



LOCAL  
GOVERNMENT  
NSW

# BUSINESS PAPER

2018

LGNSW  
ANNUAL  
CONFERENCE  
ALBURY  
21-23 OCTOBER

# Contents

<b>OFFICE BEARERS AND BOARD MEMBERS .....</b>	<b>2</b>
<b>CONFERENCE PROGRAM .....</b>	<b>3</b>
<b>FEDERAL CONFERENCE .....</b>	<b>7</b>
STANDING ORDERS – FEDERAL .....	9
MOTIONS FOR CONSIDERATION BY CONFERENCE – FEDERAL .....	13
<b>STATE CONFERENCE .....</b>	<b>21</b>
STANDING ORDERS – STATE .....	23
MOTIONS FOR CONSIDERATION BY CONFERENCE – STATE .....	27
1. ECONOMIC POLICY .....	27
2. INFRASTRUCTURE AND PLANNING POLICY .....	34
3. ENVIRONMENTAL POLICY .....	54
4. SOCIAL POLICY .....	68
5. INDUSTRIAL RELATIONS AND EMPLOYMENT POLICY .....	80
6. GOVERNANCE/CIVIC LEADERSHIP POLICY .....	85
CATEGORY 2 MOTIONS .....	95
<b>FEDERAL RULES .....</b>	<b>109</b>
<b>ANNUAL CONFERENCE 2018 FEEDBACK SURVEY .....</b>	<b>111</b>

## OFFICE BEARERS AND BOARD MEMBERS

### Patrons

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Bill Bott AM	The late Col Sullivan OAM
Austin JA Mack OAM	Doug Sutherland AM
Ray Donald OAM	Chris Vardon OAM
Genia McCaffery	John Wearne AM
Phyllis Miller OAM	EH Woods MBE
Walter (Wally) A Mitchell AM OAM	Peter Woods OAM

### President

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Cr Linda Scott	City of Sydney
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### Immediate Past President

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Cr Keith Rhoades AFSM	Coffs Harbour
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### Vice Presidents

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Cr Angelo Tsirekas	City of Canada Bay	
Cr Scott Ferguson	Blayney	(as of 17 September 2018)
Cr Lindsay Brown	Eurobodalla	(to 6 April 2018)

### Treasurer

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Cr Marjorie O'Neill	Waverley
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### Board Members

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Cr Khal Asfour	City of Canterbury Bankstown
Cr Ruth Fagan	Cowra
Cr Lesley Furneaux-Cook	Burwood
Cr George Greiss	Campbelltown
Cr Julie Griffiths	Blacktown
Cr Mazhar Hadid	Liverpool
Cr Paul Harmon	Inverell
Cr Rod Kendall	Wagga Wagga
Cr Karen McKeown	Penrith
Cr Phyllis Miller OAM	Forbes
Cr Michael Regan	Northern Beaches
Cr Marianne Saliba	Shellharbour
Cr Ben Shields	Dubbo
Cr Darriea Turley	Broken Hill

### Chief Executive

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Lillian Tiddy	(Acting, from 3 July 2018)
Kylie Yates	(Acting, from 3 July 2018)
Donna Rygate	(to 2 July 2018)

This page is correct at the time of printing

## CONFERENCE PROGRAM

### Local Government NSW Annual Conference 2018

Sunday 21 – Tuesday 23 October 2018

Main conference venue is **Albury Entertainment Centre, QEII Square, Swift Street, Albury**

This program is correct at time of printing. Speakers and program may have changed due to unforeseen circumstances.

#### Sunday 21 October

- 1.00pm – 4.30pm Registration opens in Albury Convention Centre foyer
- 2.00pm – 4.00pm **Workshop 1 – AR Bluett Award winning councils in 2016 and 2017**, a special presentation, Convention Centre Theatre Level 1
- 2.00pm – 3.00pm **Workshop 2a – Elected Members: Update on Legal Responsibilities**, Retro Lane Café, QEII Square, 525 Swift Street
- 3.00pm – 4.00pm **Workshop 2b – Elected Members: Developing Capabilities**, Retro Lane Café, QEII Square, 525 Swift Street
- 5.30pm – 7.30pm President's Opening Ceremony followed by Welcome Reception, sponsored by NSW Department of Planning and Environment – Noreuil Park Foreshore, Noreuil Parade (outdoor event)  
Welcome from **Cr Linda Scott**, President, LGNSW  
Address from **the Hon Gladys Berejiklian MP**, Premier of NSW  
Welcome from the Mayor of Albury

#### Monday 22 October

##### Business Session Day 1 – Albury Entertainment Centre Theatre and Convention Centre

- 7.30am – 5.00pm Registrations open in Albury Convention Centre
- 8.15am – 9.00am Distribution of voting materials and electronic handsets  
Trade exhibition opens in Albury Convention Centre
- 9.15am – 11.00am Address from **Cr Linda Scott**, President, LGNSW
- Opening of the Federal Conference, chaired by **Cr Linda Scott**, including demonstration of voting units, adoption of standing orders, presentation of the auditor's report, general financial report and operating report to members, business session and consideration of motions
- Opening of the State Conference, chaired by **Cr Linda Scott**, including adoption of standing orders, presentation of the auditor's report, general financial and operating report to members, business sessions and consideration of motions
- 11.00am – 11.30am Morning tea in trade exhibition area in Albury Convention Centre, sponsored by Local Government Super
- 11.30am – 1.00pm Consideration of Conference business continued, chaired by the President
- 1.00pm – 2.00pm Lunch in trade exhibition area, sponsored by Local Government Super  
General Managers Lunch at the Retro Lane Café, QEII Square, 525 Swift Street, sponsored by StateCover: Updates from local government businesses - StateCover, Local Government Super and Local Government Procurement
- 2.00pm – 3.00pm Consideration of Conference business continued, chaired by the President
- 3.00pm – 3.15pm Address from **the Hon Gabrielle Upton MP**, Minister for Local Government  
3.15pm – 3.30pm Facilitated questions from the Conference to the Minister

3.30pm – 4.00pm	Afternoon tea in trade exhibition area, sponsored by Local Government Super
4.00pm – 5.00pm	Consideration of Conference business continued, chaired by the President Collection of all electronic handsets and motions voting cards Conference business session closes
5.00pm – 6.00pm	Delegate networking function in trade exhibition area
<b>7.30pm - 11.00pm</b>	<b>Conference Dinner – QEII Square, Swift Street</b>
7.30pm	Doors open
7.45pm	Delegates seated and entrée served
8.00pm	LGNSW President introduces Elite Sponsor, StateCover Mutual Limited
8.10pm	LGNSW President and Elite Sponsor present the AR Bluett Awards, Outstanding Service Awards and Executive Certificates for elected members
8.35pm	Main course served
9.35pm	Entertainment and dancing
11.00pm	Function finishes

**Tuesday 23 October**  
**Business Session Day 2 – Albury Entertainment Centre Theatre and Convention Centre**

7.30am – 5.00pm	Registrations open in Albury Convention Centre
7.30am – 8.45am	Australian Local Government Women’s Association (ALGWA) Breakfast. Special guest speaker, <b>Sarah Garnett</b> , founder, The Footpath Library Retro Lane Café, QEII Square, 525 Swift Street
8.15am – 4.00pm	Trade exhibition opens in Albury Convention Centre
9.00am – 9.05am	Introduction by <b>Ellen Fanning</b> , Master of Ceremonies
9.05am – 9.30am	Address from <b>Mr David O’Loughlin</b> , Australian Local Government Association President
9.30am – 9.35am	Short address from Premier Sponsor, <b>Office of the NSW Small Business Commissioner &amp; Service NSW</b>
9.35am – 9.50am	Address from <b>Mr Stephen Jones MP</b> , Federal Shadow Minister for Local Government
9.50am – 10.00am	Facilitated questions from the Conference to the Shadow Minister
10.00am – 10.20am	Address from <b>Cr Linda Scott</b> , LGNSW President, on Association Initiatives
10.20am – 10.30am	Treasurer’s Report
10.30am – 11.00am	Morning tea in trade exhibition area, sponsored by Environment Protection Authority

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**11.10am - 12.45pm Smart Places**

Facilitated by **Simon Hunter**, Executive Director, Strategy and Planning, Infrastructure NSW

11.15am – 11.40am Smart cities and towns: what, why and how?  
**Adam Beck**, Executive Director, Smart Cities Council Australia New Zealand

11.40am – 12.05pm Smart data: what local government needs to know to thrive  
**Geof Heydon**, Associate at CreatorTech and Chair of Platforms and Interoperability at the Internet of Things Alliance Australia

12.05pm – 12.30pm How to implement smart strategies to give your residents better options  
**Chris Isles**, Executive Director, Planning, Place Design Group

12.30pm – 12.45pm Q and A

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12.45pm – 1.35pm Lunch in trade exhibition area, sponsored by Environment Protection Authority

1.35pm – 1.40pm Short address from Distinguished Sponsor **Environment Protection Authority**

1.40pm – 1.55pm Address from **the Hon Peter Primrose MLC**, Shadow Minister for Local Government

1.55pm – 2.05pm Facilitated questions from the audience to the Shadow Minister

2.05pm – 2.50pm Keynote address: Waste: Crisis or Opportunity? **Craig Reucassel**, War on Waste Host

2.50pm – 3.00pm LGNSW Campaign Launch – Recycling

3.00pm – 4.00pm Keynote address: The Last Man Standing, **Steven Bradbury OAM**

4.00pm – 4.30pm Afternoon tea and delegate networking function in trade exhibition area

**CLOSE OF CONFERENCE**



# FEDERAL CONFERENCE





## STANDING ORDERS – FEDERAL

These Standing Orders are made in accordance with clause 27 of the registered rules of the Local Government and Shires Association of New South Wales (LGNSW rules).

**It is the intention of this Conference, so far as possible, to work towards achieving consensus on the matters before it and, subject to these Standing Orders and the LGNSW rules, the Chairperson and Delegates are to endeavour to achieve this goal.**

### Quorum

1. The quorum for a Conference shall be fifty per cent of the total number of Delegates to the Conference, plus one. The business of a Conference shall not be conducted unless a quorum is present (see rule 25 of the LGNSW rules).

Note: for the purposes of the 2018 Conference, the total number of Delegates on the date that the roll of voters closed (26 September 2018) was 477. Therefore, the quorum shall be **240**.

$[(477/2) + 1, \text{rounded up to the nearest whole number} = 240]$ .

### Presiding at the Conference

2. The Conference will be presided over by the President. In the absence of the President, the Conference will be presided over by either Vice President. Should neither the President nor either Vice President be present, a Board member shall preside. The person presiding over the Conference will be addressed by Delegates as the “Chairperson” or the “Chair”.

### Conduct of Delegates

3. When the Chairperson speaks, all Delegates will remain silent and maintain order.
4. All Delegates who wish to speak to the Conference shall:
  - a. stand and remain standing unless unable to do so through illness or disability,
  - b. state their name, title, and, Council they represent,
  - c. address Delegates through the Chairperson.
5. Delegates shall address the Conference in a manner befitting to the reputation of Local Government and ensure that the reputation of Local Government and the Association is maintained and enhanced throughout proceedings.
6. A Delegate commits an act of disorder if the Delegate, at a session of a Conference:
  - a. moves or attempts to move a motion or an amendment that has an unlawful purpose;
  - b. says or does anything that is inconsistent with maintaining order at the Meeting or is likely to bring Local Government and/or the Association into contempt or disrepute;
  - c. assaults or threatens to assault another Delegate or person present at the meeting; or
  - d. insults or makes personal reflections on or imputes improper motives to any other Delegate.
7. The Chairperson may require a Delegate to:
  - a. retract any comment or remark that constitutes an act of disorder;
  - b. apologise without reservation for an act of disorder; or
  - c. withdraw a motion or an amendment that has an unlawful purpose.

8. A Delegate may be expelled from a session of Conference for not complying with standing orders 5, 6 or 7 only by a majority vote of Conference delegates.
9. Mobile phones shall be switched off or switched to silent mode while the business of the Conference is being transacted.
10. Board Members of the Association shall be permitted to speak on any matter before a Conference.

### **Manner of dealing with Conference Business**

11. Conference Business will be dealt with in any order at the discretion of the Chairperson.
12. Nothing in these Standing Orders shall prevent the Chairperson from dealing with motions concurrently.

### **In the case of motions**

13. The Chairperson, upon coming to a motion set out in the Business Paper, must ask whether there is any dissent to the proposed resolution the subject of the item and, if no dissent be signified, may at any time, declare the motion carried.
14. Where dissent is signified, the Chairperson shall require the motion to be moved and seconded.
15. If the motion is moved and seconded, the Chairperson may, at any time during debate, make such inquiries as to the nature of the dissent so as to confine any debate to the issues genuinely in dispute or to explore amendments to the proposed resolution which satisfactorily accommodate the moving and dissenting Delegates and Delegates generally.
16. Movers of motions shall be permitted two (2) minutes to introduce their proposed resolution into debate and one and a half (1.5) minutes in reply. All other speakers shall each be permitted to speak once for one and a half (1.5) minutes. The Conference may, on application by a speaker, permit that speaker to have one, but only one, further period of one and a half (1.5) minutes in which to speak.
17. A Delegate seconding a motion shall not be permitted to speak until at least one Delegate has spoken in dissent.
18. The Chairperson may, during the course of debate direct a speaker to confine his or her speech so as to:
  - a. limit repetition of matters addressed by other speakers;
  - b. limit debate about matters or issues not genuinely disputed.
19. Except as otherwise provided herein, it shall not be in order to move that any resolution be immediately put until at least two Delegates, in addition to the mover and the seconder, shall have had an opportunity to speak on the resolution then before the Conference.
20. A Delegate can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the Conference until a decision is made on the motion of dissent;
  - a. If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course; and

- b. Despite any clause to the contrary, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

- 21. A Delegate may not substitute from the floor of the Conference a new motion for one listed in the Business Paper unless the new motion is substantially the same, and dealing with the same subject matter, as the original motion, and the new motion is accompanied by written evidence that it has the support of the member concerned.
- 22. When an amendment is before the Conference, no further amendment shall be discussed until that amendment has been dealt with.
- 23. No more than one amendment upon any motion shall be considered unless notice of such further amendment is given before the amendment then under discussion has been dealt with.
- 24. The mover of an amendment which has been adopted as the motion shall (as in the case of the mover of an original motion) have the right of reply to any further amendments submitted.

### **New motions from the floor of Conference**

- 25. At least 24 hours' notice shall be given before dealing with any new motions introduced during the Conference (Rule 28(d)).
- 26. Where a Member seeks to introduce a new motion during the Conference, they shall submit the motion and evidence that the motion has the support of the member concerned, to the Association's Chief Executive (or the Chief Executive's nominee), in writing.
- 27. The Chief Executive (or the Chief Executive's nominee), upon receiving a new motion submitted during the Conference, shall immediately record the time that they receive the motion and make arrangements for copies of the motion to be provided to Delegates.

### **In the case of all other Conference Business**

- 28. All other Conference Business will be dealt with at the discretion of the Chairperson.

### **Manner of voting**

- 29. Only Members' nominated voting Delegates and members of the Board may debate and vote on motions.
- 30. Except as hereinafter provided voting on any matter shall be on the show of cards.
- 31. The Chairperson may direct that voting on any matter be taken by show of voting cards or by use of electronic voting.
- 32. After a show of voting cards or on conclusion of an electronic vote the Chairperson may either:
  - a. declare the question resolved in the affirmative or negative; or
  - b. if voting cards have been used, call for a new vote using electronic voting.
- 33. A Division may be called following a vote on the show of cards by no less than 10 Delegates.
- 34. A Division will be taken by use of electronic voting.

### **Suspending Standing Orders**

35. Standing Orders may be suspended by a majority of those present, provided the meeting is in quorum. A motion to this effect shall be open to debate.

### **Outstanding business**

36. In the event that the Conference, having commenced in quorate, subsequently loses a quorum and is unable to consider any item(s) of business properly put before the Conference, they shall be referred to the Association's Board for consideration.

## MOTIONS FOR CONSIDERATION BY CONFERENCE – FEDERAL

### F1 Board

### Standing Orders

That the Standing Orders as set out in the preceding pages 9 to 12 be adopted.

[ **Procedural Note:** *Presentation of Financial Reports to Members* ]

### F2 City of Sydney, Campbelltown City Council, and Board

### Constitution

That the Local Government and Shires Association of New South Wales, being a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth) (the “**Association**”):

1. Amend the Association’s rules in the terms proposed below.
2. In furtherance of 1 above, make application to the Fair Work Commission to amend the Association’s rules.

#### **Board note**

The Local Government and Shires Association of New South Wales is registered as an organisation of employers under the *Fair Work (Registered Organisations) Act 2009* (Cth) (“**LGNSW Federal**”). An organisation of the same name is separately registered as an organisation of employers under the *Industrial Relations Act 1996* (NSW) (“**LGNSW State**”). The rules of LGNSW Federal (“**LGNSW rules**”) and LGNSW State are substantially similar.

LGNSW Federal was formed on 1 March 2013 following the amalgamation of the former Local Government Association of New South Wales and the former Shires Association of New South Wales. Since this time, a number of amendments have been made to the LGNSW rules.

As part of the LGNSW Operational Plan 2016-17, LGNSW undertook a five-year review of the LGNSW rules. Arising from the review, a number of amendments are proposed to be made to the LGNSW rules, which are set out below.

Amendments to the LGNSW rules require a resolution at a Conference adopted by a majority of the voting delegates and members of the Board in attendance at any such Conference (see Rule 73 of the LGNSW rules).

Once all necessary amendments to the rules of LGNSW Federal are settled and made, consideration can be given as to which rules of LGNSW State ought also be amended, pursuant to the power of the Board under Rule 73(b)(ii) of the LGNSW State rules, to ensure consistency between the two sets of rules.

The proposed amendments to the LGNSW rules are as follows:

#### **Issue 1: Substituting Delegates**

Under existing Rule 34, members can “substitute” the name(s) of their nominated voting delegate(s) to a Conference (for both voting on motions and voting in Board elections) before and *during* a Conference. Separately, paragraph 16 of Schedule B of the LGNSW rules, which relates only to voting in Board elections, provides:

*“If a delegate of a member or member of the Board cannot for any reason be present at the Conference to vote in any election (hereafter referred to as “the absentee”), the absentee may by notice in writing signed by the absentee and delivered to the Returning Officer before 5pm on the business day immediately prior to the first business day of the Conference appoint another delegate from the same member to exercise the absentee’s right to vote in the election.”*

Prior to the Election Notice being issued for the 2017 Board election, the Australian Electoral Commission (“AEC”) and the Association shared the concern that the different times in the LGNSW rules for submitting proxy voting and substitution voting delegates could create difficulties (for example, if both a substitution and a proxy occurred in respect of the same voting entitlement, which one takes precedence?). To remedy this for the 2017 Board election, the AEC issued a direction under subsection 193(1) of the *Fair Work (Registered Organisation) Act 2009* (the “RO Act”) that:

*“A member of the LGNSW wishing to notify a change of delegate under either Rule 34(b) or (c) of the Association’s Rules must give notice in writing signed by either the Mayor or the General Manager of*

*the member to both the Chief Executive or his or her nominee and the Returning Officer by 5pm the business day before the day of the opening of the ballot.”*

The AEC raised the above issue in its Post-Election Report for the 2017 Board election.

The above concern only arises for voting in Board elections and does not arise when voting on motions. Further, the substitution of voting delegates for voting on motions is a common occurrence at annual Conferences.

To avoid the potential for an election irregularity occurring in future Board elections, it is recommended that Rule 34 be amended and that different substitution requirements be specified for voting on motions to voting in Board elections.

#### Proposed amendment

Delete sub-rules 34(b) and 34(c) and insert in their stead the following:

“(b) Substitution of voting delegates for voting on motions

If it is desired to change the nomination of a delegate for voting on motions written notice shall be given to the Chief Executive or his or her nominee of the name of the delegate being replaced and the name of the substitute delegate. Such notification shall be signed by either the Mayor (or Deputy Mayor with the Mayor’s written delegated authority) or the General Manager of the Council (or Acting General Manager with the General Manager’s written delegated authority), or in the case of the ALC, the LHIB, the NAIC or a RLGB, by the Chairperson or Chief Executive Officer of that entity. The badge and/or voting card of the delegate being replaced shall be surrendered to the Chief Executive or his or her nominee before a fresh badge and/or voting card is issued to the incoming delegate.

(c) Substitution of voting delegates for voting in Board elections

If it is desired to change the nomination of a delegate for voting in an election, written notice signed by either the Mayor (or Deputy Mayor with the Mayor’s written delegated authority) or the General Manager of the Council (or Acting General Manager with the General Manager’s written delegated authority), or in the case of the ALC, by the Chairperson or Chief Executive Officer of that entity, shall be given to both the Chief Executive or his or her nominee and the Returning Officer by 5pm the business day before the day of the opening of the ballot.”

#### **Issue 2: Names on Ballot Papers**

The AEC’s Post-Election Report for the 2017 Board election contained the following observation:

*“The Rules of the Association do not include a provision for how candidates’ names were to appear on the ballot paper. As a remedy, the Returning Officer conducted a draw for ballot paper positions and advised all candidates and the Association the time, date and place for the draw.”*

It is recommended that Schedule B of the LGNSW rules be amended to include a requirement that the Returning Officer conduct a draw to determine the order of candidates on the ballot paper.

#### Proposed amendment

In Schedule B, after paragraph 11 and before paragraph 12 insert the following:

“11A. The Returning Officer shall conduct a public draw to determine the order of candidates on the ballot paper.”

#### **Issue 3: Registered Political Parties**

The AEC’s Post-Election Report for the 2017 Board election contained the following observation:

*“Schedule B, paragraph 15 of the Rules, states that the ballot paper(s) must include the candidate’s declared current registered political party membership. A number of political parties are registered differently in the State and Federal jurisdiction. It is recommended that the Rules specify which*

*jurisdiction applies so that registered political party membership can be presented consistently on the ballot paper.”*

It is recommended that Schedule B, paragraph 15, be amended to clarify the requirements concerning disclosure of registered political party membership.

#### Proposed amendment

In Schedule B, after sub-paragraph 5(b) and before paragraph 6 insert the following:

“(c) Where the nominee is a member of a political party that is registered with either the NSW Electoral Commission (for State or Local Government elections) or the Australian Electoral Commission (for Federal elections) the nominee shall declare the name(s) of such registered political party membership(s) on the nomination form.”

Delete paragraph 15(b) of Schedule B in its entirety and insert in its stead the following:

“(b) The Returning Officer shall issue the ballot paper(s) to the voters, such ballot paper(s) to include:

- (i) the Returning Officer’s initials;
- (ii) the name of each candidate for the office/position to be filled, including the candidate’s declared **registered** political party membership(s);
- (iii) such other information as the Returning Officer deems appropriate.”

#### **Issue 4: Industrial Relations Advisory Committee**

Some members have suggested that general managers should have a role in the governance of the Association on the basis that:

- i) The Association is a registered industrial organisation of employers established to represent the employer interests of NSW Local Government, and general managers do not have a voice on the committee of management of the Association;
- ii) General managers have “employer” functions under the *Local Government Act 1993* (NSW) which include: to determine the positions (other than the senior staff positions) within the organisation structure of council, to conduct the day-to-day management of the council, to appoint staff in accordance with the organisation structure, to direct and dismiss staff, and to implement the council’s workforce management strategy; and
- iii) whilst councillors employ the general manager, the remainder (and majority) of staff within councils are employed by the general manager.

It is recommended that the LGNSW rules be amended to provide for an Industrial Advisory Committee (“IAC”) comprising of both general managers (or their representatives) and councillors (Directors of the Board). The role of the IAC would be to assist and make recommendations to the Board in relation to industrial relations issues that concern or are likely to concern Local Government as a sector.

#### Proposed amendment

After Rule 21 and before Rule 22 insert the following:

“21A (a) The Association shall establish an Industrial Advisory Committee to assist and make recommendations to the Board in relation to industrial relations issues that concern or are likely to concern more than one of the members of the Association either currently or in the future.

(b) The Industrial Advisory Committee’s terms of reference, size and composition shall be determined by the Board, provided that the Committee shall at least include Directors from the Board and general managers of member organisations (or their representatives).

(c) The Board shall consider recommendations of the Industrial Advisory Committee when making relevant decisions.”



## Issue 5: Composition of the Board

It has been suggested that the office of Immediate Past President be removed with effect from the conclusion of the Annual Conference in 2019. This would reduce the overall size of the Board to 18 members, and the overall size of the Senior Executive Group (SEG) to 8 members. A person who has ceased to be President could still be invited to assist the Board and/or the Association where appropriate.

### Proposed amendment

Delete the text of sub rule 36(b) and insert in its stead the following:

- “(b) The office of Immediate Past President that was established as part of the Rules of the Association that took effect on the Amalgamation Date shall cease upon the date that the current incumbent ceases to hold that office.”

## Issue 8: The Seal of the Association

The rules do not currently provide for a common seal of the Association.

Section 222(d) of the *Industrial Relations Act 1996* (NSW) requires State registered industrial organisations to have a seal. Further, Regulation 30 of the *Industrial Relations (General) Regulations 2015* states:

*“The rules of a State organisation must provide for a seal of the organisation to be kept by a member of the committee of management of the organisation and to be affixed to a document only with the authority of at least 2 members of that committee.”*

It is recommended that the rules be amended to include a new rule that specifies how the common seal of the Association is to be kept and used.

