every matter and has not flexibility to resolve an issue without a hearing. This has been an issue of concern for the sector, raised as far back as 2010 and LGAT asserts the flexibility is desirable to ensure appropriate efficient resolution of complaints.

2. The Legislative Council have indicated a preference to remove the ability of councils to vary the model code of conduct. Currently Councils may adopt any code. In 2012 LGAT developed a model code to improve consistency of approach, particularly in relation to how breaches were defined, based on feedback from Standards Panel Members.

It is anticipated that some councils may wish to go into more detail on some matters and to be able to make sure that it is locally relevant and matches with existing council policies. This is particularly important in code of conduct matters relating to councillor expenses and gifts and benefits, for which a number of councils have developed local policies to strictly control such matters. Some councils may wish to supplement the model code of conduct to elaborate on their ideas around good governance. Some councils may also wish to include detailed procedures in their code of conduct for dealing with internal disputes between councillors.

Allowing a council to vary the model code also provides opportunity for discussion on aspects of good ethical behaviours and gain a common understanding of what is expected of each other, particularly if linked to a post election review cycle.

3. Currently a complaint must be lodged within 90 days of an incident occurring. Some members of the Legislative Council have suggested that this be amended to within sixty days after the general public or the complainant become aware of the alleged contravention of the code of conduct (whomever first became so aware).

There is a risk the proposed amendment would mean that a code of conduct complaint could be lodged at any time, for example years after the alleged contravention. It would also be significantly difficult to define 'awareness' and has potential to be used maliciously.

4. It has been proposed that there be no fee to lodge a code of conduct complaint.

Each complaint will come at some cost to the council, even if deemed frivolous and vexatious. There has to be some deterrent from such complaints. The fee will likely be on par with Standards Panel referral fee and is refundable where the complaint is

upheld.

5. It has been suggested that the legislation should remove complainant's ability to withdraw from a code of conduct complaint

The Bill currently allows a complainant (or two complainants jointly) to withdraw from a code of conduct complaint, by notice in writing to the general manager or the Code of Conduct Panel, at any time prior to the final determination of the complaint by the Panel. The Bill also outlines the notification requirements relating to a withdrawn code of conduct complaint.

The Bill provides that a code of conduct lodgement fee is returned if the complaint is withdrawn by the complainant.

It is considered appropriate to allow a code of conduct complaint to be closed at the wish of the person who made the complaint. There are various reasons why a complainant may want to withdraw their complaint, such as:

- their concerns have been resolved (eg through mediation);
- they no longer wish to proceed with the complaint; or
- they have agreed to withdraw the complaint as part of a resolution of a related case under another law.

While LGAT has concerns about automatic reimbursement of lodgement fees upon withdrawal (with a preference for this to be determined by the Panel on a case by case basis), we strongly support the ability to withdraw a complaint as this has been noted as a problem by Members over a number of years.

6. A proposed amendment provides that a complainant or councillor against whom the complaint is made may be represented by an advocate.

The Bill already allows that a complainant or councillor against whom the complaint is made may be represented by an advocate who is not an Australian lawyer, at the consent of the Panel. The Code of Conduct Panel is not a court, proceedings are non adversarial and it is important to keep costs low and processes streamlined given the nature of complaints (relatively low level matters).

Any person involved in a complaint may seek legal advice; the only restriction under the Bill is that legal representation at a hearing is not permitted.

With a three member Code of Conduct Panel and a right of review to the Magistrates Court, there are sufficient protections for councillors built into the new code of conduct complaint framework.

7. It has been proposed that all complaints be lodged centrally through the Code of Conduct Panel Executive Officer. The Bill provides that a code of conduct complaint is lodged with the general manager of the relevant council. If the code of conduct complaint meets the requirements of the Act, the general manager is to refer it to the Executive Officer.

It is important that there is someone within a council that can receive a person's code of conduct complaint. This ensures that the system is accessible to ratepayers. Further, it is considered appropriate for a complaint to be lodged with a general manager because this position is more independent than a mayor or deputy mayor.



A General Manager has no involvement in a code of conduct complaint aside from the purely administrative step of receiving a complaint, checking that it meets prescribed requirements and forwarding it to the Code of Conduct Panel for initial assessment.

It is important to note that a General Manager is obliged to refer a complaint to the Executive Officer.

There may be an increase in costs associated with the Executive Officer receiving code of conduct complaints and assessing whether the complaint meets the prescribed requirements. This is because the Executive Officer is only paid when the position is required. The Bill has been designed to keep council costs as low as possible. Facilitating ratepayer access to the system would also be more difficult compared to allowing a person to lodge a complaint with their council.

8. It has been proposed that there be an increase from the Panel's one month suspension sanction (in relation to the determination of a code of conduct complaint) to three months.

Consultation with LGAT Members found there was a preference to have an ability to make stronger sanctions for more serious Code of Conduct breaches.

9. The Legislative Council expressed concern with regard to dropping the requirement to hold an AGM. This amendment was requested by Local Government given the poor attendance of AGMs across many councils making this an inappropriate use of council resources for community engagement. The requirement predated the changes in community engagement, particularly since the advent of social media. The broader Tasmanian community was also consulted on this proposed change with minimal feedback or concern raised.
10. The Bill as currently drafted allows (Clause 5 (b) (7), (8) and (9)) for a Council (by majority vote) to overturn the decision of a General Manager to withhold information on the basis it is private and confidential. The amendment suggested is that this power should be provided to the Director of Local Government (not the Council). While this allows for independent scrutiny it would also slow down progression of any decision-making related to the withheld information.

It should be noted there is already provision in the Act to appeal to the Director of Local Government (s339E).

The Current Bill can be viewed at [www.thelaw.tas.gov.au](http://www.thelaw.tas.gov.au) (Bills Currently Before Parliament).

The second reading debate in the Legislative Council is available through Hansard on the [www.parliament.tas.gov.au](http://www.parliament.tas.gov.au) website (see 25 June, 2015).

### **Current Policy**

There have been a number of significant consultation processes with our sector since 2010 and this matter has been the subject of several successful motions and numerous reports to the General Meeting.

### **Budget Implications**

Movement of the support to the Standards Panel away from LGAT will free up some resource to progress and support some other Member activities. There will be a cost to each council which is subject to a Code of Conduct complaint.