
Payment of superannuation for councillors

Responsible Officer: Group Manager Corporate and Commercial (Guy Bezrouchko)

Recommendation

That Council determines its position on the payment of a *superannuation contribution payment* in accordance with section 254B of the *Local Government Act 1993*:

- a) Yes, effective date 1 July 2022; or
- b) No

Background

The *Local Government Act 1993* now has a provision that Council may make a payment as a contribution to a superannuation account nominated by a councillor.

The relevant section of the Act is:

LOCAL GOVERNMENT ACT 1993 - SECT 254B

Payment for superannuation contributions for councillors

254B Payment for superannuation contributions for councillors

- (1) A council may make a payment (a "superannuation contribution payment") as a contribution to a superannuation account nominated by a councillor, starting from the financial year commencing 1 July 2022.
- (2) The amount of a superannuation contribution payment is the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.
- (3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the councillor.
- (4) A council is not permitted to make a superannuation contribution payment-
 - (a) unless the council has previously passed a resolution at an open meeting to make superannuation contribution payments to its councillors,
 - or
 - (b) if the councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates,
 - or
 - (c) to the extent the councillor has agreed in writing to forgo or reduce the payment.
- (5) The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a mayor or other councillor.

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- (6) A person is not, for the purposes of any Act, taken to be an employee of a council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.
 - (7) A superannuation contribution payment does not constitute salary for the purposes of any Act.
 - (8) Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.
 - (9) In this section--

"Commonwealth superannuation legislation" means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.

"superannuation account" means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth superannuation legislation applies.

Governance

The *Local Government Act 1993* was amended in 2021 to enable the payment of superannuation contributions starting 1 July 2022 for councillors. This is conditional on various requirements being met, including council resolving in an open meeting in favour of making such payments. Individual councillors may opt out of payments or choose to reduce the amount of payments. It should be noted that there are various circumstances where councillors are not entitled to receive a payment, for example, during any period in which they are not entitled to receive their fee, for example due to absence or suspension from civic office.

Finance

Superannuation contribution payments will be paid in line with monthly councillor fees. The superannuation guarantee rate applicable from 1 July 2022 is 10.5%. This rate will increase by half a percent each year until 1 July 2025 when it reaches 12%. The estimated cost is \$10,500 for the 2022/23 financial year and has been included in the draft Budget.

Legal

It is proposed to include the outcome of Council's decision on this matter in Council's *'Payment of expenses and provision of facilities for chairperson and councillors'* policy in due course.

Consultation

Not applicable.

Conclusion

Council is required to resolve whether to (or not) make superannuation contribution payments from 1 July 2022.