### Proposed amendment

After rule 70 and before rule 71 insert the following:

#### **“COMMON SEAL**

- 70A (a) The Association shall have a common seal which shall clearly include the words “Local Government NSW”.
- (b) Subject to any resolution of the Board, the common seal is to be kept in the custody of an employee designated by the Board.
- (c) The common seal shall only be affixed to a document in the presence of at least two members of the Board who attest to the affixing of the seal by signing the document.”

## Issue 9: The name of the Association

The amalgamation of two organisations in 2013 led to the use of two names and this is reflected in Rule 1(a) which provides:

- “1. (a) *The name of the Organisation shall be the Local Government and Shires Association of New South Wales (the “Association” but may also be known as “[Local Government NSW]”.*”

The legal name of the Association is “*Local Government and Shires Association of New South Wales*” and this expanded name is used extensively in legislation. However, it has become common practice for the name “*Local Government NSW*” to be used on branding and promotional materials. Changing the name to “*Local Government NSW*” would also provide simplicity and clarity.

A complete removal of the expanded name would require legislative changes to be made to ensure the Association continues to be recognised in legislation.

It is recommended that the order of the names of the Association in Rule 1(a) be reversed so that the legal name becomes “*Local Government NSW*” and the Association may also be known as “*Local Government and Shires Association of New South Wales*”.

Changing the name in this manner would mean that the Association continues to be recognised in legislation that refers to the expanded name.

#### Proposed amendment

Delete rule 1(a) in its entirety and insert in its stead the following:

- “1. (a) The name of the Organisation shall be “*Local Government NSW*” (the “*Association*”) but may also be known as “*Local Government and Shires Association of New South Wales*”.”

#### **Issue 10: Other minor amendments**

A number of minor amendments to the rules are proposed to clarify provisions and/or remove ambiguity. These include:

1. Rule 3 [Definition of “Roll of Voters”] – Amend the definition of “Roll of Voters” to provide that the Roll of Voters shall mean all those “members” of the Association who are, by virtue of the Rules, entitled to vote in the election of members of the Board (as distinct from roll consisting of “delegates of members”). Such an amendment would return the definition to that which existed under both the former Shires Association and the Local Government Association rules.

#### Proposed amendment

Delete the text of the definition of “Roll of Voters” in rule 3(a) and insert in its stead the following:

““Roll of Voters” shall mean all those **members** of the Association who are, by virtue of these Rules, entitled to vote in the election of members of the Board.”

2. Rule 28 [Motions to Conferences] – Amend the Rule to state beyond doubt that the Board can place motions before Conferences of the Association for consideration by members.

#### Proposed amendment

Delete rule 28 and insert in its stead insert the following:

- “28. (a) The Association may establish groupings of members (“divisions”) which may consider and place motions before a Conference.
- (b) **The Board may bring any matter falling within the objects of the Association before a Conference of the Association for opinion or actioning.**
- (c) A Member may bring any matter falling within the objects of the Association before a Conference of the Association for opinion or action by forwarding a statement to the Chief Executive not less than twenty eight (28) days prior to the first day of the Conference and the Chief Executive shall, subject to any direction from the Board of the Association, place such business upon the Business Paper for the consideration of Conference;
- (d) Where the Chief Executive receives a statement from a Member that it wishes to bring a matter before a Conference and less than twenty eight (28) days notice has been given, the Board may allow the matter to be considered by the Conference as a late item;
- (e) A Conference may, should a majority of the members present so approve, consider any business not introduced as provided for by the foregoing paragraphs, subject to at least 24 hours notice thereof being given;  
PROVIDED THAT the Board may exclude any business so proposed if the Board determines that such business concerns a matter not falling within the objects of the Association.”

3. Rule 73 [Amendments to the Rules] – Amend the Rule to expand the power of the Board to make minor clerical and/or administrative changes to the Rules.

Proposed amendment

Immediately after sub rule 73(b)(ii), and before the words beginning with “*and any such amendments shall be taken to be validly made if...*” delete the comma (“,”) and then insert the following:

“; or

(iii) to correct minor clerical and/or administrative errors,”

4. Rule 74 [Notification of Disputes] – Amend the Rule to reflect that the Chief Executive may delegate his or her authority to officers of the Association to notify the appropriate court or tribunal of an industrial dispute.

Proposed amendment

Delete rule 28 and insert in its stead insert the following:

“74. Any industrial disputes may be notified to the appropriate court or tribunal under the Act by the Chief Executive or such other employee(s) of the Association that have the Chief Executive’s delegated authority.”

5. Rule 76 [Calculation date for election of offices in 2017 – Special Rule] and Rule 3 [Definition of “calculation date”] – Remove all references to the 2017 Board election and the special arrangements that were put in place for the 2017 Board election.

Proposed amendment

- i) Delete rule 76 in its entirety.
- ii) Delete the text of the definition of “calculation date” in rule 3(a) and insert in its stead the following:

““calculation date” means the first day of March last occurring prior to a Conference.”

**See Attachment:** Marked-up copy of the Association’s rules showing the proposed amendments – page 19

**Attachment:** Marked-up copy of the Association’s rules showing the proposed amendments



[142N: Incorporates alterations of 23/04/2018 in matter R2018/5]  
Replaces Rulebook dated 01/03/2017

I CERTIFY under section 161 of the Fair Work  
(Registered Organisations) Act 2009 that the pages  
herein numbered 1 to 37 both inclusive contain a  
true and correct copy of the registered rules of the  
Local Government and Shires Association of New South Wales.

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]

## Contents

Rules of the Local Government and Shires Association of New South Wales

<b>CONSTITUTION</b>	<b>1</b>
<b>PREAMBLE – AMALGAMATION COMPACT</b>	<b>1</b>
<b>INTERPRETATION</b>	<b>1</b>
<b>OBJECTS</b>	<b>5</b>
<b>POWERS</b>	<b>6</b>
<b>MEMBERSHIP</b>	<b><del>67</del></b>
<b>REGISTER OF MEMBERS</b>	<b>9</b>
<b>ANNUAL SUBSCRIPTIONS</b>	<b>9</b>
<b>SPECIAL LEVIES</b>	<b><del>910</del></b>
<b>DISBURSEMENT OF MONIES RAISED BY LEVY</b>	<b><del>1011</del></b>
<b>CONTROL AND GOVERNANCE OF THE ASSOCIATION</b>	<b><del>1011</del></b>
<b>CONFERENCES</b>	<b>13</b>
<b>ANNUAL CONFERENCES</b>	<b><del>1718</del></b>
<b>SPECIAL CONFERENCES</b>	<b><del>1718</del></b>
<b>DELEGATES TO A CONFERENCE</b>	<b><del>1718</del></b>
<b>BOARD OF DIRECTORS</b>	<b><del>1819</del></b>
<b>ELECTION PROCESS FOR MEMBERS OF THE BOARD</b>	<b><del>2122</del></b>
<b>GENERAL</b>	<b><del>2122</del></b>
<b>ELECTION ARRANGEMENTS</b>	<b><del>2122</del></b>
<b>CASUAL VACANCIES</b>	<b><del>2122</del></b>
<b>SUSPENSION FROM OFFICE</b>	<b><del>2223</del></b>
<b>REMOVAL FROM THE BOARD</b>	<b><del>2324</del></b>
<b>BOARD MEETINGS</b>	<b><del>2325</del></b>
<b>AUDITOR</b>	<b><del>2526</del></b>

## CONTENTS

---

<b>FINANCE</b>	<b><u>2627</u></b>
<b>CHIEF EXECUTIVE</b>	<b><u>2829</u></b>
<b>ACCESS TO RECORDS</b>	<b>29</b>
<b>PATRON OF THE ASSOCIATION</b>	<b>29</b>
<b>AMENDMENT</b>	<b><u>2930</u></b>
<b>NOTIFICATION OF DISPUTES</b>	<b>30</b>
<b>DISSOLUTION</b>	<b>30</b>
<b><del>CALCULATION DATE FOR ELECTION OF OFFICES IN 2017 – SPECIAL RULE</del></b>	<b><del>3031</del></b>
<b>SCHEDULE A</b>	<b><u>3132</u></b>
<b>SCHEDULE B</b>	<b><u>3233</u></b>



## Rules of the Local Government and Shires Association of New South Wales

### CONSTITUTION

1. (a) ~~The name of the Organisation shall be the Local Government and Shires Association of New South Wales (the "Association") but may also be known as "[Local Government NSW]".~~The name of the Organisation shall be "Local Government NSW" (the "Association") but may also be known as "Local Government and Shires Association of New South Wales".
- (b) The registered office of the Association is situated at Level 8, 28 Margaret Street, Sydney, New South Wales.

### PREAMBLE – AMALGAMATION COMPACT

2. (a) These Rules form part of the scheme of amalgamation for the amalgamation of the Local Government Association of New South Wales ("LGA NSW") and the Shires Association of New South Wales ("SA NSW") to form the Association.
- (b) These Rules are intended to reflect the compact between the LGA NSW and the SA NSW that their respective membership constituencies (that is, Metropolitan/Urban councils and Rural/Regional councils respectively) would, post the amalgamation, each have an approximately equal voice in the governance of the Association.
- (c) The principal means by which this compact is implemented in these Rules is through the composition of conferences of the Association and the Committee of Management ("Board of Directors"), and arrangements for alternative access to the office of President from the two different constituencies.

### INTERPRETATION

3. (a) Unless the context otherwise requires:

"Aboriginal Land Council" or "the ALC" means the New South Wales Aboriginal Land Council as constituted under the Aboriginal Land Rights Act 1983 (NSW).

"Act" or "the Act" means the Fair Work (Registered Organisations) Act 2009 (Cth).

"Administrator" means an Administrator appointed in accordance with the Local Government Act 1993 (NSW) or Division 2 of Part 11 of the Aboriginal Land Rights Act 1983 (NSW).

"ALC Region" mean a Region constituted under the Aboriginal Land Rights Act 1983 (NSW).

"Amalgamation" or "the Amalgamation" means the amalgamation between LGA NSW and SA NSW, each of which were organisations registered under the Act immediately prior to the amalgamation date.

## INTERPRETATION

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“Amalgamation date” means the date fixed by Fair Work Australia as the date upon which the Amalgamation and these Rules takes effect, being such date as Fair Work Australia determines but being no earlier than 1 March 2013

“Associate member” means a member who is not an Ordinary member.

“Association” means the Local Government and Shires Association of New South Wales, the Association governed by this Constitution.

“Badge” means all those records, signs and facilities that allow a person to be identified as and discharge the functions of a Delegate at a Conference.

“Board” or “the Board” means the Board of Directors of the Association, which is the Committee of Management of the Association for the purpose of the Act.

“calculation date” means the first day of March last occurring prior to a Conference.”<sup>2</sup>

~~“calculation date” means the first day of March last occurring prior to a Conference, except for the purpose of calculating the voting entitlement of each member of the Association at the 2017 Annual Conference and in the 2017 elections for office at that Conference, where the provisions of Rule 76 shall apply.~~

“Chief Executive” means the most senior employee of the Association, whose position and general responsibilities are specified in Rule 70.

“Conference” means the Annual Conference or a Special Conference of the Association as provided by these Rules.

“Constitution” or “this Constitution” means these Rules as they provide from time to time.

“Council” means a council constituted under the Local Government Act 1993 (NSW) and the ALC but does not include a County council.

“Councillor” means a person elected or appointed to civic office under the Local Government Act 1993 (NSW), but does not include an Administrator.

“County council” means a County council established under Part 5 of Chapter 12 of the Local Government Act 1993 (NSW).

“Director” means a member of the Board including an Office Bearer (unless the contrary intention appears from the context).

“Delegate” means an elected member of a council or a member of the Board of the ALC, the LHIB, the NIRC or RLGB or an Administrator who are by virtue of this Constitution entitled to vote at a Conference.

## INTERPRETATION

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“Financial year” means the period from July 1 in one year to 30 June in the following year.

“LGA NSW”, means the Local Government Association of New South Wales, an organisation of employers registered under the Act until the Amalgamation Date.

“LHIB” means the Lord Howe Island Board as constituted under the *Lord Howe Island Act 1953* (NSW).

“Member” means a Council, County council, the ALC, the LHIB, the NIRC or a RLGB that is a member of the Association, whether as an Ordinary member or as an Associate member.

“Metropolitan/Urban County council” means a County council which is identified in Schedule A attached to these Rules as a Metropolitan/Urban County council.

“Metropolitan/Urban council” means a council which is identified in Schedule A attached to these Rules as a Metropolitan/Urban council.

“NIRC” means the Norfolk Island Regional Council as constituted under the *Norfolk Island Act 1979* (Cth).

“Office” has the same meaning as defined by section 9 of the Act, but to avoid doubt includes the office of Director.

“Office Bearer” means the President, Immediate Past President, Vice President (Metropolitan/Urban), Vice President (Rural/Regional) and/or Treasurer of the Association.

“Officer” has the same meaning as defined by section 6 of the Act, but to avoid doubt includes a Director.

“Ordinary member” means a member that obtains and retains ordinary membership pursuant to Rule 6 of these Rules.

“Political objects” means the expenditure of money:

- (i) on any contribution to the funds of, or on the payment of any expenses incurred directly or indirectly by, a political party;
- (ii) on the provision of any service or property for use by or on behalf of any political party;
- (iii) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot in connection with any election to a political office;
- (iv) on the maintenance of any holder of a political office; or

## INTERPRETATION

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- (v) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting – the main purpose of which is the transaction of business in connection with a political party (including any expenditure incurred in connection with the attendance of delegates or other participants).

“Related local government body” or “RLGB” means an association, body corporate or body politic that is controlled by:

- (a) one or more Councils; or
- (b) An entity constituted under a law of the state of New South Wales to perform the functions of a council, other than a Council or County council.

In this definition:

- (i) A “related local government body” is controlled by a Council if that Council has the capacity to determine the outcome of decisions about the body’s financial and operational policies, and is controlled by more than one Council if those Councils concerned, acting jointly, have that capacity;
- (ii) In paragraph (b), the expression “the functions of a council” means those functions that are of a kind conferred on a council by the *Local Government Act 1993*, even if the entity concerned has other functions.

“Roll of Voters” shall mean all those ~~Delegates of~~ members of the Association who are, by virtue of these Rules, entitled to vote in the election of members of the Board.

“Rural/Regional County council” means a County council in the State of New South Wales other than a Metropolitan/Urban council.

“Rural/Regional council” means a council in the State of New South Wales which is a council in the said State which is other than a Metropolitan/Urban council.

“SA NSW” shall mean the Shires Association of New South Wales, an organisation of employers registered under the Act (until the Amalgamation Date).

- (b) Unless the contrary intention appears:
- the singular shall include the plural and vice versa, and a reference to one gender shall include a reference to the other gender;
  - headings are for convenience and do not affect meaning;
  - schedules shall form part of these Rules; and

- a reference to any particular statute or regulation shall include any successor to or substitute legislation or regulation, as the case may be.

### OBJECTS

4. The objects of the Association shall be in New South Wales and elsewhere:
  - (a) to encourage, promote, protect and foster an efficient and effective autonomous, democratic system of Local Government elected by and responsible to local communities with its position constitutionally guaranteed and with adequate resources including revenue from State and Commonwealth Governments;
  - (b) to promote, maintain and protect the interests, rights and privileges of Local Government in New South Wales and of the constituent members of the Association;
  - (c) to encourage and assist Local Government to seek out, determine, assess and respond to the needs and aspirations of its constituents;
  - (d) to encourage, assist, promote and foster the achievement and maintenance of the highest level of integrity, justice, competence, effectiveness and efficiency of Local Government;
  - (e) to develop, encourage, promote, foster and maintain consultation and co-operation between councils and Local, State and Commonwealth Governments and their instrumentalities;
  - (f) to develop, encourage, promote, foster and maintain the financial and economic well-being and advancement of Local Government and for such purposes to undertake, establish, acquire, conduct or dispose of any business, enterprise, undertaking or venture which in the opinion of the Association is necessary, desirable or convenient;
  - (g) to represent the members of the Association and Local Government generally in their dealings with State and Commonwealth Governments, with statutory and other corporations, with the media and with the public;
  - (h) to promote, support and encourage Local Government at a State and national level;
  - (i) to provide an industrial relations service to members including:
    - (i) representing the interests of members in industrial matters before courts and tribunals;
    - (ii) assisting in negotiations relating to the settlement of disputes between members and their employees;
    - (iii) representing the interests of members in negotiating the establishment of and/or variation of industrial awards and agreements;

## POWERS

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- (iv) promoting training programs aimed at enhancing the performance of Local Government.
- (j) to undertake or promote any activity which the Board determines to be for the benefit and/or interest of members and local government in New South Wales.

### POWERS

5. The Association is empowered:

- (a) to purchase, take on lease or in exchange, hire, invest in and otherwise acquire any real and personal property and any interest therein and any rights or privileges and in particular any land, buildings, easements, machinery, plant, shares, debentures, mortgages and securities;
- (b) to enter into with any council or government or statutory authority, or any incorporated or unincorporated body or any association of persons, any arrangement, joint venture, union of interest or field of co-operation intended directly or indirectly to advance the interests or objects of the Association;
- (c) to apply for, promote and obtain any statute, order, regulation, ordinance or other authorisation or enactment which may seem calculated directly or indirectly to benefit the interests or objects of the Association and to oppose any bills, proceedings or applications which may seem calculated directly or indirectly to prejudice the Association's interests or objects;
- (d) to construct, improve, maintain, develop, manage, carry out or control any buildings and other works intended directly or indirectly to advance the Association's interests and to contribute to, subsidise or otherwise assist or take part in the construction, improvement, maintenance, development, working, management, carrying out or control thereof;
- (e) to invest, deposit, lend, pay out, grant, donate and deal with money of the Association in such manner as may from time to time be thought fit but subject to legislative requirements;
- (f) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (g) to borrow or raise or secure the payment of money in such manner as the Association may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Association in any way and in particular by charges upon all or any of the Association's property (both present and future) and to redeem or repay any such securities;
- (h) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Association;

- (i) to do all such other things as are incidental or conducive to the attainment of the objects, the furtherance of the interests and the exercise of the powers of the Association.

### MEMBERSHIP

- 6. (a) Membership of the Association shall be open to Councils, County councils in the State of New South Wales, the ALC, the LHIB, the NIRC and RLGB's.
- (b) Membership of the Association shall be limited to:
  - (i) Ordinary members; and
  - (ii) Associate members.
- (c) Any Council shall be eligible for Ordinary membership of the Association subject to compliance with the requirements of Rule 7 and payment of the prescribed annual subscription in accordance with Rule 13, Annual Subscriptions.
- (d) County councils and the ALC (each of which is referred to in this sub rule as an "entity") shall be eligible for Ordinary membership or Associate membership of the Association, at the election of the entity concerned, provided that:
  - (i) the original application for membership made by such entity complies with the requirements of Rule 7 and the prescribed subscription is paid in accordance with the requirements of Rule 13;
  - (ii) the election as to the category of membership that such entity wishes to make is communicated to the Chief Executive at the time of application for membership or, in the case of renewal of membership, not later than 21 days after the date upon which notice is given to the member by the Chief Executive pursuant to Rule 13 (c);
  - (iii) any such election shall remain in force for not less than 3 (three) financial years; and
  - (iv) where an entity that has made an election pursuant to this sub Rule is entitled to exercise a further election, a failure to exercise that election will be regarded as an election to remain in that entity's existing category of membership.
- (e) RLGB's, the LHIB and the NIRC shall be eligible for Associate membership of the Association subject to compliance with the requirements of Rule 7 and payment of the prescribed annual subscription in accordance with Rule 13, Annual Subscriptions. Where a RLGB covers or relates to a geographic area that falls within one or more Metropolitan/Urban councils and one or more Rural/Regional councils, that RLGB shall be included in the category of councils that is most appropriate by reason of the area of the State or the population of the State or of the category of councils it covers, or any combination of those factors, as determined by the Board. A RLGB may at not less than three (3) yearly intervals following commencement of its membership apply to the Board for reconsideration of its category allocation.

- (f) Associate Membership of the Association confers on the Associate Member the right through its delegates to attend, participate and vote on resolutions proposed at conferences of the Association, and to participate in or receive such benefits or services as the Board shall deem appropriate for provision to Associate Members from time to time, but does not confer any right to have its delegates stand for or vote in elections for any office within the Association.
7. (a) An application for membership of the Association, whether as an ordinary member or as an associate member, shall be in writing, signed by the General Manager, to the Chief Executive.

Upon receipt of an application for membership the Chief Executive shall inform the applicant in writing of:

- (i) the financial obligations arising from membership; and
- (ii) the circumstances, and the manner, in which a member may resign from the Association.
- (b) Any application for membership of the Association shall be promptly submitted to the Board which may either approve or reject the application, but may only reject the application if it is not in accordance with these Rules or does not comply with the Act.
8. A member of the Association may resign from membership of the Association by written notice addressed and delivered to the Chief Executive. A notice of resignation from membership of the Association takes effect:
- (a) where the member ceases to be eligible to become a member of the Association:
- (i) on the day on which the notice is received by the Association; or
- (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;
- whichever is the later; or
- (b) in any other case:
- (i) at the end of two (2) weeks, or such shorter period as is specified in the Rules of the Association, after the notice is received by the Association; or
- (ii) on the day specified in the notice;
- whichever is the later.
9. A member shall cease to be a member in the following circumstances:
- (c) the member resigns in accordance with Rule 8;



## ANNUAL SUBSCRIPTIONS

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- (d) the member is a council that is dissolved;
  - (e) the member fails to pay all or any monies due and payable to the Association pursuant to these Rules (whether by way of annual subscriptions or special levies or otherwise) for a period in excess of six (6) months after the due date;
  - (f) by order of a court in accordance with the Act.
10. When a member of the Association merges with another council or when a member is to be dissolved such member shall notify the Association of the change.

### REGISTER OF MEMBERS

11. The Chief Executive shall keep or cause to be kept a Register of Members in which shall be recorded the name and address of every member of the Association and whether the member is an Ordinary Member or an Associate Member of the Association. Such Register of Members may be inspected during the ordinary office hours of the Association in accordance with any relevant provisions of the Act.
12. An entry of the name of a member in the Register of Members shall be evidence of membership of the Association.

### ANNUAL SUBSCRIPTIONS

- 13
- (a) All members must pay an annual subscription of such an amount as may be determined by the Board from time to time.
  - (b) The Board may determine the amount of subscriptions to be paid by members and in doing so may determine different subscriptions for different classes of members as it sees fit.
  - (c) The Chief Executive must give written notice to each member specifying the amount of its subscription.
  - (d) A member's subscription is payable within thirty (30) days after notice of the amount of its subscription has been given to it. A member who is in arrears of subscriptions for more than thirty (30) days shall be regarded by the Association as an unfinancial member until such time as subscriptions are paid.
  - (e) While soever a member is an unfinancial member that member shall not be entitled to any of the benefits or privileges of membership, including voting at any meeting, conference or election conducted within or by the Association, and shall be precluded from having any delegate or councillor stand for office in the Association.
  - (f) Should a member join the Association after more than half of the financial year has expired then the subscription for the remaining period of that financial year shall be fifty (50) percent of the annual fee as may be determined by the Board.
  - (g) Notwithstanding the above, the payment by a member or applicant for membership to the Local Government and Shires Association of New South Wales being an organisation registered under the *Industrial Relations Act 1996* (NSW) (the "State

organisation”) of the prescribed membership contribution or subscription shall constitute payment in full of the membership contributions and fees to the Association.

**SPECIAL LEVIES**

14. (a) The Board may make a levy or levies on members from time to time to establish a fund or funds to defray any extraordinary expenditure (incurred or to be incurred) in carrying out a matter to further the objects of the Association.
- (b) The Board may determine, in respect of any particular matter, the amount of levy to be paid by members and in doing so may determine different levy amounts for different classes of members as it sees fit.
- (c) No levy is to be imposed on members for political objects and no donations or other payment for political objects is to be made out of amounts levied by the Association.
- (d) Where a special levy is made under this Rule, the Chief Executive shall give written notice to each member specifying:
- (i) the amount of the special levy payable by it; and
  - (ii) the purpose for which such special levy is made.
- (e) Nothing in this Rule shall be taken to reduce, qualify or abridge the power of the Board to make arrangements with all, some or a group members for voluntary levies for particular purposes determined by the Board to be in the interests of the Association or some members of it.

**DISBURSEMENT OF MONIES RAISED BY LEVY**

15. Disbursements of monies raised by levy must be for the purpose for which the levy is made.
16. If the purpose for which a levy is made or completed or exhausted, and monies raised by levy remain unexpended, those monies must be reimbursed to members in proportion to the respective amounts of levies paid by members.

**CONTROL AND GOVERNANCE OF THE ASSOCIATION**

17. The Scheme for control and governance of the Association prescribed by these Rules is in summary form as follows:
- (a) a Conference of all ordinary and associate members of the Association, which conference shall be the supreme policy making body of the Association;
  - (b) a Board of Directors which shall be responsible for the governance of the Association between Conferences, subject to the resolutions of any Conference from time to time;
  - (c) a Senior Executive Group to assist and make recommendations to the Board in relation to that Committee’s responsibilities under these Rules;
  - (d) the President, who shall have the role of representing the Association between conferences and meetings of the Board, shall chair meetings of the Board and the Senior

Executive Group, and may act on behalf of the Association between these meetings provided that all such action is consistent with the objects of the Association, any relevant resolutions of conferences and the Board and where there is any such resolution for the purpose of carrying out any such resolution;

- (e) the Vice Presidents shall participate in Board and Senior Executive Group meetings, chair meetings where the President is unavailable (with the Vice President to chair any such meeting being that Vice President who is from the same group of councils as the President, unless that Vice President is also unavailable) and undertake such other duties as are conferred on those office by these Rules; and
  - (f) the Treasurer shall, subject to the responsibility of the Board under Rule 62, have overall responsibility for the financial administration of the Association, together with such specific duties as are conferred on that office by these Rules.
18. A Conference of the members shall be the supreme policy making body of the Association, and while a Conference is sitting the Conference shall have the control and governance of the Association, such that it may take any action or make any decision(s) for the furtherance of the objects of the Association as it may think fit, subject to compliance with these Rules provided that a Conference may not appoint or dismiss staff of the Association.
19. The Board is the Committee of Management of the Association for the purposes of the Act, and shall have the control and governance of the Association in between Conferences, such that it may take any action or make any decision during this time as it thinks fit for the furtherance of the objects of the Association in accordance with these Rules, provided that any such action or decision:
- (a) is consistent with any relevant policy decision of the members at a Conference; and
  - (b) may be reviewed, amended or quashed by the members at a Conference, except in relation to the appointment or dismissal of staff.

