

## 5.9. PROVISION OF SUPERANNUATION FOR COUNCILLORS

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### RECOMMENDATION

That Council:

1. **Contributes up to a maximum of 12% superannuation contribution to superannuation funds/schemes complying with the Commonwealth Superannuation legislation for elected members who wish to participate (as per section 226 of the *Local Government Act 2009*.**
2. **Provides for Councillors who make voluntary superannuation contribution of at least 6% to receive a 12% contribution on those payments.**
3. **Provides for those councillors who do not wish to make a voluntary contribution to receive the standard superannuation guarantee payment (9.5%).**
4. **Provides that were a councillor chooses to make a voluntary contribution that this can be contributed from pretax or post tax.**

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### EXECUTIVE SUMMARY

To consider the provision of superannuation benefits for Councillors.

### BACKGROUND

Council resolved 14 January 2014 to provide up to 12% superannuation contribution for Councillors to a superannuation scheme that complies with Commonwealth Legislation.

Council resolved 28 April 2020 to become an eligible governing body subject to Section 446-5 of Schedule 1 of the *Taxation Administration Act 1953* (effective 18 April 2020). This was unanimous which empowered the withholding of council's income tax and automatic payment of superannuation guarantee contributions.

### COMMENT

Section 226 of the *Local Government Act 2009* (Act) makes provision for Council's to consider the payment of superannuation contributions for Councillors to an approved fund which complies with the provision of the Commonwealth Superannuation Act.

This provision allows only for maximum percentage contributions which do not exceed those made for its standard permanent employees (i.e., 12%).

Councillors do have the option to pass a resolution per the *Taxation Administration Act 1953* schedule 1, section 446-45, that Councillors are subject to PAYG (Pay as You Go) withholding (making them employees and therefore subject to minimum superannuation guarantee contributions being made by Council). This resolution was passed unanimously (28 April 2020).

The Local Government Remuneration Commission annual report which sets Mayor/Councillor remuneration, specifically excludes superannuation as being a matter for individual Councils (the Commission is specifically restricted from including superannuation by virtue of section 244(3) of the *Local Government Regulation 2012*).

- Providing Superannuation is a discretionary matter for Councils, similar to setting of the Reimbursement of Expenses Policy (which set matters outside remuneration).
- Participation in superannuation is discretionary for each individual Councillor.
- The Act does not require the co-contribution by Councillors to receive the superannuation contribution by council.

As the new Councillor term has started, it is important that Councillors are aware of the provisions and are encouraged to seek independent advice from a registered tax agent.

## PROPOSAL

That council consider the provision of superannuation for Councillors for the remainder of the 2020 term.

## FINANCIAL/RESOURCE IMPLICATIONS

Provision has been made in the current budget for approved superannuation contributions.

## RISK MANAGEMENT IMPLICATIONS

Nil

## SUSTAINABILITY IMPLICATIONS

**Economic:** Nil

**Environmental:** Nil

**Social:** Nil

## CORPORATE/OPERATIONAL PLAN, POLICY REFERENCE

This report has been prepared in accordance with the following:

### Corporate Plan 2019-2024 Initiatives:

#### **Theme 5 - Robust Governance and Efficient Service Delivery**

Strong governance and financial management are the foundations of the way in which Council will conduct its business and implement the initiatives of the Corporate Plan.

**Goal 1 - We will conduct Council business in an open and transparent manner with strong oversight and open reporting.**

## Operational Plan 2020-2021 Actions:

5.1.2 - Review Council's reporting to the community. Update key performance indicators.

### COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following areas outline where Council has a clear responsibility to act:

**Information Provider** Council provides the community with important information on services, events, policies, rules, strategies, and any other relevant data that helps the community to stay informed. In performing this role, Council seeks to be open and transparent.

### CONSULTATION

**Internal:** Payroll Department

**External:** Local Government Act 2009

### ATTACHMENTS

Nil