

Superannuation for Elected Members

This factsheet provides additional information to the proposed amendments to the *Local Government Act 2019*, as outlined in Discussion Paper Part B. Please refer to this [paper](#) for full details.

Who can get Superannuation?

In Australia, superannuation is regulated by the Commonwealth Government.

For a person to be entitled to superannuation, they must meet the extended definition of 'employee' under section 12 of the *Commonwealth's Superannuation Guarantee (Administration) Act 1992* (SGA Act).

Under the SGA Act, a person who holds office as a member of a local government council is **not** an employee of the council. Therefore, by definition, an elected member of a local government council is **not** entitled to guaranteed superannuation.

Can elected members choose to get superannuation?

Under the *Taxation Administration Act 1953* (Cth), members of a local government council may unanimously resolve that they wish to be subject to PAYG taxation and then be eligible for the superannuation guarantee on top of their member allowances. By unanimously resolving to be subject to the Commonwealth legislation, a local government council resolves to be treated as an eligible local governing body under the Commonwealth legislation.

NT legislation does not currently require the payment of superannuation to elected members. A limited number of councils have taken up the option to 'opt-in' to payment of superannuation through making a unanimous resolution about the Commonwealth legislation. Achieving a unanimous resolution can be difficult.

Does any NT legislation apply?

NT legislation does not currently require the payment of superannuation to elected members.

LGANT and several councils have advocated for improved remuneration and conditions, including payment of superannuation, to support attraction and retention of elected members.

What will amending the legislation do?

Queensland, New South Wales and recently, Western Australia have amended their local government legislation so that councils may resolve to make contributions into superannuation accounts for council members. Amending the NT legislation to include a provision like that in Queensland or New South Wales, would allow a council to resolve to make payments into superannuation accounts for council members.

Whether that payment is through an 'opt- in' by individual councils or becomes an entitlement that reflects the expectation that public office and service warrants a basic retirement benefit, will be determined following sector consultation.