Without limiting the generality of the foregoing the powers of the Board extend to the appointment and dismissal of the Chief Executive (see Rule 70), and to the appointment, constitution and dissolution of committees to investigate for and/or make recommendations to the Board in relation to particular matters falling within the objects of the Association. Any such Committee may, with the consent of the Board, co opt suitably qualified persons to assist the Committee with its work.

20. (a) The Senior Executive Group shall consist of :
- (i) the President, the Immediate Past President (if applicable) the two Vice Presidents and the Treasurer,
  - (ii) two directors chosen by and from the seven (7) directors representing Metropolitan/Urban members of the Association elected in the immediately preceding elections, and
  - (iii) two directors chosen by and from the seven (7) directors representing Rural/Regional members of the Association elected in the immediately preceding elections

- (b) The method of selection of the members of the Senior Executive Group other than the Office bearers shall be determined by the respective college (that is, as specified in paragraphs (20(a)(ii) and 20(a)(iii)) from which they are to be chosen.
  - (c) No business shall be transacted at any meeting of the Senior Executive Group unless a quorum is present in person or by telephone or video-conference or a combination of these forms at the same time. The quorum for a meeting of the Senior Executive Group shall be fifty percent of the total number of Senior Executive Group members, plus one.
  - (d) The Senior Executive Group shall have the following functions:
    - (i) to make a recommendation to the Board as to who it ought appoint as Chief Executive;
    - (ii) to monitor the management of the Association by the Chief Executive, in accordance with and subject to all or any directions prescribed by the Board from time to time;
    - (iii) to develop service standards of the Association and priorities for it, and to monitor its performance;
    - (iv) to recommend to the Board the annual budget of the Association and to provide regular reports to the Board on financial performance;
    - (v) to invest the funds of the Association in accordance with the policy determined from time to time by the Board;
    - (vi) to recommend to the Board the remuneration and/or allowances to be paid to the President, other office bearers and other directors;
    - (vii) to recommend to the Board any expenses policies for the Association;
    - (viii) to undertake such other functions as may be delegated to the Group by the Board provided that such functions are subject to supervision and directions for their exercise by the Board.
  - (e) A member of the Senior Executive Group shall attend at all meetings of the Senior Executive Group unless granted leave of absence by or having reasonable excuse acceptable to the Senior Executive Group. A failure by a director to attend three consecutive meetings of the Board, the Senior Executive Group or a combination of both without leave shall be deemed to constitute a breach of the duties of a director under these Rules.
21. The President of the Association shall have, in addition to such powers as are specifically conferred on him or her by these Rules, the power to act on behalf of the Association between meetings of the Board, provided that such action(s):
- (a) are consistent with any resolution(s) of the Board, and
  - (b) are for the purpose of carrying out the objects of the Association,

## CONFERENCES

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PROVIDED THAT any such actions are consistent with any relevant policy decision(s) of a Conference of the members.

- 21A. (a) The Association shall establish an Industrial Advisory Committee to assist and make recommendations to the Board in relation to industrial relations issues that concern or are likely to concern more than one of the members of the Association either currently or in the future.
- (b) The Industrial Advisory Committee's terms of reference, size and composition shall be determined by the Board, provided that the Committee shall at least include Directors from the Board and general managers of member organisations (or their representatives).
- (c) The Board shall consider recommendations of the Industrial Advisory Committee when making relevant decisions.

## CONFERENCES

### General

22. A Conference shall consist of Delegates from all Members of the Association provided that the Member must be financial on both the calculation date and on the date that the roll of voters closes as provided for in Schedule B. Where an Annual Conference does not involve elections for the Board, the roll of voters (for voting on motions) shall be deemed to close eight weeks prior to the first business day of the Annual Conference.
23. The voting delegation to which any Member of the Association is entitled at a Conference of the Association is determined in accordance with the following formula.

### STEP 1

Determine the number of delegates for each member (other than the ALC), by applying the latest population statistics for each council area either published by the Australian Bureau of Statistics (ABS) in ABS publication 3218.0 entitled 'Regional Population Growth Australia' or, where that publication does not contain population statistics for a Member, the latest such statistics as can be obtained from the ABS for that Member (even if on an estimate basis only) as at the calculation date for those Members that were financial on the calculation date, using the following scale:

Group No. (Councils other than County councils)	Population	Delegates
(1)	Up to 10,000	1
(2)	10,001 - 20,000	2
(3)	20,001 - 50,000	3

## CONFERENCES

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(4)	50,001 - 100,000	4
(5)	100,001 - 150,000	5
(6)	Over 150,000	7
County councils		
	each Metropolitan/ Urban County council	2
	each Rural/ Regional County council	1
LHIB		1
NIRC		1
Related local government bodies	Each RLGB	1

### STEP 2

- (a) If the ALC is a member of the Association at a time when the formula in this Rule is to be applied, allocate the ALC 9 delegates.
- (b) The 9 delegates from the ALC shall consist of one delegate from each of the 9 ALC Regions constituted under the Aboriginal Land Rights Act 1983 (NSW), each such delegate being a member of the Board of the ALC.
- (c) Treat each such ALC Region as being a Rural/Regional council for the purpose of the Table in Step 1 above, except for the Region for Sydney/Newcastle, which Region shall be treated as a Metropolitan/Urban council for the purpose of that Table.
- (d) The ALC shall notify the Association in writing not later than 28 days prior to the relevant Conference as to allocation of the nine ALC Regions between the nine members of the ALC Board, identifying which ALC Region is to be represented by which ALC Board member.

### STEP 3

Determine the total voting strength of the Metropolitan/Urban Councils and the Rural/Regional councils as follows.

1. Determine the total number of delegates from Metropolitan/Urban councils and County councils and the total number of delegates from Rural/Regional councils and County councils resulting from the application of Steps 1 and (if applicable) 2.
2. Then add to the total number of delegates from Metropolitan/Urban councils so determined the additional votes given to directors who are delegates from those councils pursuant to Rule 30 and add to the total number of delegates from

Rural/Regional councils so determined the additional votes given to directors who are delegates from those councils pursuant to Rule 30.

3. Then add to the total number of delegates from Metropolitan/Urban councils so determined the number of delegates from any RLGB covering the geographic area of Metropolitan/Urban councils (if applicable), and add to the total number of delegates from Rural/Regional councils so determined the number of delegates from any RLGB covering the geographic area of Rural/Regional councils (if applicable).
4. Then add to the total number of delegates from Rural/Regional councils a vote for the delegate from the LHIB and NIRC (if applicable).

### STEP 4

If as a result of Steps 1 – 3 there is a greater number of delegates from the Rural/Regional category than the Metropolitan/Urban category, increase the total number of delegates from the Metropolitan/Urban category, so that that total number is the same as the total number of delegates from the Rural/Regional category, then distribute that additional number of delegates among the Metropolitan/Urban councils (except for the Sydney/Newcastle ALC Region and any RLGB), by attributing to each such council additional delegates in accordance with that council's proportion of the total population of all these councils, rounded off to the nearest whole number.

If as a result of Steps 1 – 3 there is a greater number of delegates from the Metropolitan/Urban category than the Rural/Regional category, increase the total number of delegates from the Rural/Regional category, so that that total number is the same as the total number of delegates from the Metropolitan/Urban category, then distribute that additional number of delegates among the Rural/Regional councils (except for the ALC, the LHIB, the NIRC and any RLGB), by attributing to each such council additional delegates in accordance with that council's proportion of the total population of all these councils, rounded off to the nearest whole number.

### STEP 5

If the adjustment required to be undertaken in Step 4 results arithmetically in a Metropolitan/Urban council or Rural/Regional council being entitled to more than 15 delegates, that council's delegation is capped at 15 delegates.

### STEP 6

Except in the case of the ALC, where any member that has less councillors holding office than the total number of votes to which that member is entitled pursuant to the application of the formula for determining votes under this Rule, the Council affected shall nominate the delegate (or delegates if applicable) who shall be allocated an extra vote . In the case of the ALC, the formula in Step 2 only shall apply.

Example: If a member is entitled to 10 votes but has only 8 councillors holding office, the Council affected will nominate in writing which 2 of those 8 councillors will have an extra vote each, the ultimate outcome being that 6 of the councillors will have 1 vote each and 2 of the councillors nominated by the Council will have 2 votes each.

### STEP 7

On each anniversary of the amalgamation date, carry out steps 1, 3 4, and 5 by reference to the population for each Council area published by the Australian Bureau of Statistics in that edition of ABS publication 3218.0 Regional Population Growth Australia last published prior to that anniversary.

[NOTE: the voting entitlement of Ordinary members in elections is dealt with in Rule 37.]

24. A Conference shall be presided over by the President, and in his or her absence by one of the Vice Presidents. Should neither of the Vice Presidents be present, a Director shall preside.
25. The quorum for a Conference shall be fifty per cent of the total number of delegates to the Conference, plus one. The business of a Conference shall not be conducted unless a quorum is present. In the event of the Conference not having a quorum:
  - (a) A record of the names of voting delegates that are present at the time be taken on return of the electronic handset and voting card.
  - (b) Each constituent council be provided with advice on which of their voting delegates were present and which were not at the time the meeting became inquorate.
  - (c) That all constituent councils be provided with a report detailing which councils had voting delegates who were not present at the time the meeting became inquorate.
26. Subject to Rule 73 (Amendment), any question to be determined by a Conference shall be the subject of a resolution, and a resolution shall be regarded as adopted if it is supported by a majority of the delegates present who vote on the resolution, where the Conference is quorate in accordance with Rule 25.
27.
  - (a) A Conference shall be conducted in accordance with Standing Orders.
  - (b) Standing Orders do not form part of these Rules and may be varied by a resolution of Conference.
28.
  - (a) The Association may establish groupings of members (“divisions”) which may consider and place motions before a Conference;
  - (b) ~~The Board may bring any matter falling within the objects of the Association before a Conference of the Association for opinion or actioning. A Member may bring any matter falling within the objects of the Association before a Conference of the Association for opinion or action by forwarding a statement to the Chief Executive not less than twenty eight (28) days prior to the first day of the Conference and the Chief Executive shall, subject to any direction from the Board of the Association, place such business upon the Business Paper for the consideration of Conference;~~
  - (c) Where the Chief Executive receives a statement from a Member that it wishes to bring a matter before a Conference and less than twenty eight (28) days notice has been given, the Board may allow the matter to be considered by the Conference as a late item;



## DELEGATES TO A CONFERENCE

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- (d) A Conference may, should a majority of the members present so approve, consider any business not introduced as provided for by the foregoing paragraphs, subject to at least 24 hours notice thereof being given;

PROVIDED THAT the Board may exclude any business so proposed if the Board determines that such business concerns a matter not falling within the objects of the Association.

29. Subject to these Rules:

- (a) each Delegate shall be entitled to one vote only;
- (b) except in an election for Office Bearers and Directors, the person presiding over a Conference shall in the case of an equality of votes have a casting vote.

30. Office Bearers of the Association shall be entitled to speak on any matter before a Conference and furthermore any Director (whether an Office Bearer or not) shall be entitled to vote on any matter before a Conference, and in that regard have one vote as a Delegate and an additional vote as a consequence of being Director. In the case of a person presiding over a Conference, the right to a casting vote shall be in addition to the vote as a delegate and the vote as a Director.

### ANNUAL CONFERENCES

31. The Annual Conference of the Association shall be held each year at a time and place to be determined by the Board provided that no more than eighteen (18) months shall expire between successive annual general meetings.

32. The notice of the holding of an Annual Conference shall be forwarded to members at least four (4) months before the holding of the Annual Conference. The business paper shall be forwarded to members prior to the Annual Conference.

### SPECIAL CONFERENCES

33. (a) A Special Conference of the Association may be convened:
- (i) by the President; or
- (ii) by resolution of the Board; or
- (iii) by a petition signed by at least 10% of the member councils of the Association.
- (b) Where a Special Conference is called for under sub-rule (a) of this Rule the Chief Executive shall convene a Special Conference for a date not later than four (4) weeks after the receipt of the notice calling for the Conference.

### DELEGATES TO A CONFERENCE

34. (a) Each member shall nominate its Delegate(s) to a Conference by such date as the Chief Executive may specify. Thereafter no alteration to the list of delegates shall be permitted other than as hereinafter provided.

(b) Substitution of voting delegates for voting on motions

If it is desired to change the nomination of a delegate for voting on motions written notice shall be given to the Chief Executive or his or her nominee of the name of the delegate being replaced and the name of the substitute delegate. Such notification shall be signed by either the Mayor (or Deputy Mayor with the Mayor's written delegated authority) or the General Manager of the Council (or Acting General Manager with the General Manager's written delegated authority), or in the case of the ALC, the LHIB, the NAIC or a RLGB, by the Chairperson or Chief Executive Officer of that entity. The badge and/or voting card of the delegate being replaced shall be surrendered to the Chief Executive or his or her nominee before a fresh badge and/or voting card is issued to the incoming delegate.

~~If it is desired to change the nomination of a delegate prior to the first day of the Conference written notice shall be given to the Chief Executive or his or her nominee of the name of the delegate being replaced and the name of the substitute delegate. Such notification shall be signed by either the Mayor or the General Manager of the Council, or in the case of the ALC, the LHIB, the NAIC or a RLGB, by the Chairperson or Chief Executive Officer of that entity. The badge of the delegate being replaced shall be surrendered by that person to the Chief Executive or his or her nominee and replaced with a new badge.~~

(c) Substitution of voting delegates for voting in Board elections

If it is desired to change the nomination of a delegate for voting in an election, written notice signed by either the Mayor (or Deputy Mayor with the Mayor's written delegated authority) or the General Manager of the Council (or Acting General Manager with the General Manager's written delegated authority), or in the case of the ALC, by the Chairperson or Chief Executive Officer of that entity, shall be given to both the Chief Executive or his or her nominee and the Returning Officer by 5pm the business day before the day of the opening of the ballot.

~~If it is desired to change the nomination of a delegate on or after the first day of the Conference written notice in accordance with sub-rule (b) of this Rule shall be given. In addition, the delegate's badge of the person being replaced as a delegate shall be surrendered to and destroyed by the Chief Executive or his or her nominee before a fresh badge is issued to the incoming delegate.~~

35. (a) Subject to clause 16 of Schedule B, a Delegate may not appoint a proxy to attend or vote at a Conference.
- (b) Nothing in sub-rule (a) of this Rule shall prevent the appointment of substitute delegates in accordance with Rule 34.

**BOARD OF DIRECTORS**

36. (a) The Board of the Association (which may be referred to as "the Board of Directors") is the Committee of Management of the Association and shall consist of a President, the Immediate Past President (where applicable under Sub Rules(b) hereof) two Vice-

Presidents (one from a Metropolitan/Urban council and the other from a Regional/Rural council), a Treasurer and 14 Committee members (7 from Metropolitan/Urban councils and 7 from Regional/Rural councils).

- (b) ~~Upon the election of a new President of the Association, the person who immediately preceded in office as the President shall assume the office of “Immediate Past president”, provided that a President who resigns or is removed during his term shall not assume the office of Immediate Past President.~~

~~A person who assumes the office of Immediate Past President in accordance with this Sub Rule shall continue in that office for a maximum period of two (2) years. If after that period there is no new Immediate Past President (ie because the successor President is elected as President to serve an additional 2-year term), then the office of Immediate Past President shall lapse until a different person is eligible to assume the office of Immediate Past President. The office of Immediate Past President that was established as part of the Rules of the Association that took effect on the Amalgamation Date shall cease upon the date that the current incumbent ceases to hold that office.~~

- (c) All Directors, whether Office Bearers or not, are required to give proper and diligent attention to their duties to the Association, whether such duties are prescribed by these Rules or by the Act or any other law.

- (d) Without limiting the foregoing provisions of this Rule, a Director, whether an office bearer or not, is under a duty to the Association to comply with the provisions of the Association’s “Code of Conduct – members of the Board” as such Code provides from time to time.

37. (a) It shall be a prerequisite for any person to be nominated or elected to the Board of the Association, or to vote in such an election, that he or she be either a Councillor of a Council which is an Ordinary member of the Association or if the ALC is an Ordinary member, a member of its Board, provided that any such person who is suspended from office under either the *Local Government Act 1993* or the *Aboriginal Land Rights Act 1983*, as the case may be, shall not be eligible.

- (b) An Administrator of a Council that is an Ordinary member shall not be eligible for nomination or election as a member of the Board nor be entitled to vote in any such election.

- (c) Each Council which is an Ordinary member shall be entitled to a maximum voting delegation for Board elections equal to the delegation to which such Council is entitled for voting at Conferences, as prescribed by the formula in Rule 23, and to avoid doubt each of the 9 delegates from the ALC Regions shall be entitled to cast only one vote each.

- (d) In addition to the foregoing, a Director (whether an office bearer or not) shall have a right to vote in elections for the Board next occurring, in addition to any right to vote in such elections arising from being a delegate for a member.

38. Commencing from the Annual Conference first conducted after the Amalgamation Date, Directors shall be elected, or declared elected in the case of a secret postal ballot, biennially at an Annual Conference.
39. (a) As part of the compact between LGA NSW and SA NSW, referred to in Rule 2 of these Rules, it is intended that, so far as practicable, the office of President should alternate regularly between eligible candidates from Metropolitan/Urban councils and Rural/Regional councils. The following provisions of this Rule shall be interpreted in the light of that intention.
- (b) Subject to the limitations provided in the following provisions of this Rule, all Councillors for Ordinary members, or members of the Board of the ALC if it is an Ordinary member, are eligible to nominate for any election for the office of President. In this Rule, such person(s) shall be referred to as “eligible candidates” or “eligible candidate”.
- (c) The electorate for the election of the President shall be Delegates of Ordinary members who are entitled to vote at a Conference.
- (d) The term of office for the office of President shall be two years, commencing at the conclusion of the annual Conference in each alternate year, and concluding at the conclusion of the annual Conference in each alternate year thereafter. To avoid doubt, if such conferences should be more than two (2) years apart due to conference scheduling or venue arrangements, the President shall, subject to these rules, continue to hold office until the conclusion of the conference in the relevant alternate year.
- (e) The eligible candidate elected as President may stand for re-election for President at the following election for President but may only serve two consecutive terms. This does not preclude that eligible candidate standing again for the office of President at a subsequent election for that office, if otherwise eligible.
- (f) If an eligible candidate from a Metropolitan/Urban council holds the office of President and, being eligible, nominates for a second term in that office, no other eligible candidate from a Metropolitan/Urban council is eligible to nominate for the office of President at such election.
- (g) If an eligible candidate from a Rural/Regional council holds the office of President and, being eligible, nominates for a second term in that office, no other eligible candidate from a Rural/Regional council is eligible to nominate for the office of President at such election.
- (h) If an eligible candidate has held the office of President for two consecutive terms (and thus may not nominate to the office of President for a third consecutive term) the only eligible candidates eligible to nominate for the next election for President are eligible candidates from the other category of councils to that from which the retiring President was an eligible candidate.
- (i) If an eligible candidate holding the office of President vacates that office for any reason, the casual vacancy thereby occurring shall be filled in accordance with the provisions

of Rule 44 and (if applicable) Rule 49. In such a case, the eligible candidate elected or appointed to fill the vacancy will be treated as having completed one term in that office, for the purposes of determining eligibility for re-election as prescribed by sub-Rule (e), unless the balance of the term of office after the occurrence of the vacancy is less than one year.

- 40
- (a) The office of Vice President (Metropolitan/Urban) shall be filled by election by an electorate that shall consist of those delegates entitled to vote at a Conference from Metropolitan/Urban councils that are Ordinary members and, if the ALC is an Ordinary member, the member of the Board of the ALC who is the delegate for the Sydney/Newcastle ALC Region. The persons entitled to stand for such office are Councillors from Metropolitan/Urban Councils that are Ordinary members and, where the ALC is an Ordinary member, the member of the board of the ALC for the Sydney/Newcastle Metropolitan Region.
  - (b) The office of Vice President (Rural/Regional) shall be filled by election by an electorate that shall consist of those Delegates entitled to vote at a Conference from Rural/Regional councils that are Ordinary members and, if the ALC is an Ordinary member, the members of the Board of the ALC who are delegates from those ALC Regions that are treated as Rural/Regional Councils for the purpose of Step 2 of Rule 23. The persons entitled to stand for such offices are Councillors from Rural/Regional councils that are Ordinary members, and if the ALC is an Ordinary member, the members of the board of the ALC who are delegates from those ALC Regions that are treated as Rural/Regional Councils for the purpose of Step 2 of Rule 23.
  - (c) The electorate for the election of the Treasurer shall be those delegates of Ordinary members who are entitled to vote at Conferences, together with the members of the board of the ALC if the ALC is an Ordinary member. The persons entitled to stand for such office are Councillors from Councils that are Ordinary members together with members of the Board of the ALC if it is an Ordinary member.
  - (d) The various offices of other Directors (Metropolitan/Urban) shall be filled by election by an electorate that shall consist of those delegates entitled to vote at a Conference from Metropolitan/Urban councils that are Ordinary members and, if the ALC is an Ordinary member, the member of the Board of the ALC for the Sydney/Newcastle ALC Region. The persons entitled to stand for such offices are Councillors of Metropolitan/Urban Councils that are Ordinary members and, if the ALC is an Ordinary member, the member of the Board of the ALC for the Sydney/Newcastle ALC Region.
  - (e) The various offices of other Directors (Rural/Regional) shall be filled by an electorate that shall consist of those delegates entitled to vote at a Conference from Rural/Regional councils that are Ordinary members, and, if the ALC is an Ordinary member, the members of the board of the ALC who are the delegates from those ALC Regions that are treated as Rural/Regional councils for the purpose of Step 2 of Rule 23. The persons entitled to stand for such offices are Councillors from Rural/Regional councils that are Ordinary members, and if the ALC is an Ordinary member, the members of the board of the ALC who are delegates from those ALC Regions that are treated as Rural/Regional Councils for the purpose of Step 2 of rule 23.

- (f) The term of office for Vice Presidents, Treasurer and the other Directors shall be the same as that for the President, as prescribed by Rule 39 (d), mutatis mutandis. All delegates holding these offices are eligible for re-election without limitation.

### **ELECTION PROCESS FOR MEMBERS OF THE BOARD**

#### **GENERAL**

41. Elections for Directors (including the Office Bearers) (hereafter “the elections”) shall be conducted by a Returning Officer appointed or authorised under the Act.

#### **ELECTION ARRANGEMENTS**

42. The elections shall be conducted in accordance with the requirements of Schedule B.

#### **CASUAL VACANCIES**

43. A casual vacancy on the Board of the Association occurs when a Director
- (a) dies;
  - (b) resigns the position by notice in writing delivered or sent by post to the Chief Executive, and such resignation be accepted;
  - (c) is removed from office as a Director in the manner provided for in Rule 50; or
  - (d) ceases to be eligible under the Rules to hold office as a Director.
44. Subject to Rule 48, a vacancy in the office of President shall be filled as follows:
- (a) if the former President came from a Rural/Regional council the Vice-President (Rural/Regional) shall succeed to the office of President;
  - (b) if the former President came from a Metropolitan/Urban council the Vice-President (Metropolitan/Urban) shall succeed to the office of President.

If there be no such Vice-President then in office, the position shall be filled by the Board by the election thereto of a member of the Board.

45. Subject to Rules 48 and 48A, a vacancy in the office of Vice President or Treasurer shall be filled by the Board by the election thereto of a member of the Board.
46. (a) Subject to Rule 48, a vacancy in the office of a Board member shall be filled by the Board by the appointment thereto of the candidate at the most recent election for the Board from the appropriate category of councils for the vacancy who polled highest of the unsuccessful candidates at that election within that category of councils.
- (b) If there be no such candidate as contemplated by sub-rule (a) of this Rule, the position shall be filled by the Board by the election thereof of a person then qualified to hold such position.

## REMOVAL FROM THE BOARD

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[Note: this Rule can be applied to multiple vacancies – see the first dot point at the foot of Rule 3.]

47. A casual vacancy shall be filled within ninety (90) days of the occurrence of such vacancy provided, however, that non-compliance with this Rule shall not invalidate or otherwise prejudicially affect the proceedings of business carried out or performed by the Board during the continuance of any such vacancy beyond the said period of ninety (90) days.
48. Subject to rule 48A, where a casual vacancy or further casual vacancy is to be filled for so much of the part of the term as exceeds three quarters of the term of the office the vacancy shall be filled by way of secret postal ballot in accordance with the provisions appropriate to the election for the vacant office.

### SUSPENSION FROM OFFICE

- 48A. Notwithstanding any other provision of these Rules, where a casual vacancy occurs more than six months after the commencement of the term of the office concerned because a Director ceases to hold office by reason only of being suspended from office under the *Local Government Act 1993* or the *Aboriginal Land Rights Act 1983*, as the case may be, that vacancy shall not be filled unless that person subsequently becomes eligible to be elected a director by reason of the said suspension ceasing during the balance of the term of the relevant office. In such event the person so removed shall fill the vacancy, provided that person is otherwise eligible for such appointment. No other person will be eligible to fill that vacancy.

