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Transport, Local Government and Infrastructure Committee
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Inquiry into the Sustainable Planning and Other Legislation Amendment Bill 2011

The Queensland Local Government Superannuation Board as trustee for the Local Government Superannuation Scheme (LGsuper) wishes to make the following submission to the Transport, Local Government and Infrastructure Committee to aid its inquiry into the Sustainable Planning and Other Legislation Amendment Bill (the Bill). The submission focuses on the amendments to the Local Government Act (LGA) which impact on the Board and LGsuper. The Board wishes to emphasise the urgency to have these amendments passed by the Parliament.

Background

The LGA prescribes superannuation contribution levels payable by regional local governments and their employees to LGsuper. The contributions payable are 12% of salary by the local governments as employers and 6% of salary by the employees. The employees can have their 6% contribution paid by the employer under a salary sacrifice arrangement.

Following the merger of LGsuper with the Brisbane City Council Superannuation Plan (City Super) on 1 July 2011, the LGA was amended to provide for superannuation contributions payable by BCC and associated employers (14% of salary) and their employees (5% of salary). Previously the contribution requirements were prescribed in the trust deed of City Super. The trust deed of City Super also provided for the BCC and an employee who is an accumulation benefit member to enter into an agreement to reduce the employee's contribution when the employee is in financial hardship.

Federal Government legislation sets limits on the amount of concessional (superannuation) contributions which can be paid on behalf of any employee in any one year. If the amount of concessional contributions paid on behalf of an employee exceeds the concessional contributions caps then additional tax of 31.5% is payable by the employee on the excess contributions. Note, the term concessional contributions encompasses employer contributions including any salary sacrificed contributions. These contributions are subject to a contributions tax of 15% which is deducted by the super fund. Therefore, if the contributions exceed the concessional contributions caps then total tax of 46.5% will be paid which is the equivalent of the highest marginal tax rate.

The concessional contributions caps for 2011-12 are \$25,000 for persons aged less than 50 years and \$50,000 for persons over age 50. In 2012-13 the caps will change such that the \$50,000 cap for persons over age 50 is subject to the person having a superannuation fund balance less than \$500,000. Where their balance is greater than \$500,000 then the \$25,000 cap will apply.

The Legislation Amendments in the Bill

The legislation amendments in the Bill will achieve the following:

1. Enable the BCC and its employees who are accumulation benefit members to enter into an agreement to reduce the superannuation contributions payable by the employee into LGsuper where the employee is in financial hardship.
2. Enable local governments to enter into an agreement with any of their employees whose concessional contributions will exceed the concessional contributions caps. The agreement will enable the prescribed contributions to be reduced down to the concessional contributions caps. Where the agreement is put into effect the reduction in the contributions will be payable to the employee as salary.

Reasons for the Amendments

- Reduction in superannuation contributions due to financial hardship

The amendment, which will enable a BCC employee in financial hardship who is an accumulation benefit member to enter into an agreement with the BCC to reduce the employee's contribution into LGsuper, will restore a provision previously available to the employee prior to the merger of City Super with LGsuper. The LGA provisions currently do not allow for any reductions in the contributions payable by the employee.

The Board supports the BCC in continuing to agree to lower employee contributions for employees in financial hardship.

- Reduction in superannuation contributions due to concessional contributions caps

Employees in regional local governments with salaries above \$138,889 will be paying total concessional contributions greater than \$25,000pa. (This assumes they will be paying their 6% employee contribution by salary sacrifice.) As this level of contribution is above the concessional contributions caps they will be paying total tax of 46.5% on the contributions in excess of the limit.

By having to pay tax on the contributions equivalent to the highest marginal tax rate there is no tax saving (financial incentive) to make superannuation contributions which are locked up until retirement. In such situations the employee and employer should be given the option to reduce the concessional contributions down to the concessional contributions caps, have the reduction in contribution paid to the employee as salary, and then the employee can determine their own tax effective investment of their monies.

Further, given the marginal tax rate of 46.5% applies for incomes above \$180,000 and the next marginal tax rate of 38.5% applies for incomes between \$80,000 and \$180,000, employees of local governments with salaries between \$138,889 and \$180,000 will have a tax rate on their excess concessional contributions higher than their marginal tax rate. Therefore their retirement savings will

be taxed at a higher rate than if they were to receive the excess contributions as income. See example below.

Example:

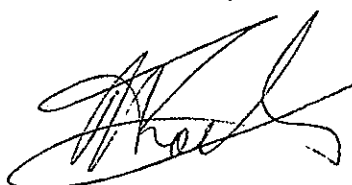
Employee A, aged 45, has a salary of \$150,000pa after adjusting for their 6% employee contribution to LGsuper which is salary sacrificed:

• Total super contribution (concessional)	\$28,723
• Concessional contribution cap	<u>\$25,000</u>
• Excess concessional contributions	<u>\$ 3,723</u>
• Total tax paid on excess concessional contributions @46.5%	\$ 1,731
• Tax payable on excess concessional contributions if taken as salary (@ 38.5%)	\$ 1,433

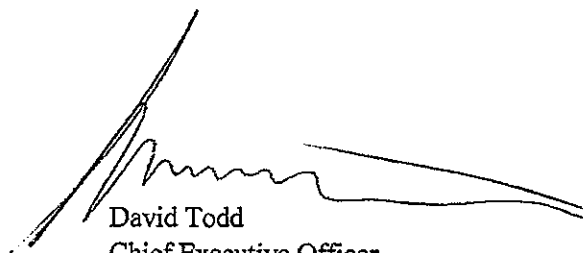
For the reasons stated above the employee and the employer should be given the option to enter into an agreement to reduce the contributions payable under the LGA down to the concessional contributions caps and have the reduced contribution included as their salary.

The Board is aware that a number of LGsuper members have received notices from the ATO levying excess concessional contributions tax on them for contributions paid in 2009-10 and 2010-11. The members have been unable to negotiate lower superannuation contributions due to the operations of the provisions in the LGA. In order to minimise the amount of excess concessional contributions tax levied on members for contributions payable in 2011-12 the Board seeks urgent passage of the amendments in the Bill.

Yours sincerely



Brian Roebig
Chairman



David Todd
Chief Executive Officer