### REMOVAL FROM THE BOARD

49. (a) The Board may remove from the Board any Director if the person has been found guilty, under the Rules of the Association, of:
- (i) misappropriation of the funds of the Association; or
  - (ii) a substantial breach of the rules of the Association; or
  - (iii) gross misbehaviour or gross neglect of duty.
- [Note: See Rule 36 and Rule 51: Failure by a member of the Board to attend three consecutive meetings of the Board, without leave, constitutes a breach of Rule 51 and gives rise to liability in the director to expulsion from office under (ii) or (iii) above.]
- (b) If a person is believed by the Board to be guilty of any of the offences specified in sub-rule (a) of this Rule the Board shall call on such person to appear before the next meeting of the Board to show cause why that person should not be expelled from his or her position on the Board.
- (c) The person called to show cause pursuant to this Rule shall be given at least fourteen (14) days notice of the time and place of the meeting to which that person is called. The notice calling such person shall also specify the ground or grounds upon which it is proposed to consider such removal.

## BOARD MEETINGS

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- (d) The Board shall give to any person so called an opportunity to show cause why that person should not be removed from the Board.
  - (e) The Board may proceed to hear and determine the matter under this Rule notwithstanding the absence of the person called if due notice of the hearing has been given in accordance with this Constitution.
  - (f) Where the Board expels a person from the Board in accordance with these Rules, such expulsion shall operate from the date of the decision of the Board.
50. A person ceases to be a Director and vacates his or her position on the Board (by operation of this Rule and without any further action) upon him or her ceasing to be a Councillor of an Ordinary member, or otherwise ceasing under these Rules to be eligible to be a Director.

### BOARD MEETINGS

51. The Board of the Association shall meet at least four (4) times each calendar year but shall meet at such additional times as may be required by the President or by requisition in writing to the Chief Executive signed by not less than five (5) directors. The meetings of the Board shall take place at such times and places as may be determined by the Board, and upon not less than forty eight (48) hours notice to its members. Wherever practicable, notice of any meeting of the Board shall be in writing and shall specify the nature of the business to be conducted at the meeting. Without limiting the generality of Rule 36, a director shall attend at all meetings of the Board unless granted leave of absence by or having reasonable excuse acceptable to the Board. A failure by a director to attend three consecutive meetings of the Board without leave shall be deemed to constitute a breach of the duties of a director as referred to in Rule 36.
52. Where the President or a majority of the Office Bearers of the Association believe that business should be considered by the Board before a scheduled meeting, the Board may meet by telephone or videoconference, or a combination of these forms of meeting or communication. Where any such meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
- (a) wherever practicable all directors are given at least seven (7) days notice of the time, date and agenda for the meeting; and
  - (b) a quorum of directors participate in the meeting by the chosen electronic means or in person.
53. Meetings shall be presided over by the President or, in his or her absence, by one of the Vice Presidents (with the Vice President to chair any such meeting being that Vice President who is from the same group of councils as the President, unless that Vice President is also unavailable); should neither of these be present, the Board may elect a chairperson.
54. The President or person so presiding over a Board meeting shall have control of the meeting and shall call upon members to speak. The person so presiding shall have an original and, in the case of an equality of votes, a second or casting vote.



## BOARD MEETINGS

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55. (a) No business shall be transacted at any meeting of the Board unless a quorum is present in person or by telephone or video-conference or a combination of these forms at the same time. The quorum for a meeting of the Board shall be fifty percent of the total number of Board members then holding office, plus one.

- (b) Subject to sub-rule (c), no business shall be transacted at any meeting of the Board unless a quorum is present in person or by telephone or video-conference or a combination of these forms at the same time.
  - (c) Where in the opinion of the President a matter requires the urgent consideration of the Board before a scheduled Board meeting, the Board may be consulted in writing (including electronic means) by flying minute. A motion put before the members of the Board by way of flying minute shall become a resolution of the Board as at the date set for return of responses, provided that the motion is supported by at least fifty percent of the total number of Board members, plus one. A resolution passed by way of flying minute shall be reported to the next Board meeting.
56. (Contents of Rule 56 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
57. (a) The Directors must cause minutes to be made of:
- (i) all appointments of Directors and officers;
  - (ii) the names of the Directors present at each meeting of the Directors;
  - (iii) all orders made by the Directors;
  - (iv) all declarations made or notices given by any Director (either generally or specifically) of their interest in any contract or proposed contract or of their holding of any office or property whereby any conflict of duty or interest may arise; and
  - (v) all resolutions and proceedings or all general meetings and meetings of Directors and retain the minutes in a minute book.
- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this Sub Rule (d) is evidence of the matters shown in the minute.
58. The Board may exercise any of its powers, duties and functions by itself or by direction to staff or agents of the Association.

**AUDITOR**

59. (a) The Board shall appoint one or more auditors. Any person appointed as an auditor by the Board must be a registered auditor under the Act.
- (b) The position of auditor becomes vacant on the following grounds:
- (i) the written resignation of the appointed auditor; or

- (ii) a resolution by the Board passed at a meeting of the Board by an absolute majority of its members on one or more of the following grounds:
    - A. the service is executed to an unprofessional standard; or
    - B. the auditor's costs are considered excessive; or
    - C. if the person ceases to be a registered company auditor.
  - (iii) at the expiration of the term of appointment.
60. The Board may not remove a person as auditor during the person(s) term of appointment without each director and the auditor having been given fourteen (14) days notice of the intention to remove the auditor from office, and may not so remove the auditor(s) without giving the person(s) a reasonable opportunity to make oral submissions on the matter at a meeting of the Board.

### FINANCE

61. The sources from which the Association's funds may be derived are as follows:
- (a) amounts of entrance fees, subscriptions, fines, fees, levies or commissions received by the Association;
  - (b) interest, rents or dividends derived from investments of the Association's funds;
  - (c) the proceeds of any disposal of parts of the funds;
  - (d) any monies or credits received in pursuance of the Association's Objects, as defined in Rule 4, or in the exercise of Powers, as defined under Rule 5 of this Constitution.
62. (a) All moneys received for and on behalf of the Association shall be placed to the credit of the Association at such bank or such other financial institution(s) the Board shall direct and all cheques, promissory notes, draft bills of exchange and other negotiable instruments and all receipts and moneys paid to the Association shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such other manner as the Board may determine.
- (b) A loan, grant or donation must not be made by the Association unless the Board has approved the making of the loan, grant or donation and has satisfied itself:
- (i) that the making of the loan, grant or donation would be in accordance with these Rules; and
  - (ii) in the case of a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory.

63. The Board shall have management of the Association's property and investment of funds.
64. The Association's funds shall only be expended on the objects of the Association.
65. The Association shall develop and implement policies and procedures relating to the expenditure of the Association.
66. (Contents of Rule 66 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
67. (Contents of Rule 67 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
68. (Contents of Rule 68 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
69. In respect of each financial year of the Association the accounts and financial statements required to be prepared by the Association shall be prepared, audited, and presented to the Board and a Conference of the members (either Annual or Special as may be required) in accordance with the requirements of the Act, and without limiting the generality of the foregoing:
  - (a) as soon as practicable after the end of each financial year, the Association shall cause to be prepared a General Purpose Financial Report, to be prepared in accordance with the Australian Accounting Standards, from the financial records kept by the Association in relation to the financial year concerned;
  - (b) as soon as practicable after the end of each financial year, the Association shall cause to be prepared an Operating Report in relation to that financial year, the preparation of which Report shall be the responsibility of the Treasurer and staff of the Association acting under his or her instructions and directions;
  - (c) the Association's Auditor must audit the financial records of the Association for each financial year and must furnish to the Board his or her report in relation to that year within a reasonable time of having received the General Purpose Financial Report;
  - (d) the Association shall provide, free of charge to its members, either a full report in relation to each financial year (consisting of a copy of the Auditor's Report, the General Purpose Financial Report and the Operating Report) or if the Board so resolves, a Concise Report for the said financial year in accordance with the requirements of the Act;

- (e) the Report in relation to a financial year to be presented to members as referred to in the preceding sub-Rule shall be provided to members not less than 21 days before the Auditor's Report, the General Purpose Financial Report and the Operating Report are presented to a Conference of the members following the end of the relevant financial year of the Association;
- (f) the Auditor's Report, the General Purpose Financial Report and the Operating Report in respect of each financial year, shall be presented to a Conference of the members of the Association not later than six (6) months after the end of the relevant financial year or such longer period as may be allowed by a Registrar in accordance with the Act;
- (g) a copy of the Auditor's Report, the General Purpose Financial Report, the Operating Report and any Concise Report in respect of any financial year, shall be lodged with the Office of the Industrial Registrar not later than fourteen (14) days after the presentation of the said reports to a general meeting of the members of the Association.

### CHIEF EXECUTIVE

70. The Chief Executive shall be appointed by the Board, which shall be responsible for determining the terms his or her conditions of employment and, if found necessary, the termination of the employment of the Chief Executive. In the exercise of these powers the Board will be guided by, but not bound by any relevant recommendations of the Senior Executive Group.

The Chief Executive shall be responsible for the day to day administration of the affairs of the Association and shall give effect to all directions given to him or her by the Board or, where the Board has authorised the Senior Executive Group or the President to give such directions, the Senior Executive Group or the President, as the case may be. The Chief Executive shall at all times act in accordance with and subject to such directions as are given to him or her pursuant to this Rule.

### COMMON SEAL

- 70A. (a) The Association shall have a common seal which shall clearly include the words "Local Government NSW".
- (b) Subject to any resolution of the Board, the common seal is to be kept in the custody of an employee designated by the Board.
- (c) The common seal shall only be affixed to a document in the presence of at least two members of the Board who attest to the affixing of the seal by signing the document.

### ACCESS TO RECORDS

71. (a) Except as provided under Rule 62, all records, books, documents, and securities relating to the management and governance of the Association shall be in the custody of the Chief Executive.
- (b) A member of the Association may access the records of the Association in accordance with and subject to the limitations for such access prescribed from time to time by the Act.

### PATRON OF THE ASSOCIATION

72. (a) In order to recognise outstanding service to Local Government and to the Association, the position of 'Patron of the Association' is created, such position to be honorary only. It shall be open to serving or former elected members, including former Presidents of the Association, the LGA NSW or the SA NSW.
- (b) In the case of serving or former elected members, the Annual Conference shall determine such appointment(s) on the recommendation of the Board.
- (c) In the case of former Presidents, the Board shall determine such appointment(s).

### AMENDMENT

73. (a) Subject to sub-rules (b) and (c) of this Rule, no alteration, amendment or rescission shall be made to this Constitution unless by resolution of a Conference adopted by a majority of the voting delegates and members of the Board in attendance at any such Conference.
- (b) The Board may make such amendments to the Rules of the Association as it deems fit, on the recommendation of the Fair Work Commission or the advice of the Association's legal advisors, for the following purposes:
- (i) to ensure that the Rules comply with the Act or any other law; or
- (ii) to ensure that the Rules remain consistent with the Rules of the industrial organisation of the same name registered under the *Industrial Relations Act 1996* (NSW); or

(iii) to correct minor clerical and/or administrative errors,

and any such amendments shall be taken to be validly made if adopted by resolution at a duly convened meeting of the Board.

- (c) The Board may make such amendments to Schedule A of the Rules as it deems necessary to remove the names of councils and county councils that have been dissolved and to include the names of new councils and county councils that have been established as a result of the amalgamation of councils/county councils and/or the alteration of council/county council boundaries and any such amendments shall be

taken to be validly made if adopted by resolution at a duly convened meeting of the Board.

### NOTIFICATION OF DISPUTES

74. ~~Any industrial disputes may be notified to the appropriate court or tribunal under the Act by the Chief Executive or such other employee(s) of the Association that have the Chief Executive's delegated authority. Any industrial disputes may be notified to the appropriate court or tribunal under the Act in writing by the Chief Executive, or any Office Bearer authorised to do so by a resolution of the Board.~~

### DISSOLUTION

75. In the event that the Association is dissolved or wound up:
- (a) a member shall not be required to contribute to the payment of the debts and liabilities of the Association or the costs, charges and expenses of the dissolution or winding up in an amount which is more than 10% of the member's annual subscription for the financial year in which the dissolution or winding up takes place; and
  - (b) any surplus funds remaining after the dissolution or winding up shall be paid to the members of the Association in the proportion which each member's subscription for the year in which the dissolution or winding up occurred bears to the total amount of subscriptions collected for that year.

### CALCULATION DATE FOR ELECTION OF OFFICES IN 2017 – SPECIAL RULE

76. ~~(a) This Rule shall apply notwithstanding any other provisions of these Rules, but shall only apply to the annual conference of the Association for 2017 and the elections for offices in the Association at that conference ("the 2017 elections"), and shall cease to apply upon the conclusion of the annual conference for 2017.~~
- ~~(b) The calculation date for the purpose of calculating the voting entitlement of each member of the Association at the 2017 annual conference and in the 2017 elections shall be 9 October 2017, unless the Board determines by 30 April 2017 that all of the councils then in existence in the State of New South Wales had become financial members of the Association as at 1 March 2017, in which case the calculation date for the 2017 elections shall be 1 March 2017.~~
- ~~(c) Any decision by the Board pursuant to sub-rule (b) of this Rule shall be communicated in writing to all members not later than seven (7) days after such decision is made.~~
- ~~(d) To avoid doubt, the reference to "councils" in sub-rule (b) of this Rule includes any council that is subject to administration under the *Local Government Act 1993* (NSW) but does not include either the ALC or any county council.~~

**SCHEDULE A**

**METROPOLITAN/URBAN COUNCILS AND COUNTY COUNCILS**

See Definition in Rule 3

Metropolitan/Urban councils

Bayside; Blacktown; Burwood; Camden; Campbelltown; Canada Bay; Canterbury-Bankstown; City of Parramatta; City of Sydney; Cumberland; Fairfield; Georges River; Hawkesbury City; Hornsby; Hunters Hill; Inner West; Ku-ring-gai; Lane Cove; Liverpool; Mosman; Northern Beaches; North Sydney; Penrith; Randwick; Ryde; Strathfield; Sutherland Shire; The Hills Shire; Waverley; Willoughby; and Woollahra.

NOTE: The Sydney/Newcastle region of the ALC is treated under the Rules as being a Metropolitan/Urban Council – see Rule 23, Step 2, paragraph (c).

Metropolitan/Urban County councils

Hawkesbury River

End of Schedule A



**SCHEDULE B**

**RULES FOR CONDUCT OF ELECTIONS IF EXEMPTION IS APPROVED BY FAIR WORK  
COMMISSION/ INDUSTRIAL REGISTRAR**

General

1. The Board shall appoint a Returning Officer not being the holder of any other office in and not being an employee of the Association, and who shall not be a candidate at the election. [NB: under Act the Returning Officer for such elections will be an officer of either the Australian Electoral Commission or the State Electoral Commission, as the case may be, unless exemption is obtained under such legislation.]
2. The Returning Officer shall notify the Chief Executive that he or she is required to deliver a list of ordinary members entitled to vote in the election of members of the Board.
3. The Roll of Voters is to be determined by the Association in accordance with the requirements of Rule 37 and must be closed seven (7) days prior to the date upon which the Returning Officer calls nominations for an election pursuant to these Rules.
4. The Board may determine the form of any nomination form(s) subject to the requirements of the Act.
5.
  - (a) The Returning Officer shall cause an election notice inviting nominations for the office of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) and Board members to be published in the Association's official journal and sent to each Ordinary member council by post at least seven (7) weeks prior to the first business day of the Annual Conference in an election year. Such notice shall prescribe the time and date prescribed by these Rules for the closing of nominations.
  - (b) Nominations must be lodged with the Returning Officer, which may be done by electronic means, before the time and date specified for receipt of nominations.
  - (c) Where the nominee is a member of a political party that is registered with either the NSW Electoral Commission (for State or Local Government elections) or the Australian Electoral Commission (for Federal elections) the nominee shall declare the name(s) of such registered political party membership(s) on the nomination form.
6. The persons proposing and seconding a nomination for the offices of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) and Board members must be elected members of any Council, as defined in Rule 2, which is an ordinary member of the Association. Nominations shall be signed by the proposer and seconder, and consented to in writing by the candidate.
7. A candidate may nominate for more than one office or position that is subject to an election however, election to the offices of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) shall automatically exclude the candidate so elected from election to any other office or position on the Board.

## SCHEDULE B

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8. Nominations for the offices of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) and Board members must reach the Returning Officer at least four (4) weeks prior to the first business day of the Annual Conference in the relevant year.
9. If the Returning Officer should receive a nomination that is defective, the Returning Officer shall not immediately reject the nomination but shall instead give the candidate concerned written notice of the defect and where practicable at least seven (7) days to remedy the defect.
10. A nomination for election may be withdrawn by a candidate, provided that notice of withdrawal in writing is received by the Returning Officer no later than seven (7) days before the holding of the ballot.
11. Details of nominations that have been accepted shall be placed before constituent councils before the Annual Conference.
- 11A. The Returning Officer shall conduct a public draw to determine the order of candidates on the ballot paper.
12. Material (e.g. pamphlets, brochures, notices) which is intended or likely to affect voting in an election may not be distributed unless it contains the name and address of the person who authorised it and the name of the relevant political party.
13.
  - (a) In the event that for any office or position to be filled the number of nominations does not exceed the number of persons to be elected then the persons nominated shall be elected to those positions.
  - (b) Where the nominations received are insufficient to fill all vacancies, the Board at its first meeting after the Annual Conference at which it was elected shall determine whether the number and type of vacancies are such as to require that the vacancies be filled and if it so determines, request the Returning Officer to conduct a further election by way of a secret postal ballot of members to fill such vacancies. Such secret ballot shall be conducted in accordance with the requirements of these Rules for the conduct of elections, so far as they can apply to a secret ballot.

### Conduct of Elections at the Annual Conference

14.
  - (a) In the event of the Returning Officer receiving nominations in excess of the number of positions to be filled in any election for the offices of President, Treasurer, Vice President (Rural/Regional), or Vice President (Metropolitan/Urban), the election shall be conducted at the Annual Conference by way of a secret ballot using the standard preferential system of voting. Voters must mark a preference for all candidates.

Where two or more candidates have an equal number of votes, the candidate who is successful or is to remain in the count at an exclusion shall be the candidate first drawn by lot.
  - (b) In the event of the Returning Officer receiving nominations in excess of the number of positions to be filled in any election for the offices of other directors the election shall

be conducted at the Annual Conference using the proportional system of voting, as described below.

Voters must mark a preference for all candidates.

To be elected, except as provided in the last paragraph of this Rule, a candidate needs to gain a certain proportion (or quota) of the formal votes. The quota is calculated by dividing the total number of formal first preference votes in the count by one more than the number of officers to be elected; and adding one to the result, disregarding any remainder.

The ballot papers are sorted according to the first preference on each paper.

If a candidate receives more first preference votes than the quota, they are immediately elected and, unless all vacancies have been filled, their surplus votes are passed on to the continuing candidates listed on the ballot paper; based on the voter's next available order of preference.

The transfer value of the surplus votes is calculated by dividing the elected candidate's total of surplus votes by the total number of the candidate's votes, and is applied to each of the ballot papers of the elected candidate. The result is taken to the fourth decimal point.

The number of votes to be transferred, disregarding any fraction, shall be added to the continuing candidate(s)' votes.

If any of those candidates who received the surplus votes now have more than the quota they are elected. Their surplus votes are transferred to the candidate listed as the next preference on all of the ballot papers. This is done by dividing the surplus votes by the total number of ballot papers the candidate has received (first preferences plus transferred ballot papers). This process continues until there are no more candidates with enough votes to be elected.

Where, on the counting of the first preference or on any transfer, more than one candidate has a surplus, the largest surplus shall be dealt with first.

Where two or more surpluses are equal, the surplus of the candidate who was the highest on the poll at the count or transfer at which they last had an unequal number of votes shall be dealt with first, and, if they have had an equal number of votes at all preceding counts or transfers, the Returning Officer shall decide by lot which candidate's surplus shall be dealt with first.

To fill any remaining places not filled by the above process, the candidate with the smallest number of votes is excluded and votes for this candidate are transferred to the remaining continuing candidates. This is done at the value at which the votes were received by the candidate to be excluded. When the transfer of these preferences gives a candidate a quota, that candidate is elected.

Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the Returning Officer shall decide by lot which candidate's votes shall be distributed.

Where the contest for the last seat is close, it is common for the final two continuing candidates to both have less than a quota. In this case, the continuing candidate with the highest number of votes is elected.

15. (a) Where an election is required at the Annual Conference, the voters in such an election shall be the Delegates who are by virtue of Rule 37 of the Association's Rules entitled to vote in such election.
- (b) The Returning Officer shall issue the ballot paper(s) to the voters, such ballot paper(s) to include:
  - (i) the Returning Officer's initials;
  - (ii) the name of each candidate for the office/position to be filled, including the candidates declared ~~current~~ registered political party membership(s);
  - (iii) such other information as the Returning Officer deems appropriate.
16. If a delegate of a member or a member of the Board cannot for any reason be present at the Conference to vote in any election (hereafter referred to as "the absentee"), the absentee may by notice in writing signed by the absentee and delivered to the Returning Officer before 5pm on the business day immediately prior to the first business day of the Conference appoint another delegate from the same member to exercise the absentee's right to vote in the election.
17. Where required, the ballots shall be conducted in the following manner, to the extent practicable:
  - (a) the ballot for the office of President shall be conducted first;
  - (b) after the completion of the ballot for President, the ballot for the office of Treasurer shall be conducted next;
  - (c) the ballots for the offices of Vice President (Rural/Regional) and Vice President (Metropolitan/Urban) shall be undertaken after the ballot for the office of Treasurer;
  - (d) the ballots for Board members shall be conducted after all previous elections are completed.

Every person concerned in the ballot shall ensure as far as practicable that no irregularity occurs in the ballot.

## SCHEDULE B

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### Scrutineers

18. Each candidate at any election shall have the right, if he or she so desires, to appoint before the closing of the ballot a scrutineer to represent him or her in the ballot, and shall give notice of any such appointment of a scrutineer in writing to the Returning Officer. The Association may appoint an employee of the Association to scrutineer for it at any election by giving notice in writing of such appointment to the Returning Officer.
19. Every scrutineer shall, so far as is possible having regard to the time of their appointment, have the following rights and duties:
  - (a) to be present with the Returning Officer when the ballot papers are being handed out to voters and to watch the interests of the person whom they represent; and
  - (b) to be present with the Returning Officer when the ballot papers are opened and when the votes are counted and to watch the interests of the person whom they represent, but no election shall be vitiated by reason of the fact that a scrutineer did not exercise any or all of their rights or duties if they had a reasonable opportunity to do so.
20. Scrutineers shall have the right to question the inclusion or exclusion of any ballot paper but the decision of the Returning Officer shall, subject to the Act, be final.
21. Scrutineers may not remove, mark, alter or deface any ballot paper or other documents used in the ballot.

End of Schedule B

\*\*\*END OF RULES\*\*

# STATE CONFERENCE



## STANDING ORDERS – STATE

These Standing Orders are made in accordance with clause 27 of the registered rules of the Local Government and Shires Association of New South Wales (LGNSW rules).

**It is the intention of this Conference, so far as possible, to work towards achieving consensus on the matters before it and, subject to these Standing Orders and the LGNSW rules, the Chairperson and Delegates are to endeavour to achieve this goal.**

### Quorum

1. The quorum for a Conference shall be fifty per cent of the total number of Delegates to the Conference, plus one. The business of a Conference shall not be conducted unless a quorum is present (see rule 25 of the LGNSW rules).

Note: for the purposes of the 2018 Conference, the total number of Delegates on the date that the roll of voters closed (26 September 2018) was 477. Therefore, the quorum shall be **240**.

[(477/2) + 1, rounded up to the nearest whole number = 240].

### Presiding at the Conference

2. The Conference will be presided over by the President. In the absence of the President, the Conference will be presided over by either Vice President. Should neither the President nor either Vice President be present, a Board member shall preside. The person presiding over the Conference will be addressed by Delegates as the “Chairperson” or the “Chair”.

### Conduct of Delegates

3. When the Chairperson speaks, all Delegates will remain silent and maintain order.
4. All Delegates who wish to speak to the Conference shall:
  - a. stand and remain standing unless unable to do so through illness or disability,
  - b. state their name, title, and, Council they represent,
  - c. address Delegates through the Chairperson.
5. Delegates shall address the Conference in a manner befitting to the reputation of Local Government and ensure that the reputation of Local Government and the Association is maintained and enhanced throughout proceedings.
6. A Delegate commits an act of disorder if the Delegate, at a session of a Conference:
  - a. moves or attempts to move a motion or an amendment that has an unlawful purpose;
  - b. says or does anything that is inconsistent with maintaining order at the Meeting or is likely to bring Local Government and/or the Association into contempt or disrepute;
  - c. assaults or threatens to assault another Delegate or person present at the meeting; or
  - d. insults or makes personal reflections on or imputes improper motives to any other Delegate.
7. The Chairperson may require a Delegate to:
  - a. retract any comment or remark that constitutes an act of disorder;
  - b. apologise without reservation for an act of disorder; or
  - c. withdraw a motion or an amendment that has an unlawful purpose.



8. A Delegate may be expelled from a session of Conference for not complying with standing orders 5, 6 or 7 only by a majority vote of Conference delegates.
9. Mobile phones shall be switched off or switched to silent mode while the business of the Conference is being transacted.
10. Board Members of the Association shall be permitted to speak on any matter before a Conference.

### **Manner of dealing with Conference Business**

11. Conference Business will be dealt with in any order at the discretion of the Chairperson.
12. Nothing in these Standing Orders shall prevent the Chairperson from dealing with motions concurrently.

### **In the case of motions**

13. The Chairperson, upon coming to a motion set out in the Business Paper, must ask whether there is any dissent to the proposed resolution the subject of the item and, if no dissent be signified, may at any time, declare the motion carried.
14. Where dissent is signified, the Chairperson shall require the motion to be moved and seconded.
15. If the motion is moved and seconded, the Chairperson may, at any time during debate, make such inquiries as to the nature of the dissent so as to confine any debate to the issues genuinely in dispute or to explore amendments to the proposed resolution which satisfactorily accommodate the moving and dissenting Delegates and Delegates generally.
16. Movers of motions shall be permitted two (2) minutes to introduce their proposed resolution into debate and one and a half (1.5) minutes in reply. All other speakers shall each be permitted to speak once for one and a half (1.5) minutes. The Conference may, on application by a speaker, permit that speaker to have one, but only one, further period of one and a half (1.5) minutes in which to speak.
17. A Delegate seconding a motion shall not be permitted to speak until at least one Delegate has spoken in dissent.
18. The Chairperson may, during the course of debate direct a speaker to confine his or her speech so as to:
  - a. limit repetition of matters addressed by other speakers;
  - b. limit debate about matters or issues not genuinely disputed.
19. Except as otherwise provided herein, it shall not be in order to move that any resolution be immediately put until at least two Delegates, in addition to the mover and the seconder, shall have had an opportunity to speak on the resolution then before the Conference.
20. A Delegate can, without notice, move to dissent from the ruling of the Chairperson on a point of order. If that happens, the Chairperson must suspend the business before the Conference until a decision is made on the motion of dissent;
  - a. If a motion of dissent is passed, the Chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the Chairperson must restore the motion or business to the agenda and proceed with it in due course; and

- b. Despite any clause to the contrary, only the mover of a motion of dissent and the Chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

- 21. A Delegate may not substitute from the floor of the Conference a new motion for one listed in the Business Paper unless the new motion is substantially the same, and dealing with the same subject matter, as the original motion, and the new motion is accompanied by written evidence that it has the support of the member concerned.
- 22. When an amendment is before the Conference, no further amendment shall be discussed until that amendment has been dealt with.
- 23. No more than one amendment upon any motion shall be considered unless notice of such further amendment is given before the amendment then under discussion has been dealt with.
- 24. The mover of an amendment which has been adopted as the motion shall (as in the case of the mover of an original motion) have the right of reply to any further amendments submitted.

### **New motions from the floor of Conference**

- 25. At least 24 hours' notice shall be given before dealing with any new motions introduced during the Conference (Rule 28(d)).
- 26. Where a Member seeks to introduce a new motion during the Conference, they shall submit the motion and evidence that the motion has the support of the member concerned, to the Association's Chief Executive (or the Chief Executive's nominee), in writing.
- 27. The Chief Executive (or the Chief Executive's nominee), upon receiving a new motion submitted during the Conference, shall immediately record the time that they receive the motion and make arrangements for copies of the motion to be provided to Delegates.

### **In the case of all other Conference Business**

- 28. All other Conference Business will be dealt with at the discretion of the Chairperson.

### **Manner of voting**

- 29. Only Members' nominated voting Delegates and members of the Board may debate and vote on motions.
- 30. Except as hereinafter provided voting on any matter shall be on the show of cards.
- 31. The Chairperson may direct that voting on any matter be taken by show of voting cards or by use of electronic voting.
- 32. After a show of voting cards or on conclusion of an electronic vote the Chairperson may either:
  - a. declare the question resolved in the affirmative or negative; or
  - b. if voting cards have been used, call for a new vote using electronic voting.
- 33. A Division may be called following a vote on the show of cards by no less than 10 Delegates.
- 34. A Division will be taken by use of electronic voting.

### **Suspending Standing Orders**

35. Standing Orders may be suspended by a majority of those present, provided the meeting is in quorum. A motion to this effect shall be open to debate.

### **Outstanding business**

36. In the event that the Conference, having commenced in quorate, subsequently loses a quorum and is unable to consider any item(s) of business properly put before the Conference, they shall be referred to the Association's Board for consideration.

## MOTIONS FOR CONSIDERATION BY CONFERENCE – STATE

### 1 Board

### Standing Orders

That the Standing Orders as set out in the preceding pages 23 to 26 be adopted.

[ **Procedural Note:** *Presentation of Financial Reports to Members* ]

## 1. ECONOMIC POLICY

### 2 Bourke Shire Council

### Drought disaster policy

That the NSW Government as a matter of urgency develop a policy framework which clearly defines when an area is deemed to be in “drought” and also develops a range of measures that provide assistance to farmers and small business impacted by drought conditions including clear criteria which needs to be straight forward and inclusive, so that such assistance can be accessed in a timely fashion.

**(Note: This motion covers the following motions set out in small font)**

#### Note from Council

There is no current mechanism for areas to be drought declared and as such with each drought period comes the question of what indicators are used to determine when an area is impacted by an extended period of abnormally dry conditions. Drought conditions should be treated in a similar way to both fire and flood as all are disaster situations. Often, pleas by the impacted landowners and businesses to have measures put in place to alleviate the financial hardship being experienced as a result of the abnormally dry period, result in that assistance being provided far too late to be effective. Should loan funding be made available, the repayment period for such loans should be of a sufficient period to enable those accessing the loans to improve their financial capacity to do so.

In the days when organisations such as Rural Lands Protection Board were in existence such a policy framework existed and worked effectively. The transition to Local Land Services (LLS) has seen the framework disappear and there is an ongoing debate on what constitutes drought and what should be provided by way of assistance. The delays means that support, if it becomes available, often comes too late for those most impacted.

### Gunnedah Shire Council

### Plan for drought protection

That the State and Federal Governments put a strategic plan in place for future drought protection in Australia.

#### Note from Council

NSW is in the midst of the worst drought in over 100 years. This drought will have a significant impact on regional economies and our NSW Government revenue and the flow on effect to the national balance of trade. With predications that our country will still continue to see effects of climate change with increase temperatures, the NSW Government must develop, with some urgency, a strategic plan and policy to ensure NSW is better prepared for similar events.

### Warren Shire Council

### Natural disaster declaration (drought)

That Local Government NSW, along with the Australian Local Government Association, pursues the NSW and Federal Governments to develop criteria to determine local and regional drought recognition like the triggers for flood and fire.

#### Note from Council

The declaration of drought is not considered on the same basis as a natural disaster such as flooding or fire and at a community level, drought can have a greater impact on the lives of the people on the properties, within a town or village and within a region.

Funding for fires and floods becomes readily available to support a community whereas drought funding requires a massive shift in community and political thinking before a government act. This delay results in support being received well after the impacts on social, employment and welfare is required.

### Wollondilly Shire Council

### Drought impacts on primary producers

That Local Government NSW lobbies the Federal Government to declare a national emergency as a result of the NSW and

QLD drought and to also lobby the Federal and NSW Governments to continue to monitor and increase as appropriate the level of financial assistance and other support and to make this immediately available to farmers.

#### **Note from Council**

Australia's most populous state of NSW was declared to be entirely drought-affected on Wednesday 8 August 2018. The drought in NSW and QLD has been the driest and most widespread since 1965 with far-reaching and damaging environmental, financial and social effects. Council is seeking the Federal and State Governments to provide immediate increased assistance. Council has previously resolved to:

- Review Council's hardship policy.
- Lobby the State and Federal Governments to provide assistance.
- Support drought relief fundraising efforts.
- Provide information on available mental health and support services.
- Ensure the broader community are aware of the current challenges facing our farmers and encouraging residents to source produce grown locally wherever possible.

### **3 Coffs Harbour City Council**

#### **Drought relief policy and relief package**

That the Annual Conference of Local Government NSW consider seeking the development of a policy and associated relief package by Local Government NSW designed to support drought stricken NSW farmers. This policy and package could be developed in a similar manner to the legal assistance policy and guidelines. Contributions from individual councils should be entirely voluntary with no council under any obligation to make a contribution.

#### **Note from Council**

The farming sector across Australia is once again suffering dire consequences as a result of the extended drought conditions. The NSW Government has now committed over \$1 billion in the form of drought assistance to NSW farmers. It would seem entirely appropriate that a coordinated local government response is developed in a manner that ensures that a framework is available in times of need including the current situation.

### **4 Bland Shire Council**

#### **Drought relief through rate rebates**

That Local Government NSW lobbies the NSW Government to introduce a drought relief package based on a rate rebate of 50% for all farmland categorised land with that 50% being paid to the local council to maintain vital infrastructure in those drought affected areas.

**(Note: This motion covers the following motion set out in small font)**

#### **Note from Council**

This would provide an immediate cash relief to drought affected farmers with a 50% reduction in their rates and with that 50% being returned to the local council allowing the continued maintenance of vital infrastructure such as unsealed roads and small town water supplies.

This form of relief would be more cost effective and would result in a win-win situation for all stakeholders including the NSW Government who would be distributing financial support in any case.

### **Lachlan Shire Council**

#### **Rate subsidies in drought affected areas**

That Local Government NSW lobbies the Federal and State Governments to provide rebates to rate payers suffering financial hardship as the result of drought.

#### **Note from Council**

The ongoing drought is having a significant impact on the income and cash flow of many farmers and businesses in rural areas. While much is being done to provide assistance for the farming community by way of donations, hay drives, and low interest loans there is a need for direct financial assistance to help with the payment of bills and utility charges. The reduced cash flow of farmers means less money being spent in town with local businesses and rural support industries also suffering. This leads to a downturn in the local economy and ultimately local job losses further compound the problems.

The loss of income for both farmers and local businesses potentially leads to increasing levels of debt including increasing levels of unpaid rates for councils. While unpaid rates remain a debt against the property, which will eventually be paid, the unpaid rate affects the current council budget. The introduction of a scheme which provides a partial or full reimbursement of rates and utility charges for farmers and business owners, who can demonstrate financial hardship, would encourage the timely payment of rates, eliminate the accrual of deferred debit and potentially reduce the level of unpaid general rates in drought affected areas.

## **5 Gunnedah Shire Council**

## **Support for agricultural dependant businesses**

That Local Government NSW calls upon the Federal Government to extend an income management scheme based upon the "Farm Management Deposit" scheme to businesses which rely upon the agricultural sector for the majority of their revenue. This would help improve the economic stability of rural communities during droughts and therefore strengthen the financial sustainability of councils.

### **Note from Council**

NSW is in the midst of the worst drought in over 100 years. The success of the Farm Management Deposit Scheme for agricultural producers is well recognised. Small and medium size businesses throughout rural and regional NSW are the backbone of our economies. If a similar scheme was to be rolled out for small and medium businesses that are dependent on primary production and supply of goods and services to primary producers then this would reduce the pressure on businesses to reduce staffing numbers during the years of hardship. Regional and rural communities are highly dependent on population and if jobs are lost from these communities it has a detrimental effect on the entire community.

## **6 Coolamon Shire Council**

## **Fuel excise levy - R2R funding**

That Local Government NSW lobbies the Federal Government for the permanent inclusion of a percentage of the fuel excise levy to be provided as an increase to the existing Roads to Recovery (R2R) funding program for local government.

**(Note: This motion covers the following motion set out in small font)**

### **Note from Council**

The re-introduction of the biannual indexation to the fuel excise levy in 2015/16 resulted in a temporary increase to the R2R funding program for the 2015/16, 2016/17 and 2017/18 financial years. This increase was greatly appreciated and allowed local government to make significant repairs and improvements to the local road networks, which supported industry and provided critical connections to the regional and national road networks.

The 2018/19 budget saw R2R funding returned to the pre 2015/16 level (prior to the introduction of the additional funding supplied through the fuel excise levy). It is believed that as the fuel excise levy is being paid for by the road user, that a share of this funding should permanently be redistributed to the local government sector as an asset manager to ensure that roads are suitable and appropriate for use.

## **Bland Shire Council**

## **Review of the fuel excise duty**

That Local Government NSW lobbies the Federal Government for the return of at least 50% of the petrol and diesel excise duty direct to local government for expenditure on local roads.

### **Note from Council**

The petrol and diesel excises are levied primarily to raise revenue and, historically, this particular excise was pledged to fund expenditure on roads. In the period 1926 to 1959 the entire excise duty raised was used to fund road grants to the states. However, since 1959 the fuel excise has been seen as a general revenue measure with the money raised used to meet general budgetary needs. Federal Treasury has observed that the excise collected on petrol vastly exceeds the amount of money that the Commonwealth wants to fund on roads. A recent (2014) report by the NRMA called on the Federal Government to return at least half of the fuel excise tax collected into road funding and for a pre-determined allocation to go directly to local councils. This is in addition to the Roads to Recovery (R2R) funding. In the ALGA submission to the 2016/17 Federal Budget it was highlighted that the shortfall in funding to simply maintain rather than improve Australia's local roads in the period 2010 to 2025 is estimated to be around \$1.2 billion annually.

The continued under investment in local roads hinders local and regional social and economic development and ultimately affects the development of the nation as a whole. The return of at least 50% of the petrol and diesel excise duty direct to local government will greatly ease the current financial burden on local councils. A new formula for the distribution of the excise duty, based on local road length per council should be considered.

**7 North Sydney Council****Rating system for local government**

That Local Government NSW requests the NSW Government to review and adopt the recommendations proposed within the IPART Review of the Local Government Rating System - Draft Report of August 2016.

**(Note: This motion covers the following motions set out in small font)**

**Note from Council**

This motion suggests adopting the recommendations made for changes to the rating system, to improve the equity and efficiency of the rating system, in order to enhance councils' ability to implement sustainable fiscal policies over the long term. This includes reviewing the valuation method used to calculate rates, by integrating the use of the Capital Improved Value (CIV) valuation method into the local government system. This will overcome the major shortcoming of the current system, being the mandatory use of the unimproved value (UV), which inhibits council's ability to raise rates revenue from apartments. Recommendation is to also remove minimum amounts from the Local Government Act. These two recommendations will allow councils' general income to grow as the communities they serve grow, while following best practice revenue methods of 85% of other jurisdictions. (IPART August 2016).

**Blacktown City Council****Greater flexibility of the rating system**

That Local Government NSW calls on the NSW Government to address the outcomes of the IPART rating review as a matter of urgency.

**Note from Council**

The financial sustainability of councils and the constraints and inequities of local government revenue have consistently been identified as critical issues in the local government reform process over the past decade. These issues largely remain unaddressed by Government.

The policy position of LGNSW continues to be to advocate for the abolition of the rate pegging system, as it is an ineffective and inappropriate mechanism to support the future services needed by our communities.

As the Government will not at present consider the option of abolishing rate pegging, it should, as a matter of urgency, address the financial sustainability of the sector through reforms including greater flexibility of the rating system.

In 2015, the Government requested IPART to conduct a review of the rating system. The local government sector contributed positively to this review. IPART's report, containing a range of important recommendations, was handed to the Government in late 2016.

To date, the Government has provided no response to the IPART report. Local government stands ready to once again constructively engage with any genuine process of reform, particularly reform of the rating and revenue arrangements for the sector.

**City of Canterbury Bankstown****Review of rating structure**

That this Conference calls upon the NSW Government and specifically the Minister for Local Government to, without delay, release the IPART's report into the NSW Local Government Rating System and provide the Government's response to the recommendations of that report.

**Note from Council**

The draft report into the Local Government Rating System was provided to the Minister in December 2016. Within the draft report, released in August 2016, there were a number of significant recommendations that, if adopted, would dramatically alter the structure for rating in NSW.

At the same time, all of the councils created through the Fit for the Future process have a looming deadline of 2020 to bring the rating structures of the former councils into a new, equitable structure for their new LGA. This is a process that a council, and a community, should only have to do once or twice in a generation. It is our concern that we will be forced into going down the path of beginning the process of aligning two rating structures, only to have repeat the process within a year or two.

To ensure the efficient use of councils' resources, the NSW Government needs to urgently respond to IPART's Local Government Rating System report and give councils a clear direction on the creation of new rating structures.

**City of Ryde****Release of IPART's Review of the NSW Local Government Rating System Report**

That this Conference call upon the Premier of NSW, the Hon. Gladys Berejiklian MP, and the Minister for Local Government, the Hon. Gabrielle Upton MP, to release IPART's report on the Review of the Local Government Rating System that was undertaken in 2016, as a matter of urgency.

### **Note from Council**

Fiscal health is a key consideration for all councils, looking to measure and improve their financial sustainability and their ability to pay for services and infrastructure.

In 2016, the NSW Government requested the Independent Pricing and Regulatory Tribunal (IPART) to review the local government rating system in NSW.

IPART submitted the "Review of the Local Government Rating System" report, with a list of key recommendations to improve the equity and efficiency of the rating system.

The purpose of the report was to enhance councils' ability to implement sustainable fiscal policies over the long term. This report is critical as it explores a range of new rating possibilities for local government, including:

- Implementing the rating concept of Capital Improved Value System;
- Replace the current pensioner rebates and other concessions with Rate Deferral System;
- Modify eligibility for rate exemptions so they are better and more equitably targeted; and
- Approaches that will reduce the need for councils to apply for Special Variations.

The recommendations contained in the report are critical in "reforming" the current rating system with the aim to improving the adequacy and flexibility of all councils' most important source of revenue.

Despite the importance and the significance of the recommendations contained in this report, the NSW Government has withheld the report and failed to release it to the public.

### **Hawkesbury City Council**

### **IPART Report on 'Review of Local Government Rating System'**

That Council calls on the NSW Government to respond to the IPART Report on 'Review of Local Government Rating System', that it releases the final version of the report and advise of their intentions in respect of the recommendations in the report and provide appropriate modelling in respect of all local government areas (LGAs), including the Hawkesbury City Council LGA.

### **Note from Council**

IPART completed their review of the Local Government Rating System and delivered the Report to the Minister for Local Government in December 2016. The final version of the report as approved by the Minister has not yet been released.

### **North Sydney Council**

### **Educational institutions - rates**

That Local Government NSW requests that the NSW Government review the system of exempting from rates, all newly acquired properties, that are currently rateable properties, purchased by educational institutions.

### **Note from Council**

Schools and other educational institutions are buying up residential or commercial properties that surround their institutions, or are close by, to provide for greater facilities for the student population, without necessarily increasing the number of students that can be accommodated on those site. The council has then lost the revenue from those rateable properties, often with the student population using more of the resources of the council, like local parks for recreation and sport, with no income in return. If schools, into the future, are adding to their property portfolio, then those properties, should remain rateable properties, to give some revenue back to council for the resources used by the school population.

### **Penrith City Council**

### **IPART recommendations of changes to the LG Act**

That Local Government NSW lobbies the NSW Government to implement the recommendations given to them by IPART in December 2016, after taking into consideration the submissions from councils in relation the the draft report, for changes to the rating components of the *Local Government Act 1993*. Particular emphasis is drawn to the key draft recommendations of:

- I. Allowing the use of capital improved values.
- II. Removing some exemptions from rates, particularly for land used for commercial activities and residential purposes.
- III. Removing council's requirement to subsidise pension rebates and the NSW Government fully fund a discount scheme that is indexed.
- IV. Giving councils more options to set rates within rating categories and sub-categories.

### **Note from Council**

Penrith City Council is facing increased pressure from rural property owners to change the rates structure to reduce the amounts they pay due to sharp increases to land values for acreage properties in the Sydney metropolitan area. These rates increases were recently exacerbated due to a new revaluation of land carried out in 2016 for the purposes of the now deferred Fire and Emergency Services Levy, after a general revaluation taking place a year earlier in 2015. A recent review of our rates structure did not find a fairer way for all of our ratepayers than the existing structure, under the existing rating components of the Local Government Act. Penrith City Council as a high development council needs to ensure sustainable levels of rates income for newly developed strata properties, where a majority of development is currently taking place, by imposing a minimum rate structure, a base rate structure that would provide the rates relief the rural property owners are seeking, when used in conjunction with unimproved land values would materially reduce rates income growth due to the estimated level of a base rate structure even at the maximum 50% level allowed, being less than our current minimum rate.



In Penrith's submission to IPART in relation to their draft report, we did not support a move to Capital Improved Values, but favoured an allowance to sub-categorise strata properties, whilst continuing to use unimproved land values. IPART's recommendation was that councils could choose between either unimproved or improved land valuations, so seeking endorsement of the proposed motion will not alter Council's stance but will still be favourable for other councils to endorse. Also, the Local Government Act does not adequately allow councils to set fair and equitable rates for their council areas due to restrictive criteria for sub-categories, particularly for the rural residential sub-category where there are size and use restrictions. One of IPART's recommendations was for councils to be able to set their own sub-category by communities of interest which would remove present restrictions and allow councils to effectively set their own criteria. By putting forward a motion for the IPART recommendations to be implemented by the NSW Government, after taking into consideration the submissions of councils in response to IPART's draft recommendations, it is likely that changes to the Local Government Act rating components will provide councils with more flexibility to fairly levy rates.

#### **Shoalhaven City Council**

#### **Call for release of 2016 IPART rating report**

That the Minister for Local Government, the Hon Gabrielle Upton MP, be called upon to release the IPART report on the Local Government Rating System which was provided to her predecessor in December 2016 along with the Government's response to the report.

#### **Note from Council**

In 2016, councils dedicated resources to commit comprehensive submissions towards the Review of the Local Government Rating System undertaken by IPART. Despite these contributions and the extreme importance of this issue, the report arising from the review remains with the Minister since December 2016 and has not been released nor has the Government provided a response.

#### **8 Wingecarribee Shire Council**

#### **Crown Land management**

That the NSW Government address the inadequate base level of funding of \$30,000 provided to councils to comply with the Crown Land Management Act's requirement to prepare plans of management for all Crown Land that they manage; and allow for a transition period greater than three years to have adopted plans in place for all Crown reserves managed as community land.

**(Note: This motion covers the following motions set out in small font)**

#### **Note from Council**

With the *Crown Land Management Act 2016* coming into operation on the 1 July 2018, councils must ensure that there is a compliant plan of management for all Crown Land they manage as community land within three years of the commencement of the Act.

While there is the ability for one plan of management to cover multiple reserves, the NSW Government needs to:

1. address the inadequate base level of funding of \$30,000 provided to councils to prepare these plans; and
2. allow for a greater transition period of three years to have adopted plans in plans for all crown reserves managed as community land.

#### **Lithgow City Council**

#### **Crown Land management financial support**

That Local Government NSW makes representations to the NSW Government acknowledging the initial amount of funding received to assist in the preparation of plans of management for Crown Lands managed by councils, but remind the government that this is another example of cost shifting to local government. Further, Local Government NSW requests additional funding be provided to councils so as to fully cover the preparation of all plans of management for Crown Lands managed by councils as well as providing full funding for ongoing management costs and Native Title responsibilities.

#### **Shoalhaven City Council**

#### **Impact of Crown Lands Management Act 2016**

That the NSW Government acknowledge that the anticipated cost to local government councils of preparing plans of management to comply with the *Crown Lands Management Act 2016* will run into hundreds of thousands of dollars and to ensure that additional funding is provided to Local Government to adequately fund the work required to be undertaken.

#### **Note from Council**

The *Crown Lands Management Act 2016* came into force 1 July 2018 and provides councils, inter alia, with the authority to manage Crown land under the Local Government Act i.e. as "community" or "operational" land.

The effect of this is to require councils to prepare plans of management for each Crown reserve except those reserves which are approved by the Minister for Lands as operational. It is acknowledged that councils will be permitted to adopt generic plans of management for many of the reserves, in addition to the requirement to prepare site specific plans of management for other reserves. Councils are to have the plans of management in place by 30 June 2021.

The NSW Government has committed the allocation of funds to local government of \$7 million over two years to help councils meet the costs incurred in the plan of management process. By way of example, Shoalhaven City Council has

been advised that its share of the funding will be \$78,444 which will only be a small proportion of the actual costs for the required plans of management for 116 Crown reserves and up to 30-40 site specific plans of management.

## **9 Greater Hume Shire Council**

## **Potential changes to the LG Investment Order**

That:

1. Local Government NSW makes strong representations to NSW Treasury Corporation (TCorp) and the Office of Local Government (OLG) opposing any substantial changes to the Ministerial Investment Order that would restrict council investment in unrated Approved Deposit Institutions (ADIs) (e.g. small banks, building societies and credit unions).
2. Councils making application to TCorp for loan funds not be subjected to financial covenants that severely restrict investments with unrated small banks, building societies and credit unions.

### **Note from Council**

TCorp are recommending that investments in unrated ADIs be kept to a minimum and that total investments in each unrated ADI not exceed the current government guarantee on deposits of \$250,000. If implemented, the TCorp exposure limits would result in Greater Hume Council having to significantly reduce its investments with two financial institutions providing the only financial services in three of our communities. Conversely, the measure would require Council to increase investments in the four major banks of NAB, Commonwealth, ANZ and Westpac even though the major banks have progressively and systematically reduced their presence in, and support for, regional communities over many years. Such a move would, in Council's view, be unacceptable and contrary to Council's current investment policy of supporting financial institutions that maintain a presence in our communities.

The current OLG Investment Order implemented in 2010 was specifically designed to allow councils to invest in small banks, building societies and credit unions (provided they are approved by the Australian Prudential Regulation Authority) in order to address the decline in representation from the big four banks in rural communities. It is ironic that rural councils such as Greater Hume which have adopted investment practices that comply with the requirements, and spirit, of the Investment Order by supporting smaller institutions that have a presence in rural communities are potentially going to be penalised by being denied access to lower cost loans through TCorp.

Once again, it would appear that policy decisions are being made by NSW Government agencies that directly impact on local councils without any consultation with the sector or those councils impacted.

## 2. INFRASTRUCTURE AND PLANNING POLICY

### Planning – statutory, strategic land use

10 Penrith City Council	Boarding houses
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That Local Government NSW writes to the Minister for Planning and Environment requesting that the boarding houses division of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the SEPP) be amended.

It is proposed that the amendments include:

- Removal of allowance for boarding houses in low density residential areas.
- Requirement for a social impact study to be submitted with boarding house applications.
- Enabling councils to refuse development consent in certain circumstances, for example, when boarding houses are proposed in inappropriate locations without adequate access to services and jobs.
- Removal of the words “not more than” from Division 3, Clause 29 Section 2.e.iii “in the case of any development - not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site.”
- A minimum percentage of affordable rental housing in boarding houses.
- Objectives and actions for monitoring the effectiveness of boarding houses in contributing to the supply of affordable rental housing.

**(Note: This motion covers the following motions set out in small font)**

#### Note from Council

Penrith City Council requests that LGNSW writes to the Minister for Planning and Environment requesting that the Boarding houses division of the SEPP be amended to enable councils to refuse development consent in certain circumstances. This is a concern when boarding houses are proposed in inappropriate locations, including areas where:

- access to employment and services is limited despite public transport availability,
- existing clusters and incompatible density of boarding houses create negative social impacts,
- boarding houses are incompatible with the objectives of low density zones.

Additional concerns include the lack of requirement in the SEPP for employee parking. The SEPP states “not more than 1 parking space is provided” for each employee. Developers may decide to provide no employee parking. Given that employees may require a car and cannot use tenant parking spaces, it is inappropriate not to provide employee parking. However, the current rate could still apply to development carried out by or on behalf of a social housing provider in accessible areas. It is also unclear whether boarding houses meet the professed aims of the SEPP. A report by Southern Sydney Regional Organisation of Councils (SSROC) and the City Futures Research Centre from 4 July 2018 determined that while there has been a boom in boarding house applications since 2009, the supply of affordable rental housing has not significantly increased. This suggests that the existing structure of the controls is ineffective in meeting the aims of the SEPP.

Cumberland Council	Boarding Houses in low density residential zones
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That Local Government NSW lobbies the Minister for Planning and Environment to amend the *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the SEPP) to remove R2 low density residential zones from the mandated list of zones in which boarding houses can be developed, to enable councils to determine the suitability of this intensive use, in consultation with their local communities.

#### Note from Council

Council notes that over the past few years there has been increasing prevalence of boarding house development and Council has observed notable community concern about the impacts, in particular on street parking and traffic in more remote low density residential areas. There is commonly a negative community response that this more intensive land use is ‘planned’ and permitted in low density residential zones.

Operationally, boarding houses are more akin to multi-dwellings and flat buildings in terms of their typical number of occupants, resident activity, and in many cases, physical design and presentation to the street.

Currently councils do not have the ability to plan for boarding houses in consultation with their communities (similarly to other multiple-occupancy development) due to the mandatory nature of the SEPP provision. It is considered to be reasonable that councils should have the authority to make decisions as to whether these uses should be permitted in the R2 low density zone on an individual local government area basis, rather than a one-size-fits-all blanket approach. It is recommended that this matter be raised via a motion at the 2018 conference.

#### **Willoughby City Council**

#### **Inadequate provisions on boarding house accommodation**

That Local Government NSW writes to the Minister for Planning and Environment raising concerns with the inadequacy of provisions contained in *State Environmental Planning Policy (Affordable Rental Housing) 2009* (the SEPP) in respect to boarding house accommodation.

#### **Note from Council**

Seeking to address the following concerns:

1. The SEPP does not achieve the affordability objectives specified in the SEPP noting that rooms are often comparable in price to studio units;
2. The SEPP does not provide adequate security of tenure for residents;
3. The SEPP does not achieve adequate amenity for residents. In this respect the provisions of SEPP 65 – Design Quality of Residential Apartment Buildings which seeks to ensure adequate internal amenity, does not apply to Boarding Houses;
4. Issues such as noise, unsocial behaviour, and property presentation and maintenance are not adequately addressed in the SEPP noting that the provision for on-site management is only required with 20 or more lodgers. A manager should be accommodated on-site for any boarding house accommodating 10 or more lodgers and a specific Plan of Management should be provided for all other boarding houses;
5. The floor space ratio for boarding houses should be restricted to that specified in the relevant Local Environmental Plan applicable to the site;
6. Bulk and scale should be able to be used as grounds for refusal noting that it is an integral consideration in assessing compatibility to the character of the local area;
7. The landscaped area provision should apply for the whole site and not just within the front setback area. Landscaping is an integral consideration in assessing compatibility to the character of the local area and, as for bulk and scale should be able to be used as grounds for refusal;
8. The provision for consideration of local character specified in Clause 30A of SEPP (ARH) becomes meaningless when key components for determination of character (bulk and scale, and landscaping) cannot be included in such consideration;
9. Boarding houses should not be allowed in cul-de-sac locations due to limited parking opportunities and the proportionately greater number of vehicles significantly changing traffic in such streets; and
10. The definition of boarding house does not sufficiently distinguish them from a residential flat building consisting entirely of studio units. Greater differentiation should be made to ensure the policy is not exploited.

#### **Wingecarribee Shire Council**

#### **Amendment to Standard Instrument Principal LEP**

That the NSW Department of Planning and Environment amend the Standard Instrument Principal Local Environmental Plan (LEP) to remove Boarding Houses as mandatorily permissible with consent in the R2 Low Density Residential Zone.

#### **Note from Council**

Currently boarding house developments are mandated as permissible with consent in the R2 Low Density Residential Zone under the Standard Instrument Principal LEP which applies across NSW. In recent times, there has been an influx of applications in many local government areas in the low density residential areas. Such developments, given the very lenient planning controls spelt out under the *State Environmental Planning Policy (Affordable Rental Housing) 2009*, are enticing developers to use the opportunity to significantly upvalue properties at the expense of the character of a surrounding local area. In rural and regional towns and villages this form of development can result in very substantial amenity changes. Councils should be able to choose whether they include boarding houses as a permissible form of development in the R2 Low Density Residential Zone under their LEPs in consultation with their respective communities.

#### **11 Blacktown City Council**

#### **Rezoned land**

That Local Government NSW calls on the NSW Government to not allow land to be rezoned by the Minister for Planning unless a contributions plan has been made that funds the local infrastructure to which the rezoning applies.

#### **Note from Council**

In June 2017 The Minister for Planning and Environment announced that the Local Infrastructure Growth Scheme (LIGS) would no longer subsidise development past July 2020 and that the Section 7.11 caps would be phased out in “LIGS transition areas”, with other areas of NSW retaining caps of either \$20,000 or \$30,000 per lot/dwelling.

The Independent Pricing and Regulatory Tribunal (IPART) would continue to assess contributions plans that proposed a contribution above the caps and developers would now pay full approved Section 7.11 contributions.

The government's approach was supported as it assisted the development industry to adjust to the change in policy. However, the change is problematic to local government.

The Minister's Direction set out 5 criteria that must be satisfied before a council can legally condition a developer for local infrastructure in its contributions plans:

1. IPART has reviewed the contributions plan (or a draft of that plan) in accordance with the assessment criteria set out in any applicable practice note, including whether the facilities to which the contributions plan relates are on the essential works list set out in the practice note.
2. IPART has published a report of its review on its website and forwarded it to the Minister for Planning.
3. Following the forwarding of the report to the Minister, the Minister (or a nominee of the Minister) has advised the relevant council as to any amendments required to the contributions plan.
4. The Minister's (or nominee's) advice to the council has been published on the website of the Department of Planning and Environment.
5. The relevant council has approved the plan, and has made any amendments to the plan, in accordance with the written advice of the Minister or the Minister's nominee.

In Sydney's Growth Areas, the Department of Planning and Environment's Land Release section plan and control the rezoning process for the council precincts. To date, each precinct has received gazettal ahead of the contributions plan for the precinct being approved by the Minister.

Prior to the Minister's July 2017 Direction, the Department allowed councils to enter into Voluntary Planning Agreements (VPAs) with developers for capped contributions and committed to funding the contributions balance through LIGS when the contributions plan received its approval by the Minister.

Developers were happy to enter into these VPAs as they had certainty of their contributions obligation prior to subdivision certificate release, similar to standard Section 7.11 consent conditions.

The new contributions approval process removes the developer's certainty of its contributions obligations, which is unknown until a contributions plan receives its final approval. As such, they will be unwilling to enter into open-ended VPAs.

However, of greater concern to local government is that under the new process, even if councils could prepare a contributions plan to be exhibited concurrently with the Department's precinct plans, they cannot legally condition a developer for local infrastructure until they have adopted the contributions plan, after the written advice from the Minister.

This is likely to be up to two years from gazettal given the lengthy process involved in the five points above.

## **12 Liverpool City Council**

## **Exemption from IHAP changes**

That Local Government NSW writes to the Minister for Planning to advocate for changes to the *Environmental Planning and Assessment Act 1979* and *Electoral Legislation Amendment (Planning Panels and Enforcement) Act 2017* to incorporate one of the following models:

- A model where an Independent Hearing and Assessment Panels (IHAP) makes a recommendation to council and council makes the determination; or
- Something similar to a JRPP model where a number of councillors are appointed to a panel.

### **Note from Council**

In August 2017 the NSW Government passed legislation mandating IHAPs for all councils in Sydney and Wollongong.

According to the NSW Government, the rationale for this mandate is to address 'inappropriate relationships between councils and developers'. The Independent Commission Against Corruption (ICAC) is the place to deal with inappropriate relationships between councillors and developers, not

planning laws. In addition to ICAC, Liverpool also has an internal ombudsman to assess and inquire into customer complaints and refer them to ICAC if necessary.

Some of the key points of concern with the new legislation are:

- Development Applications valued between \$5 million and \$30 million will be determined by the IHAP and not by council.
- Three of the four panel members will be appointed by the NSW Minister for Planning with no requirement that the appointees be from the local community or have an understanding of the community.

### **13 Wingecarribee Shire Council** **Amendments to Development Approval process**

That the NSW Department of Planning and Environment undertake action that will enable new dwelling houses and alterations and additions to dwelling houses to be considered in a single application process instead of the current development application, construction certificate and associated approvals that are required in order to achieve approval for developments that are not eligible to be considered as Complying Development.

#### **Note from Council**

NSW is seeing a significant amount of residential dwelling house development not only in the metropolitan area but also in rural and regional NSW. Prior to the planning reforms which occurred in 1997, single residential dwelling house developments were dealt with as a single application under the Local Government Act known as a Building Application. Whilst the move of transferring the respective provisions from the Local Government Act into the Environmental Planning and Assessment Act was completely logical, the structure of having multiple applications (minimum of a development application and construction certificate) for each single dwelling house where the proposal is not eligible to be assessed as a form of Complying Development has lengthened the standard approval times. Additional applications under Section 68 of the Local Government Act and Section 138 of the Roads Act also add to the delays. A simple single application for single dwelling houses or alterations and additions to dwelling houses should be reintroduced in order to speed up and simplify the approval process for applications that do not meet eligibility of Complying Development.

### **14 Blacktown City Council** **Certification of development by private certifiers**

That Local Government NSW lobbies the NSW Government to amend the *Building Professionals Act 2005* or its succeeding legislation to:

- Provide for the protection and compensation of consumers of building developments against the unsatisfactory professional conduct or professional misconduct of any private accredited certifier who practices as a public official, but not in the public interest.
- Assure consumers that private accredited certifiers accredited by the Building Professionals Board (BPB) who cannot secure adequate commercial professional indemnity insurance can continue their Principal Certifier (previously the Principal Certifying Authority) role until an Occupation Certificate is issued for the development.
- Minimise the possibility and ease by which councils with limited professional staff resources are being compelled to accept appointments as Replacement Principal Certifier where private accredited certifiers lose their accreditation through disciplinary action by the BPB, lack of a reasonable professional indemnity insurance policy offered by the insurance industry, or for any other reason.
- Provide for consumer protection in the event the insurance industry moves to reduce or remove cover from private certifiers and the certification industry.

**(Note: This motion covers the following motions set out in small font)**

#### **Note from Council**

Following frequent community representations, councils must increasingly apply substantial staff resources to ensure that the safety, amenity and longevity of privately certified built environment complies with planning instruments and regulations.

The local government sector has limited resources which are being wasted on non-compliant developments that have been approved, inspected and certified by private accredited certifiers.

Private accredited certifiers may practice only when they maintain a current professional liability insurance policy with a commercial insurer. Recent claims history and actuarial scrutiny has resulted in a significant policy premium cost increase, thereby jeopardising the ongoing viability of some private accredited certifiers to practice.

Feedback from industry representatives indicates that insurers, following concerns over non-conforming building products such as aluminium composite panels, may be providing exclusionary insurance to certifiers and industry practitioners. This may place end users and consumers at risk and potentially result in some certifiers forfeiting or being unable to renew their accreditation under the Act.

Councils currently compete with privately accredited certifiers in an open and free marketplace, and the unpredictable and spontaneous appointment by the Board of councils as replacement Principal Certifiers places an unplanned and anti-competitive demand on a council's limited professional staff resources to fulfil the work demands imposed by the Board. Further, these building projects are often problematic in nature.

It is considered that NSW Government good policy and legislation should not be controlled, compromised or shaped by fluctuating commercial imperatives, to the detriment of individual consumers. The success of the construction industry relies on legislative and regulatory certainty. The emerging concerns related to the availability and affordability of compulsory professional indemnity insurance policies for private accredited certifiers, however, will introduce a level of uncertainty and shortcomings that the community will expect councils to remedy.

The Act was initially promoted by the NSW Government as creating a "level playing field" for council and private certifiers in the development certification marketplace, but it seems the emerging and escalating legislative shortcomings will ultimately need to be addressed and resolved by others than the legislative architects – this is not fair.

#### **City of Parramatta**

#### **Private certification in the building industry**

That Local Government NSW advocates for the NSW Government to make changes to the current legislative framework with a view to strengthen the existing controls, legislation and guidelines in respect of non-compliances in relation to private certification in the building industry to ensure the needs and concerns of both residents and developers are adequately being met.

#### **Note from Council**

City of Parramatta Council is currently dealing with a large and increasing number of significant instances of non-compliance with approvals issued by private certifiers by way of Complying Development Certificate (CDC) pursuant to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008. These situations occur either as a result of CDCs being issued incorrectly or lack of proper regulation of developments subject of privately issued CDCs by the certifiers. This has resulted in a large number of complaints being received from residents in relation to the adverse impacts of non-compliant development works. Residents are increasingly left with the impression that it is okay for a developer/builder to build contrary to the development consent, and seek retrospective approval for the non-compliant work via Building Certificates. Increasingly, Council's subsequent investigations have revealed a lack of diligence by the appointed certifiers of these development sites resulting in non-compliance matters raised by residents not being addressed.

Compounding the above situations, when Council does take enforcement action against instances of non-compliances, it is not unusual for the courts to seek ways to endorse the non-compliances as long as their impacts are not seen to be too onerous. Whilst this may help the developer and avoid the need for potentially costly removal or rectification of the non-compliances, it leaves residents in a situation where their concerns are not resolved and re-enforces with the developers that it is okay to not comply with the development consent. A further impact of these non-compliances is a significant increase in the workload of relevant Council staff which has resulted in a subsequent significant increase in the operating costs of Council either resulting from the requirement to increase staff numbers available to investigate these matters or costs associated with the enforcement actions taken by Council which often can result in tens of thousands of dollars being spent in enforcement and court action on behalf of the residents.

Key changes that are being advocated include, that:

1. Councils be given the authority to issue strong penalties to applicants who build contrary to their development consent.

2. The NSW Government establish a more independent authority to oversee the activities of private certifiers and provide this authority with the legal capacity to both impose significant penalties and/or revoke licences for non-compliance with the legislation or regulations.

### **Cumberland Council**

### **Measures to address private building certification issues**

That Local Government NSW lobbies the NSW Government to address the issues in the private building certification industry by means such as providing funding for council compliance and 'clean-up' costs, increasing the period after construction in which the Building Professionals Board must consider complaints to 5 years, facilitating professional indemnity insurance for certifiers and introducing a more extensive mandatory inspection regime including building cladding stage.

#### **Note from Council**

Since 1998, private certifiers have been empowered to carry out regulatory building approval and certification roles that were traditionally the role of local councils. The role of certifiers has been increasingly expanded since that time through the NSW Government's Exempt and Complying Development Codes State Environmental Planning Policy. Councils have increasingly received complaints from the public (neighbours or the building owner) about issues arising from some private certifiers. These include a certifier issuing a non-compliant Complying Development Certificate, issuing a Complying Development Certificate for a prohibited development or certifying inadequate construction or defective fire safety systems.

These issues then fall back to councils to compel remedial action by the builder and 'clean-up' the work left by the certifier at a significant cost to the community. Council believes more rigour should be applied to the private certification industry and that councils across NSW be supported further in managing these issues.

### **Hornsby Shire Council**

### **Appointment of accredited certifiers and the principal certifying authority**

That Local Government NSW writes to the NSW Government requesting that it undertake an urgent review of the building certification system in NSW and consider the following:

- Ensure that certifiers who have been banned, be prohibited from being employees, consultants, directors or shareholders of entities providing such services.
- Apply more scrutiny when determining the competence of applicants seeking various categories of accreditation under the accreditation scheme adopted under the *Building Professionals Act 2005*.
- Deal more stringently with incompetent private accredited certifiers who assess, approve and certify development that does not comply with planning instruments and development regulations.
- Establish a process whereby the local council appoints the building certifier and the principal certifying authority (PCA) through an established local building certifier panel ensuring that there is no connection between the builder and the regulator.

#### **Note from Council**

Since the inception of the private building certification scheme in NSW, most councils are receiving hundreds of complaints every year identifying areas where private certifiers have failed to exercise their duties as a public official. One of the major concerns with the current certification scheme is that property owners and developers are permitted to choose who carries out the certification works, which does not instil public confidence that a rigorous assessment process has been undertaken throughout the certification process.

With the recent expansion of the NSW Government's new Medium Density Housing Code which will allow one and two-storey dual occupancies, manor houses (blocks of four flats) and terraces to be carried out under a fast track complying development approval by private certifiers without council input, it is even more critical that the NSW Government reinstates public confidence in the building certification process by removing the ability for developers to appoint their own certifiers.

### **Orange City Council**

### **Private certifiers**

That the NSW Government undertakes a review of the private certifiers, including a survey of local councils, to determine whether private certifiers are acting in a consistent manner with their obligations and consistent with the planning policies of local councils.

#### **Note from Council**

Local government was traditionally responsible for undertaking certification of development against approved plans and building codes. In 1997, the NSW Government amended the law to allow for private certifiers to certify building compliance with approved plans and building codes. There remains significant confusion within local communities about the role of private certifiers, and concern that the payment of fees by developers to the private certifier and the potential for this to result in a conflict of interest in attending to the interests of the community and compliance with the law and relevant approvals. In addition, there are concerns in the community regarding the effectiveness of oversight of private certifiers by the Buildings Professional Board. In particular, the community has expressed concern that private certifiers have not acted transparently or with accountability to the community and relevant local requirements.

### **Willoughby City Council**

### **Principal Certifying Authority system in NSW**

That Local Government NSW conducts a comprehensive urgent investigation and review of the Principal Certifying Authority (PCA) system in NSW.

#### **Note from Council**

Under the current planning system in NSW, a person may appoint their local council or a private, accredited certifier as the



PCA for the control of:

- Complying Development, and/or
- development carried out under a Construction Certificate associated with a Development Consent.

Under the *Environmental Planning and Assessment Regulation 2000*, critical stage inspections must be undertaken by the PCA or, if the PCA agrees, by another certifying authority (which in practice and in the majority of instances is a private, accredited certifier).

In terms of the handling of complaints from the public that allege non-compliance with a Complying Development Certificate or Development Consent, it is the responsibility of the appointed PCA to investigate the complaint and also to initiate action to remedy the non-compliance. Any complaint by the public (or a council) about the unsatisfactory performance of the appointed PCA is processed by the Building Professionals Board (BPB). However, whilst the BPB can investigate and take disciplinary action against a certifier, the BPB cannot order building work to stop, unauthorised work to be rectified and cannot take action against builders, tradespeople or property owners.

Most Complying Development and/or Development Consent sites being developed in the City of Willoughby are under the control of an appointed private PCA.

It has been the experience of Council that in most instances where the public has reason to complain and allege non-compliances with Complying Development and/or Development Consents that these complaints are often in the first instance lodged with Council. When the complaints are referred by Council (or the public) to the appointed private PCA for processing, the complaints are rarely investigated comprehensively and actioned, and consequently, the complainant returns to Council for relief and satisfaction regarding their concerns.

Willoughby City Council currently prioritises the investigation and actioning of complaints about private PCA controlled development where there is the threat or risk to:

- public safety
- pollution
- damage to the natural/built environment
- heritage items.

In the most serious of matters where the performance of the appointed private PCA has provided cause for the lodgement of a complaint to the BPB, the level of investigation and burden of proof necessary to clearly demonstrate and prove negligence and/or misconduct to support and sustain the complaint is lengthy and onerous.

Willoughby City Council also understands that this situation is also experienced in other local government areas of NSW.

Such investigation and review of the PCA system in NSW must clearly identify existing problems and opportunities for reform so that PCAs are compelled to investigate and action complaints about non-complying development. Where complaints are not investigated by the appointed PCA, suitable, meaningful sanctions must be imposed as consequences. Moreover, the threat of sanctions must serve as an incentive for PCAs to investigate and action complaints about non-complying development as well as provide for a meaningful consequence for poor performance and customer service.

## **15 Moree Plains Shire Council**

## **Local Environmental Plan processes**

That Local Government NSW commends the Minister for Planning, the Hon. Anthony Roberts MP, for implementing the role of Chief Planner of NSW. Further, that the Minister be requested to initiate a review of the "Gateway" mechanism so that this operates on faster timeframes as was the case when the process was initiated, to complement the other recent improvements to Local Environmental Plan processing.

### **Note from Council**

The appointment of the Chief Planner has successfully introduced improvements to the Local Environmental Plan (LEP) processes, which include mechanisms to address road blocks in the LEP process which are proving to be successful. These include increased delegation to councils to make LEPs themselves and direct intervention where there are issues with state agencies. There are still issues involved with the speed of the "Gateway" process which is now much slower than when first introduced. Review of this process to increase processing speeds would complement the recent positive changes in this area.

## **16 Tweed Shire Council**

## **Noise impacts for unit holders**

That Local Government NSW requests the NSW Government review their controls for noise impacts from units holders on the unit holders below them, including but not limited to the exempt and complying provisions for floor coverings, that enable unlimited noise impacts for units built prior to the 2016 Building Code of Australia (BCA), and up to 62 L'nT,w for units built subject to the 2016 BCA.



### **Note from Council**

Planning panels (JRPPs) were introduced in NSW in July 2009 to strengthen decision making on regionally significant development applications (DAs) and certain other planning matters. In November 2016, six Sydney Planning Panels (SPPs) were established to replace the Sydney East and Sydney West JRPPs.

Additionally, from 1 March 2018, Independent Hearing and Assessment Panels known as Local Planning Panels under the *Environmental Planning and Assessment Act 1979* also became mandatory for all Sydney councils and Wollongong City Council.

Currently, if a decision of a State or Local Planning Panel (a body external to Council) is challenged legally, councils are required to pay the legal costs that are attributed to the Planning Panel, including on occasions where the decision of the Planning Panel is contrary to the staff recommendation of the relevant council.

### **20 Tweed Shire Council**

### **DA appeal rights**

That the NSW Government takes immediate action to amend the *Environmental Planning and Assessment Act 1979* to enable a provision for third party merit appeal rights in respect of all categories of development applications, particularly local developments.

### **Note from Council**

The current situation where developers can appeal refusals of developments on merit grounds but the community does not have a corresponding right to challenge development approvals on merit grounds, only on technical process considerations, is inequitable. This is a cause of continuing angst in the community and is obviously undemocratic.

### **Other Planning**

### **21 Board**

### **Federal planning partner**

That Local Government NSW makes representations to the Federal Government to seek a commitment to working with local government as a partner from the outset in the development of planning policies relating to:

- a. The development of cities and regions;
- b. Infrastructure requirements, including those related to catering for the impact of population growth; and
- c. Telecommunications requirements, including the provision and location of mobile towers.

**(Note: This motion covers the following motions set out in small font)**

### **Cabonne Council**

### **Federal Government population policy**

That Local Government NSW makes representations to ensure that local government has a seat at the table when policy is developed for population growth targets, especially as they impact on non-metropolitan areas where infrastructure planning has been neglected at a State and Federal level.

### **Note from Council**

Treasury forecasts anticipate the Australian population will grow by over 1 million people over the next 30 years. This will result in increased congestion in metropolitan areas but at least some planning has been put in place by State and Federal Governments. Some of the overflow from this congestion will result in substantial growth in rural areas where little or no planning has been undertaken at a State or Federal level.

### **Randwick City Council**

### **Authorisation of mobile phone antenna locations**

That Local Government NSW lobbies the Federal Minister for Communications, Senator the Hon. Mitch Fifield, requesting that local governments be given greater authority as to the placement of these mobile phone antennas within local government areas (LGAs).

### **Note from Council**

TPG Telecom has begun building a new 4G mobile network in Australia with installation well underway in Sydney and Melbourne. The network will comprise a network of small cell sites located closer together than previous networks and fibre. Within the Randwick LGA, the small cell sites are planned to be placed on Ausgrid's power poles in accordance with an agreement between the two parties. TPG advises the proposed works are considered to be a Low Impact Development

under the Telecommunications (Low-impact Facilities) Determination 2018. These low impact facilities are exempt from requiring approval under State laws.

Telecommunication companies are required to operate in accordance with the *Telecommunications Act 1997* which is Federal legislation. However, their networks have the potential to impact local communities. Following the commencement of the network rollout, community members have expressed concerns about the potential health impacts that can be attributed to small cell antennas.

## **22 Board**

## **State planning partner**

That Local Government NSW makes representations to the NSW Government to seek a commitment to working with local government as a partner from the outset in the development of planning policies relating to:

- a. Legislative reforms;
- b. Community facility requirements, including those related to the provision of open space arising from major residential and commercial developments;
- c. Infrastructure requirements, including those related to the settlement of refugees and migrants; and
- d. Government land and property requirements, including early consultation in the disposal of government property.

**(Note: This motion covers the following motions set out in small font)**

### **Hornsby Shire Council**

### **Disposal of State Government owned property**

That Local Government NSW writes to relevant NSW Government ministers requesting that Property NSW be required to formally recognise local councils as stakeholders in the process of the disposal of NSW Government owned property in NSW. This is to be achieved by Property NSW ensuring that the local council where the property for disposal is located is included in the initial consultative process prior to disposal of the property.

#### **Note from Council**

Property NSW manages the State's significant property portfolio and its places for the people of NSW. The approach of Property NSW is to "collaborate with stakeholders to deliver government objectives for the community" to achieve its mission to "deliver property solutions and great places for the people of NSW". Their services include active portfolio and asset management and delivering transactions and major projects. In delivering disposal transactions on behalf of NSW Government, Hornsby Shire Council has been advised that prior to offering any State owned property for disposal, an initial process of consultation is conducted with the various NSW Government organisations as to their interest in such property. Local government is not considered to be a stakeholder and is, therefore, not included in this initial process.

Council believes that local government is a significant stakeholder when the State considers the disposal of its property assets within the boundaries of local government. Whilst NSW Government organisations may consider potential disposals of State owned property at a "macro" level across NSW, local councils are best placed to consider such disposals at the local "micro" level within their local government boundaries. Council considers that councils are at least just as important a stakeholder in the disposal process of State owned properties, if not more important than State organisations, due to the connection of local government with the community.

It is, therefore, considered that councils should seek to mitigate the risk of losing any opportunities that might be presented from the potential disposal of State owned properties by recognition of their stakeholder status and their inclusion in the initial consultative process. This aligns with the objectives of Property NSW and accords with Hornsby Shire Council and the Government of NSW promoting the theory of "one government" working together for the benefit of the current and future generations of the community.

### **City of Parramatta**

### **Benchmarks for community facilities and open space**

That Local Government NSW advocates that the NSW Government co-design with local government representatives a suite of mandatory minimum benchmarks for the provision of community facilities and open space that is part of all major residential and commercial developments across the State.

#### **Note from Council**

Substantial population growth and concurrent residential and commercial development, especially in congregated precincts and corridors, is frequently not aligned with plans for the provision of adequate new or expanded community facilities and open space (e.g. child care, community spaces, library services, active and passive recreation spaces).

The wellbeing of current and future communities in and nearby such development sites and zones is compromised by this lack of provision. Efforts need to be accelerated in collaboration between the NSW Government, local councils, developer and community interest to resolve a suite of minimum benchmarks for the provision of such essential facilities and spaces in or nearby significant developments.

That Planning NSW recognise that NSW councils are planning partners and implement a communications approach that informs councils in detail and advance of planning changes and provides direction which is meaningful and relevant to all councils across the State.

**Note from Council**

The NSW Government are continuing to roll out a package of planning and related legislative reforms. Councils need to be seen and acknowledged as an important partner in this process as they often need to implement the reforms on the ground. However, quite often councils may or may not be engaged at a point in the process and then are not advised further till the reforms are finalised and released and are placed in the situation of 'reacting' to an announcement with little support, engagement or lead time. There is a need for more consistent partnership engagement with councils.

**Fairfield City Council****Refugee settlement support for LGAs**

That:

- a) State and Commonwealth governments prioritise increased or enhanced community infrastructure alongside settlement services in local government areas (LGAs) that settle large numbers of refugees.
- b) Local government be included in planning the resettlement of migrants, especially refugees, in acknowledgement of their role in facilitating community cohesion and providing community infrastructure at a local level.

**Note from Council**

According to the United Nations High Commissioner for Refugees (UNHCR), there are 65.6 million people forcibly displaced worldwide. The Australian Government contributes to durable resolution for refugee situations through its annual humanitarian intake. The Australian Government has recently increased the Humanitarian intake from 13,750 in 2013 to 16,250 in 2017/18. It is expected that the Humanitarian intake for 2018/19 will increase to 18,750.

Support for newly arrived refugees tends to focus on the provision of settlement support services which are critical for the resettlement of the individual. However, for successful settlement to occur and for community cohesion to be sustained locally, there is a need for funding community infrastructure to accommodate the increase in the growth in population in the receiving LGA.

LGAs that receive significant population growth through the humanitarian program, rather than rezoning and construction, need to have resources to support this growth that is not linked to construction of new dwellings. Population growth resulting from rezoning and development is supported by developer contributions and government support for infrastructure, while population growth through immigration has no supporting systems to assist community cohesion and the need for additional infrastructure.

**23 City of Canterbury Bankstown****Open space levy**

That this Conference call upon the NSW Government to introduce a metropolitan-wide open space levy on development for the purpose of funding investment in regional, district and local level open space and recreation areas.

**Note from Board**

The Board understands that if carried, this would apply to all metropolitan areas in NSW (regional and Sydney based).

**Note from Council**

The most "liveable" cities are known for their quality open spaces. These may take the form of environmentally sensitive landscapes, playing fields, communal open spaces, playgrounds and active transport – pedestrian and cycling – corridors.

These open spaces across the urban environment provide opportunities for formal and informal sport and recreation, preservation of natural environments, provision of green space, important corridors for fauna and combat the effects of the urban heat island.

The Sydney metropolitan area is set to grow by 725,000 dwellings by 2036. Population growth will increase the demand for services, facilities and community infrastructure such as open space, particularly as a large percentage of these homes will take the form of high density housing.

The NSW Government's own planning strategy for Sydney has as one of its key directions valuing green spaces and landscape. With a rapidly growing population that will continue to place increasing pressure on our public open spaces, the need to continuously increase the quality and quantity of open space over time cannot be negotiated away if our city is to remain prosperous, resilient and above all, people focused.

Individual councils simply do not have the funds available to expend on acquiring land for open space purposes. This is especially the case in highly urbanised and fragmented areas; the cost is prohibitive.

Real foresight and leadership is necessary here. The opportunity lies with a centralised pool of funds raised from a new levy on all development across the metropolitan area. This fund, available to metropolitan councils and dedicated to providing regional, district and local level open space, recreation and active transport corridors, could be administered by the Office of Strategic Lands through a bid and grant model.

#### **24 Tweed Shire Council**

#### **Primitive camping: flexible licensing framework**

That Local Government NSW advocates to the NSW Cabinet and Minister for Planning and Environment to undertake an evaluation of the environmental, social and economic benefit of permitting Primitive Camping as 'Exempt Development' to:

- Support and grow regional economies through direct and indirect visitor spend;
- Provide additional income streams to farmers during periods of income stress;
- Broaden the opportunity for short-term or temporal tourism;
- Support other recreation or tourist attractions during major events; and
- Provide an alternative low impact camping option to the traditional camping grounds.

#### **Note from Council**

Primitive camping grounds are lower key than the more conventional in that they do not offer the same level of services, for example; they do not require sealed roads, or need to provide hot water or laundries, but nonetheless operating any form of camping ground is regulated and licensed under the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* ("the Regulation"). The distinction between primitive and conventional camping grounds is defined by the Regulation, however there is no distinction under the *Standard Instrument (Local Environmental Plans) Order 2006* and as such development consent is required in most cases.

Many regional towns and communities are located within geographic areas of high amenity, be that coastal beaches or hinterland, inland rivers and waterways, open savannah or more mountainous areas, which attracts a significant number of travellers and tourists. Most regional towns hold significant annual regional events or have a significant temporal attractions that lead to shorter term influxes in visitation and that are critical for their local economies.

There is a demonstrated need for variety in the range of camping grounds, as there is for their flexibility and affordability for both operators and visitors. Subdivision 9 of the Regulation sets out different standards for 'primitive camping grounds' and there is opportunity to align the planning system through the Standard Instrument or other environmental planning instrument to permit primitive camping grounds as exempt development. This would remove the time and cost associated with gaining development approval, which is often cost prohibitive and leads to higher and less affordable accommodation charges, and would still have the certainty on the current licensing scheme already operating under the Regulation. As locally exempt development, it could provide each council with the ability to determine what the camping density rate should be and whether there is a temporal element to the operation similar to the government's position on short-term rental accommodation.

## **Transport**

#### **25 Camden Council**

#### **School off-street drop off and pick up zones**

Local Government NSW writes to and engages with the NSW Department of Planning, Minister for Education and Minister for Roads, Maritime and Freight to develop a mandatory provision that any new schools constructed in a local government area provide appropriately-sized off-street drop off and pick up zones.

### **Note from Council**

The safety of our residents is a critical concern of local government. To ensure effective and active road safety measures are in place for our children and parents on their way to and from school. It is essential that any new school construction proposals include an off-street drop off and pick up zone location appropriate to the size of the school. This will help children and their parents avoid being exposed to unnecessary traffic dangers when departing or entering vehicles.

### **26 Mosman Council**

### **Improved parking signs**

That Local Government NSW continues to lobby the Roads and Maritime Services to identify the progress of the matter since the 2014 resolution and that Mosman Council to be nominated to become a pilot local government area for this initiative.

### **Note from Council**

Parking signs are often complicated and difficult to understand with multiple instructions for different parts of the day or week. This matter was sponsored by Mosman Council for consideration at the 2014 LGNSW Conference. The Conference resolved that LGNSW lobby the Roads and Maritime Services (RMS) to commence a process to redesign parking signs so they are easier to understand. It is noted that sufficient progress has not yet been made and the RMS be requested to provide an update on the matter.

### **27 Gilgandra Shire Council**

### **Inland rail consultation process**

That Local Government NSW make representations to Federal Government and the Australian Rail Track Corporation (ARTC) in relation to the Inland Rail issues such as transparency, accountability and the consultation process.

### **Note from Council**

Impacted landowners believe there has been insufficient investigation into the 2017 alignment option with little understanding of the potentially severe impacts to their properties, businesses and lifestyle by creating an entirely greenfield rail line through prime farming and grazing land. Further, where possible, the Inland Rail project should utilise the existing rail alignments to reduce impact on landowners. This has been communicated verbally on numerous occasions in meetings with ARTC and also formally in letters to ARTC and to former Minister Chester.

It is unclear if these approaches have been duly considered and whether previous Ministers have understood the scale of the impact of this project on the entire Gilgandra Shire community (approximately 95km of greenfield rail with a potential to directly impact over 100 individual properties and indirectly impact a far greater number).

The key areas of concern are a lack of:

- consistent stakeholder engagement (ad hoc visits, sometimes several months apart, with little communication between visits).
- a visible presence - all engagement is carried out by staff who drive or fly in. There is no presence or point of contact in the community and impacted landowners have to ring a number or email to relay their concerns.
- a clear and concise timeline of decisions.
- access to experts and staff with decision making authority.

Further to this, Council and NSW Farmers have requested technical details that justify ARTC's decision to nominate the proposed inland rail study corridor. Any responses received have been ambiguous and evasive. A simple language response for communities justifying why the proposed study corridor within the Narromine to Narrabri (N2N) section doesn't utilise the existing rail corridors is required.

**28 Liverpool City Council****Train services**

That Local Government NSW contacts Transport NSW and advocates on behalf of councils for the following changes to the train timetables:

- More express services;
- More frequent and better quality services; and
- More services to new centres in growth areas.

**Note from Council**

In October 2017, the NSW Government unveiled the new draft train timetable for Sydney, 'More trains, more services'. According to the Department of Transport, the timetable is an effort to 'spread demand more evenly across the network'. Unfortunately, in that effort, a number of services have been dropped and the time of some journeys has been extended.

In October 2017 Liverpool City Council posted details of the new train timetable on its Facebook page and received an overwhelming response. A vast majority of the comments expressed disappointment and anger with the new timetable. This is a clear mandate from our community to act.

**29 Greater Hume Shire Council****Funding for first/last mile road projects**

That Local Government NSW lobbies the Federal and State Governments for additional recurrent funding for the improvement and enhancement of first/last mile roads.

**Note from Council**

Regional and local roads are increasingly being required to accommodate longer, heavy and higher freight transport and despite record infrastructure funding at both a Federal and State level, local and regional roads are not receiving any quantifiable increases in recurrent road funding.

Increasingly councils vying for competitive funding need to demonstrate a cost benefit ratio of greater than 1 which, in many instances, makes it very difficult for first and last mile projects to build a satisfactory business case.

The tables below outline that State and Federal recurrent roads funding is barely keeping pace with inflation let alone contributing to reducing the backlog of works for local and regional roads.

**NSW Regional Roads Block Grant**

Year	14/15	15/16	16/17	17/18
Amount	2,077,000	2,116,000	2,155,000	2,196,000
% Increase	1.88	1.84	1.90	

**Australian Government Roads to Recovery Program**

Year	18/19	19/20	20/21	21/22	22/23	23/24
Amount	364.5	399.7	399.7	399.7	399.7	399.7
% Increase	1.93	1.93	1.93	1.93	1.93	

*Note: Average annual increase over next 5 years of the R2R program commencing 1 July 2019.*

Furthermore, in 2014/15 the Federal Government reintroduced biannual indexation of fuel excise based on changes in the CPI which was estimated to have raised \$2.2 billion in additional revenue by the end of the 2017/18 financial year.

It is acknowledged that a 'one-off' increase was available through the Roads to Recovery (R2R) Program in 2015/16 and 2016/17; however, funding has now returned to levels before the reintroduction of the biannual indexation of fuel excise.

It is imperative that a significant amount of fuel excise indexation increases are made available to local government through the recurrent R2R Program to enable the continued improvement of first and last mile roads.



### 30 Moree Plains Shire Council

### Cost-benefit ratios and rural/regional roads

That Local Government NSW makes representation to the Treasurer of NSW, the Hon. Dominic Perrottet MP, to instigate a review of Treasury's *NSW Government Guide to Cost-Benefit Analysis* guidelines as they apply to regional NSW road and other transport projects. In particular, that the Government consider the following factors in determining the value of projects:

- The benefits to primary sector productivity of areas of high production so that these benefits can be considered as part of transport project justification;
- the achievement of social equalisation between rural and urban communities (access to education, health and wellbeing, emergency services and general social connectivity); and
- recognition of the additional costs that arise from reactive soil types both for construction and long-term maintenance.

#### Note from Board

The Board understands there are shortcomings with Treasury's *NSW Government Guide to Cost-Benefit Analysis* guidelines that do not consider truck movements in and out of QLD and other States, nor wider social or other factors that should be considered in road funding grant applications.

#### Note from Council

Treasury's *NSW Government Guide to Cost-Benefit Analysis* Guidelines provide the framework for the development of cost-benefit analysis which is essential to support funding applications for projects. The guidelines have an intrinsic bias towards metropolitan areas in that road project cost-benefit ratio is a highly dependent on the number of passenger vehicles utilising the roads. This disadvantages regional areas where although passenger vehicle numbers may not be high there are major benefits to supporting primary sector productivity including agriculture and mining. By weighting the benefits to productivity of road and other transport improvements as part of the Treasury guidelines, regional projects would be more competitive in seeking funding. In addition, because of low population numbers in regional areas, issues such as access to education and health, social interaction and other benefits of connectivity are not weighted highly in current cost-benefit guidelines. There is a need for social equity between urban and rural communities in ensuring that all Australian residents have the same basic access to services and facilities. Background work by the Australian Rural Roads Group supports this principle and provides more detailed arguments in support.

### 31 Gunnedah Shire Council

### Aviation

That Local Government NSW lobbies the Commonwealth Government to consider:

- a. increasing the availability of slots for regional air services into Kingsford Smith International Airport;
- b. reserving the availability of underutilised slots at Kingsford Smith International Airport incurred as a result of the current pilot shortage;
- c. investigating an assistance package to increase available pilot numbers for airlines servicing regional airports; and
- d. investigating the significant decline in the civil aviation industry, including pilot training and the current shortage of Australian trained pilots with the aim to put in place appropriate measures to revitalise all sectors of the civil aviation industry.

#### Note from Council

Many rural and regional NSW councils like Gunnedah, own aerodrome facilities that are capable of supporting commercial passenger flights, however due to the lack of landing and departure time slots from Mascot Airport in Sydney they are unable to attract commercial aircraft companies to establish the much needed services. Gunnedah is a rural community that is experiencing sustained growth, which is forecast to continue, due to increased activities in the extractive industries and processing of agricultural products produced locally and regional. To ensure unencumbered access to Gunnedah for both business and customers - national and international - a daily air service into Sydney Airport is essential.

Many regional and rural communities are experiencing depleting air services due to the shortage of trained, skilled and qualified pilots. The cost implications to the aviation industry to comply with the

Act are significant and whilst airline safety must be at the highest level, compliance must also be affordable to ensure regional and rural communities have access to the services that are so desperately needed. Consideration must be given for financial support from both State and Federal Governments during the rebuilding stage for Australia's civil aviation industry.

### **32 Liverpool City Council**

### **River highways**

That Local Government NSW advocates on councils' behalf for State and Federal Government support for the development of river highways across the State.

#### **Note from Council**

Sydney waterways and in particular the Georges River have historically been a vital way to connect Liverpool to Botany Bay and Sydney's Southern Suburbs.

As our road systems become more and more congested it is time to reinitiate our River Highways linking Liverpool and the southern suburbs of Sydney as well as an alternate route to Sydney Airport.

A hovercraft ferry service could enhance the NRMA's vision for the expansion of Ferry services servicing Sydney, the West and South West Sydney growth areas.

It is estimated that 250,000 jobs will be created in the Western Sydney Area over the next 20 to 40 years, with the potential for more than 100,000 of these new jobs available by 2031.

The population of Greater Sydney is expected to grow from 5 million (2016) – 6.2 million by 2031.

It is essential that we explore new ways of addressing congestion and find alternatives to the growing cost of transport that's affecting families in Western Sydney.

Fast Ferries could offer a faster, more efficient, more enjoyable and more effective alternative for commuters and have less impact on the environment.

Fast Ferries are a reliable service that record 97% customer satisfaction levels which is higher than buses, trains and lightrail and will not require the expensive infrastructure cost to implement.

### **33 Tenterfield Shire Council**

### **Timber bridge funding**

That Local Government NSW lobbies the NSW Government to modify the present application process for infrastructure grants in favour of direct grants to councils using a similar formula to the Federal Government Assistance Grants (FAGs).

#### **Note from Council**

It is not cost effective for councils to continually apply for infrastructure grants when it is known that all of the timber bridges across the State are all approaching the end of their useful life. Administering grant applications costs in the vicinity of \$20,000 to complete. Criteria for bridge funding doesn't always meet reality, e.g. it shouldn't be necessary to have all roads and bridges built to B-Double standards when such vehicles will never use these roads.

When a bridge has almost collapsed, the time taken from grant application to actually securing funds is too long, and it is unrealistic to expect primary producers to wait for months, even years to have proper access. In the last 15-20 years, there has been a massive increase in city dwellers travelling to every corner of the State. The road/bridge infrastructure was not originally designed for the amount of traffic created by the city day trippers.

## Water – utilities, stormwater and floodplain infrastructure

### 34 Albury City Council

### Impact of river levels on tourism

That Local Government NSW makes representations to the Murray Darling Basin Authority requesting it:

- take into account how river levels impact on Basin communities during peak tourism periods, including but not limited to Christmas and school holidays, Australia Day and Easter; and
- in consultation with environmental water holders, regulate river flows to the greatest extent possible to ensure positive social, economic and environmental outcomes are achieved.

#### Note from Council

The Murray Darling Basin Authority operates the Murray River system on behalf of Basin Governments, including the overseeing of the Basin Plan - the aim of which is to ensure that water is shared between all users in a sustainable framework. The Murray River is integral to the Basin, spanning three states and being the primary water supply for the majority of the Basin communities providing water for urban, recreational, industrial, agricultural and environmental purposes.

Storage levels and subsequent releases are directly related to demand. Typically, the Manager of River Operations manages these storage levels and flows based on water consumption demands such as agricultural, urban populations and environmental initiatives. Tourism in the Murray Region included more than 5.3 million domestic and international visitors during 2017, contributing a total of \$1.4 billion to the local economy. Paramount to this level of tourism is the availability of suitable storage and water levels to ensure water based activities can be enjoyed, therefore the River Operations Manager is encouraged to more appropriately consider tourism in the water demand equation when adjusting storage levels and river flows based on demand requirements.

### 35 Blacktown City Council

### Stormwater levy – indexation of revenue

That Local Government NSW lobbies the NSW Government to amend the regulations regarding stormwater management services, to provide indexation of revenue raised from a stormwater levy in line with the rate peg.

#### Note from Council

Since 2005, councils have been able to levy a charge for stormwater management services under Section 496 of the Local Government Act. The revenue raised by this means can be used only for stormwater control projects.

A council may, in accordance with the relevant regulations, levy an annual charge for each parcel of rateable land for the which the services are available.

By regulation, the maximum amount of this charge is:

\$25.00 per residential lot

\$12.50 per residential strata title lot

\$25.00 per 350m<sup>2</sup>. business lot plus \$25.00 per additional 350m<sup>2</sup>. for the same lot

No indexation of this charge is provided for. Where a council has levied a stormwater charge, it is therefore of diminishing value over time.

While the rate peg increase is not a mechanism supported by local government, it reflects the requirement to index revenue streams to offset increasing costs.

Notionally, had the equivalent of the rate peg increase been applied to stormwater charges, local government would have been able to for the 2018/19 year raised approximately 2.7% additional revenue from this source.

### **36 Edward River Council**

### **Murray Darling Basin Plan - dilution flows**

That Local Government NSW calls on the NSW Government to thoroughly investigate the current requirements for the volume of dilutions flows which are held in storage, and work with other States to reduce the storage volumes of water held for future dilution flows.

#### **Note from Council**

Managing salinity in the Murray Darling Basin is a key focus of the Murray Darling Basin Plan. One of the measures implemented to assist with managing salinity is dilution flows.

The 1999 Murray Darling Basin Ministerial Council's Basin Plan Salinity Audit report included earlier projections that:

- The 1987 estimates that 96,000 hectares of the Basin's irrigated land were salt-affected, and 560,000 hectares had water tables within 2 metres of the land surface.
- The average salinity of the lower River Murray (monitored at Morgan) will exceed the 800 EC (electrical conductivity measure) threshold for desirable drinking water quality in the next 50–100 years. By 2020 the probability of exceeding 800 EC will be about 50%.

River Salinity at Morgan has now been effectively managed through salt interception works, along with other programs both on and off farm which have improved water management.

Despite this improved management of salinity risks and the EC readings at Morgan remaining well below the 800 EC requirements as per the World Health Organisation (WHO) drinking quality standards, several salinity flow provisions remain in place:

- SA monthly entitlement flow under the River Murray Agreement still includes a baseline dilution flow for the Murray River.
- SA Additional Dilution flow rule from Menindee lakes remains in place. This rule (1980s) is triggered when Menindee Lakes capacity has reached 1300 GL, and Hume and Dartmouth Dams have 1000 GL in each.

### **37 Hornsby Shire Council**

### **Sydney Water sewage system licences**

That Local Government NSW calls upon the NSW Environment Protection Authority (EPA) to improve its sewerage system licenses by applying a continuous improvement standard where periodically the levels of pollutants allowed to be discharged by sewage treatment plants and their reticulation systems is reduced over time.

#### **Note from Council**

A recent review by the NSW EPA of Sydney Water sewage treatment system licenses revealed a status quo where for many years, levels of allowable discharged pollutants has not changed despite improvements in available technologies.

At the same time, pollution arising from leaks and designed bypasses in metropolitan sewage systems are increasing. Growing development pressures and population density only serve to exacerbate this problem as reticulation systems and sewage treatment plants are rarely upgraded to cater for the increased population.

Sydney's waterways, creeks, rivers and beaches are now unswimmable during almost any wet weather event due to leaking and poorly maintained sewage infrastructure. The EPA pollution licencing scheme provides a tool to progressively improve environmental outcomes from the Sydney Water sewerage system.

### **Street lighting and electricity infrastructure**

### **38 Randwick City Council**

### **Undergrounding of power lines**

That Local Government NSW attempts to bring down the prohibitive cost of undergrounding power lines by lobbying the NSW Government to amend the *Electricity Network Assets (Authorised Transactions) Act 2015* to end the monopoly that Ausgrid has as a result of the regulatory and legislative framework in undertaking these works.

### **Note from Council**

Ausgrid has been granted a distributor's licence by the Minister for Energy and Utilities under the *Electricity Supply Act, 1995*. This licence creates a virtual monopoly to manage the energy distribution network across the eastern Sydney region.

Through Ausgrid's policies and the onerous requirements associated with contestable works, it has become cost prohibitive for developers to underground powerlines when Council attaches conditions to development consents. Subsequently, such conditions are often overturned in the Land and Environment Court and the public domain benefits are not realised.

### **39 Wagga Wagga City Council**

### **Use of Snowy Hydro sale proceeds**

- That the NSW Government allocate some of the proceeds from the sale of Snowy Hydro towards the following:
  - o Funding towards infrastructure backlog projects that aren't aligned with grant funding opportunities to assist councils with upgrading and maintaining critical assets such as roads and bridges.
  - o The establishment of an engineering scholarship program to help address a shortage of qualified engineers, particularly in regional areas.

### **Note from Council**

The NSW Government is currently rolling out an unprecedented level of funding as a result of the sale and lease of some of its key assets. The majority of current grant funding opportunities available from the State relate to building new facilities and assets that support job creation and economic growth in regional NSW. While this funding is appreciated and is needed, councils have an ever-increasing infrastructure backlog that also requires additional funding support from the NSW Government. Another issue facing regional NSW is a shortage of qualified engineers to deliver these projects. Council would like the NSW Government to establish an Engineering Scholarship program to provide incentives for people to become qualified engineers and to work in the regions.

### **40 Albury City Council**

### **Southern Lights Project**

That Local Government NSW request that, as a matter of urgency, the NSW Government support and fund the Southern Lights Project which includes the conversion of street lighting in non-metropolitan NSW to state-of-the-art LED lighting fitted with smart control technology.

### **Note from Council**

The Southern Lights Project aims to replace approximately 75,000 street lights with state-of-the-art LED lighting and smart controls technologies across 42 local government areas covering almost all of southern NSW. The implementation of this advanced technology will deliver significant advantages to regional and rural NSW through: a reduction in street lighting energy consumption of approximately 50%; lower maintenance demands via more efficient fittings; safer communities with brighter streetscapes; improved customer service with real time failure detection, and environmental benefits with the removal of products containing mercury and lead.

Support is sought for this project, with preliminary estimates of the overall capital project cost being in the order of \$50 million. There appear to be two primary constraints with regard to this project:

- Progress – adopting state-of-the-art technology within the Essential Energy product offer is critical. Time constraints are imminent with many councils needing to make decisions on bulk lamp changeovers; and
- Funding – without exception this initiative has been well received and supported by many NSW Government entities. Initial capital outlay is significant which is challenging for councils, based on competing community priorities. This is a great opportunity for the NSW Government to show commitment and invest in non-metropolitan NSW contributing to improved efficiencies, economic development, improved connectivity and safer communities.

## Disaster management & recovery

### 41 Tweed Shire Council

### Natural disasters

That Local Government NSW requests the NSW Government to recognise the significant environmental damage caused by natural disasters, such as the March 2017 event on the Far North Coast which caused significant riverbank erosion, landslips and weed intrusion post the event, and allocates funding in addition to the National Disaster Relief and Recovery Arrangements to ensure that the natural environment is also rehabilitated to restore functioning of critical or important eco systems.

#### Note from Council

Following flooding from Cyclone Debbie in April 2017, the natural environment of the Tweed Shire was impacted in multiple locations by incidents of serious environmental harm.

In the Tweed River Estuary, predominantly downstream of Murwillumbah, it is estimated that thousands of tonnes of litter and debris were deposited into the waterway. This included large items like water tanks, dead livestock and cars, and an inestimable quantity of small items such as domestic goods, wheelie bins and cans of paint. Council used its own resources and contracted a marine salvage company to remove as much of the visible pollution as possible. There was no ability to claim for disaster relief funding for this work.

In the mid-Tweed River, particularly between Uki and Byangum, hundreds of metres of severe river bank erosion occurred during and post flood peak flows, resulting in many thousands of cubic metres of sediment being deposited into the Bray Park weir pool. This river bank erosion has not been addressed, there is no post disaster funding available to stabilise and revegetate the banks, and so, as well as now being degraded habitat, the sites remain an ongoing contribution to poor water quality in the Tweed drinking water supply catchment.

Council and its community have allocated many thousands of hours and significant investment into catchment management and enhancing the condition of waterways and water quality. The flood caused severe damage to riparian plantings on community land, where Council has now allocated further funds for restoration. Increased dispersal of weeds into natural areas been particularly severe following floods.

### 3. ENVIRONMENTAL POLICY

#### Waste management, resource recovery, avoidance

42 Board	Waste levy distribution
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That the NSW Government be called upon to ensure that 100% of the levy arising from Section 88 of the *Protection of the Environment Operations Act 1997* be used for waste infrastructure and programs, predominantly by local government and the waste sector, for initiatives such as:

- Development of regional and region-specific solutions for sustainable waste management (e.g. soft plastic recycling facilities, green waste).
- Support innovative solutions to reduce waste and waste transport requirements.
- Protect existing and identify new waste management locations.
- Local community waste recovery and repair facilities.
- Funding a wider range of sustainability initiatives, such as marketing and strategies, that promote and support a circular economy.

**(Note: This motion covers the following motions set out in small font)**

Blacktown City Council	Resource recovery locations
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That Local Government NSW calls on the NSW Government to support the implementation of the following District Plan actions:

- Protect existing and identify new locations for waste recycling and management
- Support innovative solutions to reduce the volume of waste and reduce waste transport requirements

by providing additional funds for each location from the Section 88 (waste) levy, so that new infrastructure is commissioned that supports precinct-based waste collection, reuse and recycling.

#### Note from Council

The Department of Planning and Environment through the development of the Greater Sydney Commission's District Plans has identified these two key actions as vital to effective and sustainable waste recycling and management.

Where new and existing locations are identified for resource recovery facilities, the NSW Environment Protection Authority (EPA) needs to utilise the funding received from the Section 88 (waste) levy to leverage the investment in these precincts.

The NSW EPA Draft NSW Waste and Resource Recovery Infrastructure Strategy 2017-2021 identified a short fall in the number of facilities able to process waste and recycling across NSW.

The proposed approach to link location, infrastructure need and funding will ensure that the alternative waste treatment and resource recovery facilities needed are commissioned.

Central Coast Council	Waste levy revenues
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That Local Government NSW calls on the NSW Government to return to the councils all waste levy revenues collected to fund their councils' waste and recycling initiatives. Furthermore that the NSW Government undertake a thorough review of the classification of councils for the purpose of raising the levy.

#### Note from Council

In 2016/17 the NSW Government raised \$659 million from local councils through their waste levy, returning only 18% (\$118 million) to local communities for waste management initiatives.

Cessnock City Council	Recycling crisis - funding support
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That Council:

1. Notes China's recent refusal to accept recyclable waste from Australia and other countries as part of its China National Sword Policy.
2. Notes the policy paralysis as local government tries to grapple with the resultant build-up of recyclable waste that it continues to collect from its residents.
3. Notes there was \$737 million collected by the NSW Government in the last financial year, as a result of the waste levy collected from local government.
4. Notes only 18% of the \$737 million was returned to local government in that time for research, development and investment in waste recycling practices.
5. Requests the return of a greater share of the waste levy back to local government to enable the sector greater assistance in dealing with the current recycling crisis.
6. Supports the Hunter Joint Organisation Sub Committee (Circular Economy Working Party) in creating a Circular Economy through the establishment of a recycling facility in the Hunter, and nominate the Kurri Kurri Precinct as a potential location.

7. Writes to the NSW Premier, the Hon. Gladys Berejiklian MP; Parliamentary Secretary for Planning, the Central Coast and the Hunter, Scot MacDonald MLC; Minister for the Environment, Minister for Local Government, and Minister for Heritage, the Hon. Gabrielle Upton MP; and State Member for Cessnock, Mr Clayton Barr MP seeking their support for Council's position and the future of waste recycling in this State.

#### **Note from Council**

The recent enforcement by China of its National Sword policy, to place strict contamination thresholds on imports of recycled materials is having significant impact on the ongoing viability of kerbside recycling throughout Australia.

While the NSW Government announced a \$47 million support package to help local government and industry respond to China's National Sword Policy, no new funding has been made available.

Council is requesting that local government receives a greater share of the \$737 million waste levy payments collected by the NSW Government in the last financial year to provide the sector greater assistance in dealing with the current recycling crisis.

#### **City of Ryde**

#### **Revenue raised by the waste levy**

That Local Government NSW:

- a) Calls on the NSW Government to return more of the revenue raised by the waste levy to local government to help develop more local soft plastic recycling facilities in NSW.
- b) Notes that presently, only 18% of revenue collected from the NSW waste levy is returned to local government.
- c) Calls on the NSW Government to:
  - a. Return a larger percentage of the waste levy to local government and through designated agencies/Departments, increase the variety, amount and value of grants available to local government for:
    - i. Local community waste recovery facilities, repair spaces and associated human resources.
    - ii. The purchase of new technologies in recycling infrastructure, which will aid local circular economies.
    - iii. Funding a wider range of sustainability initiatives not excluding signage, marketing, translation services, consultancy and strategy services.
  - b. Allocate substantially more of the revenue raised from the NSW waste levy on developing either or both:
    - i. State owned soft plastic recycling facilities, and/or
    - ii. Incentives for the commercial waste recovery sector to build more soft plastic recycling facilities that are more easily accessible to NSW local government areas (LGAs).

#### **Note from Council**

The *Protection of the Environment Operations Act 1997* (POEO Act) requires certain licensed waste facilities in NSW to pay a contribution for each tonne of waste received at the facility. Referred to as the 'waste levy', the contribution aims to reduce the amount of waste being landfilled and promote recycling and resource recovery.

The waste levy applies in the Sydney metropolitan area, the Illawarra and Hunter regions, the central and north coast LGAs to the QLD border as well as the Blue Mountains, Wingecarribee and Wollondilly LGAs.

The 2018/19 waste levy rates as of 1 July 2018 for metropolitan LGAs is \$141.20 per tonne and regional areas it is \$81.30 per tonne. In line with the Waste Regulation, the waste levy increases each year with the CPI.

The waste levy was designed to be returned to councils to reduce the amount of waste being landfilled and promote recycling and resource recovery, however, LGNSW research shows that only 18% of the waste levies paid by local government are returned to local government.

At the same time that councils across NSW anxiously tried to avoid a recycling crisis, as China's National Sword Policy was announced, a senate inquiry was told that in 2016/17 NSW Government collected \$659 million in waste levies.

Imagine how our councils could use that money to do what it was designed to do? Among other things, we could all build our own community waste recycling centre and repair room, purchase new technologies like small problem waste recycling infrastructure, provide more assistance to community led circular waste initiatives, provide more community education, translated signage in multicultural communities and offer more workshops in different languages.

\$659 million a year. That's a lot of money. At least we could breathe a little easier if we knew the NSW Government were using the revenue to do more in addressing soft plastic waste going to landfill. Soft plastic packaging is one of our biggest problems in landfill and recycling of this waste is left to supermarket chains to ship to VIC.

Imagine if we could see the waste levy funding the development of more state owned soft plastic recycling facilities or creating opportunities and providing incentives for local governments to band together and build a facility. Offering incentives and opportunities for the commercial waste recovery sector to build more soft plastic recycling facilities that are accessible to all NSW LGAs.

The use of the levy for this purpose will create jobs in regional areas and give opportunities to new technology. It will create whole new industries in sustainable material manufacturing from waste and resource recovery.

We need to step up to the challenge on soft plastics and not just tell people to bag it up and drop it at coles.



I'm waiting for the supermarkets to say "well we've stopped handing out single use plastic bags, we don't feel as guilt ridden now... take your own plastic to Victoria."

Please support my motion to ask the NSW Government to use the waste levy for the very reason they designed it. To help all of us reduce landfill.

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**Federation Council****Waste resources**

That Local Government NSW lobbies the NSW Government to develop more regional and region specific solutions for sustainable waste management in the regions (including plastic bags, green waste, renewable/alternative energy including waste for energy).

**Note from Council**

Councils in the Riverina Murray area around Albury, Wodonga, Corowa and surrounding areas in VIC have for the past five years been grappling with the development of an organics processing facility. This has not come to fruition for a range of reasons, mainly due to a lack of strategic cooperation and leadership by stakeholders.

Other avenues exist for waste for energy, solar and other renewable, yet it lacks a clear and cohesive, region by region specific approach.

Federation Council urges LGNSW to lobby the NSW Government to work with organisations such as the Joint Organisations to allow more sustainable waste solutions to be developed on a more strategic basis.

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**Gwydir Shire Council****Tyre recycling**

That the NSW Government establish a program utilising funds from the waste levy to develop tyre recycling infrastructure serving regional areas

**Note from Council**

The disposal of tyres in rural and regional areas has become a significant issue. A co-ordinated State-wide response is required to address the issue.

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**Hornsby Shire Council****Increase in grant funding for waste levy program**

That Local Government NSW lobbies the NSW Government to significantly increase the annual amount of grant funding available for local councils under the Waste Less Recycle More, Waste Levy Program to broadly support waste related initiatives of local government.

**Note from Council**

Under Section 88 of the NSW *Protection of the Environment Operations Act 1997*, a waste levy applies to waste disposed to landfill, including residential waste collected by NSW councils. LGNSW has reported that the waste levy generated approximately \$659 million in 2016/17 for the NSW Government, with only 18% of levy funds paid by local government being returned for waste related programs delivered by councils.

In order for local councils in NSW to meet the State Government's domestic resource recovery target of 70%, Hornsby Shire Council is calling on LGNSW to lobby the NSW Government for a significant increase in Waste Levy funds to be directly returned to local councils to progress waste management and resource recovery initiatives.

Whilst individual councils will be best placed to determine priority uses for increased funds, a greater availability of funds could assist in driving better regional approaches, supporting innovation in reuse and recycling or in establishing infrastructure that would lead to improved viability (including reduced costs for communities).

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**Leeton Shire Council****Increase of waste levy distribution**

That Local Government NSW lobbies the NSW Government to:

- a) Implement the recommendations of the Senate Environment and Communications References Committee Inquiry into waste and recycling, specifically:
  - Recommendation 16: 8.75 - The committee recommends that the Australian Government assist State and Territory governments to ensure that landfill levies in proximate jurisdictions are such that there is a no incentive to transport waste for levy avoidance purposes.
  - Recommendation 17: 8.76 - The committee recommends that the Australian Government support State and Territory governments fully hypothecating landfill levies towards measures that reduce the creation of consumption and waste, and that increase the recycling of waste materials.
- b) Meet the objectives of Recommendation 17 above by increasing the distribution of levies collected under the *Protection of the Environment Operations (Waste) Regulation 2014* (the Waste Regulation) to those organisations from which it is collected.

**Note from Council**

On 17 August 2017, the Senate referred the waste and recycling industry in Australia to its Environment and Communications References Committee. The committee's report was published on 26 June 2018 with a total of 18 recommendations. The report stated that "local governments have 'a long history and expertise in municipal waste management'. The services provided by local governments vary between different councils and depend on the regulatory framework of their state or territory". In NSW, this framework is enshrined in the Waste Regulation and one of its key

components requires certain licensed waste facilities in NSW to pay a contribution for each tonne of waste received at the facility.

While the contribution aims to reduce the amount of waste being sent to landfill and promote recycling and resource recovery, the funds returned to local government are a fraction of those collected. Research has shown that of the \$659 million collected through the levy, only \$118 million, or 18%, is returned to support local councils to meet their efforts to reduce the amount of waste going to landfill and promote recycling and resource recovery programs. An increase in the levy distribution allocation would see a resultant increased in funds available for local councils to invest in waste and recycling infrastructure or implement waste reduction programs to achieve the outcomes of the *Protection of the Environment Operations Act 1997* and better protect the environment and the community for the future.

### Shoalhaven City Council

### POEO Levies

That the NSW Government be called upon to ensure that 100% of the levy arising from Section 88 of the *Protection of the Environment Operations Act 1997* (POEO) be used for waste infrastructure and programs.

#### Note from Council

Over the next four years, it is anticipated the NSW Environmental Protection Authority (EPA) will make \$337 million available for the Waste Less Recycle More Program. While on the surface of it this appears to be a significant amount, the levy payments to the EPA over these four years will be about \$2,520 million with only 13% of this being returned to the sector.

By way of example, the total of levy funds paid by the Shoalhaven City Council to the EPA over the four years of their first Waste Less Recycle More (WLRM) funding program is summarised below. This is contrasted with the amount of WLRM funding received by the Shoalhaven over the four years. Council received 5.2% of our total contribution over the four year program. Council has not been able to ascertain what has been done with the remaining 95% of the levy payments, except to say that the funds are considered to be consolidated revenue for the NSW government and not fully allocated projects and programs that reduce waste.

Year	Levy paid to EPA	Non-contestable grant funding received	Contestable grant funding received	%
2013/14	\$7,180,315	\$246,500	\$215,088	6.4%
2014/15	\$7,954,973	\$246,500	\$341,169	7.4%
2015/16	\$10,021,983	\$231,355	\$112,800	4.2%
2016/17	\$8,194,997	\$231,000	\$111,540	4.2%
Total	\$33,352,268	\$955,355	\$780,597	5.2%

### 43 Tweed Shire Council

### Recycled products and procurement

That Local Government NSW:

- i. works with the State and Commonwealth Governments to establish mandatory components of recycled products such as glass bottles and concrete.
- ii. lobbies State and Commonwealth Governments to work with local government and that all three tiers of Government adopt procurement guidelines and purchasing policies that foster market development for recycled products.

**(Note: This motion covers the following motion set out in small font)**

#### Note from Council

The new Sustainable Procurement Standard ISO20400 is a comprehensive and internationally recognised guide for best practice in sustainable procurement. Council is comparing its current processes, procurement protocol and policy to identify where Council could more closely align our processes with the ISO20400. The standard provides a framework for assessing whole of life costs, the circular economy (including the use of recycled products), environmental impacts and community and social impacts.

### Lake Macquarie City Council

### Support for recycle end markets

That Local Government NSW and delegates work collaboratively with the NSW and Federal Governments to support the development of end markets for kerbside recycle, particularly through committing to procure recycled glass, paper and plastic products for use in their own operations.

#### Note from Council

NSW households generate 1.77 million tonnes of recycling each year, most of which is collected from the kerb by local government.

Recyclate generated from kerbside collections includes paper and cardboard, steel and aluminium cans, plastic bottles and jars, and glass bottles and jars. These materials are diverted from landfill for beneficial reuse, with reduced environmental impacts associated with both landfilling and extraction of virgin resources.

Over the last 20 years, there has been significant change in both the recycling regulatory environment and in the markets for recyclate. These changes threaten the viability of kerbside recycling services, particularly for glass.

At last year's conference delegates resolved that LGNSW would call on the NSW Government to address the current failures in the recycled products market, including support for the development of markets for recycled glass and plastics.

Local government has an important role to play in supporting the development of these markets, and should be working to support local circular economy solutions that generate environmental, social and economic benefits for local communities.

#### **44 Bayside Council**

#### **Illegal waste dumping**

That Local Government NSW lobbies the NSW Government to make changes to the *Protection of the Environment Operations Act 1997* to enable local government to issue fines and penalty amounts equivalent to the NSW Environment Protection Authority (EPA) for illegal dumping. The current applicable penalties/fines, set at the current rates, do not discourage nor prevent rogue operators from illegally dumping larger quantities of material throughout local government areas. New penalties/fines should be identical whether issued by local government or the NSW EPA.

#### **Note from Council**

Bayside Council experiences over 3,200 incidences of illegal dumping annually, with other councils also experiencing high incidences of illegal dumping. Whilst the fines that can be issued for illegal dumping were originally set to deter individuals disposing of household items (small items, low quantities/volumes), the fines are certainly not high enough to deter illegal dumping of large quantities. Council often deals with dumping of this nature including dumping of soil, bitumen and concrete.

For rogue/serial dumpers mainly commercial in nature, the cost of lawfully disposing of waste is often much higher than the fine amounts that can be issued by local government. This provides a financial incentive for rogue operators to dump illegally.

Recommendations:

1. The applicable local government fines be increased to the same value as the NSW EPA, for both individual and corporations.
2. That the risk/reward deterrent for dumping be re-evaluated by the NSW EPA to include a set base fee for individuals and companies as well as a penalty-based on weight, e.g. \$8,000 set fine plus \$3.50/kg.

#### **45 Orange City Council**

#### **Waste management**

That Local Government NSW places the highest priority over the next 12 months on working with the NSW and Australian Governments to progress development of sustainable, long-term solutions to the current recycling crisis which aim to:

- give certainty to local councils;
- limit the financial impact on ratepayers; and
- create economically and environmentally sustainable industries based on recycling our waste in Australia.

#### **Note from Council**

Dry recycling in NSW is threatened by the recent collapse of markets for collected materials. Essentially this has been the result of very significant reductions in importation quotas of mixed recyclables for processing by the world's largest processor of such materials, China, causing local market issues of local oversupply and price collapse. This has resulted in a reduction in commodity prices for all grades of recycles, not just the lower grades. All levels of Government need to work together through the current downturn associated with China Sword, taking action over the short to longer term to become more resilient and adaptive to future change by becoming less of a "price taker" for recycling services.

**46 Lake Macquarie City Council****Reusable, recyclable or compostable packaging**

Call on the NSW Government to publish a plan to implement the Council of Australian Government's target that 100% of Australian packaging be recyclable, compostable or reusable by 2025 or earlier.

**Note from Council**

Australia produces around 64 million tonnes of garbage each year, of which only 55% is currently recycled. Packaging is a significant contributor to the waste stream, and much of it, such as single film plastic and polystyrene, is not able to be recycled through kerbside services. The impacts of these products can be significant, either through disposal to landfill, where they take up space and generate greenhouse gas emissions, or as litter in the environment, where they can cause considerable harm to wildlife and human health.

In April 2018, the Council of Australian Governments adopted a target that would require all packaging in Australia to be recyclable, reusable or compostable by 2025. There was also broad agreement that governments would ensure the use of more recycled material in building roads and other construction work, and that work would be done to improve recycling capacity within Australia.

**47 Bourke Shire Council****Disposal of syringes and other sharps**

That the NSW Ministry of Health be asked to:-

- Reinstatement of the Community Sharps Program to assist in the provision of funding to purchase sharps bins/containers, signage and to assist to raise awareness of the dangers of incorrect disposal of needles and other sharps. The cost of collecting and managing sharps that are indiscriminately disposed of in towns across NSW is yet another burden that councils have to carry.
- Work with sharps manufacturers and suppliers to introduce a producer responsibility approach for sharps, whereby the industry assists with the costs of managing their products.

**Note from Council**

Discarded needles both pose a health risk for the innocent members of the community and the collection of the needles an added cost to councils. While appreciating the funding that has been available for education in the past there is an ongoing need for this funding to continue in the future.

**Natural resource management, biodiversity****48 Coffs Harbour City Council****Landcare funding**

That Local Government NSW:

1. Writes to the NSW Minister for Primary Industries and to the Federal Minister for Environment and Energy and to the Federal Minister for Agriculture and Water Resources to seek reinstatement of funding streams available for Landcare.
2. Recognises that reduction in Landcare funding represents a cost shift to councils.

**Note from Council**

Landcare on the North Coast is currently supported by three government-funded programs which provide core funding for coordination and community capacity building activities. In 2018, nearly 60% of this funding will be lost (value \$1.78 million, administered by North Coast LLS) due to major changes in federal (National Landcare Program Phase 2 (NLP2)) and State (Catchment Action NSW) priorities and the resultant changes in strategic business priorities of the North Coast LLS.

Many councils work closely with Landcare and often this is via environmental levies. In Coffs Harbour City Council, the environmental levy spend is frequently multiplied by a factor of five or more as funds are matched by groups such as Landcare and also will include significant volunteer labour. This provides tremendous outcome for Council's environmental projects.

Reduction in Landcare funding therefore represents another cost shift by NSW Government and has flow-on effects by reducing the efficiency with which councils' money is spent. Re-instatement of Landcare funding is necessary for councils to achieve maximum value in environmental programs which partner with Landcare.

That Local Government NSW lobbies the NSW Government to review the impact of farming practices and soil conservation methods which are resulting in the diversion of overland water flows, creating adverse impacts on local roads and adjoining properties. Further, affected landholders should be supported by NSW Government advisory and support services to assist in addressing these impacts.

**Note from Council**

Following unprecedented heavy rain in 2016, local landholders experienced large volumes of water which had been diverted due to natural resource management and ever changing modern farming practices, resulting in the concentration and discharge of overland water from unregulated floodplains and waterways onto adjoining land or roads often to the detriment of both. This event was declared a natural disaster with a range of additional funding and assistance to landholders and councils in the region.

Significant concern has been raised regarding the lack of specialised and experienced frontline staff to support landholders and to adequately address any such issues which arise between landholders. Historically, soil conservation staff were available in communities to assist landholders with advice soil conservation practices and natural resource management whilst being available to help adjudicate outcomes without pitting landholders against one another. Following extensive approaches to the NSW Government Departments from Council and the Orana Regional Organisation of Councils (OROC), it would appear that this service is no longer available.

In addition to the service provisions, it would appear that there are inadequate regulatory tools available for council or State Government departments to manage the problem of overland flows in unregulated floodplains and waterways.

That Local Government NSW calls on the NSW government to review current legislative arrangements and support available to local government for regulating vegetation in urban and environmental areas, and to consider preparing a Vegetation Act in consultation with local government to support this policy priority.

**Note from Council**

As part of a package of native vegetation regulatory reforms introduced by the NSW Government in November 2017, substantial changes were made to the framework for protecting vegetation on urban and environmental land that directly affect local government.

*State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2107* was made as part of the reforms, and has given local government responsibility for determining the regulatory framework for vegetation on urban and environmental land. Regulation of vegetation is through a council's development control plan prepared under the *Environmental Planning and Assessment Act 1979*.

As a consequence, NSW local government authorities need to review policy frameworks and requirements for trees and vegetation for urban and environmental land. The NSW Government has provided limited guidance and support to local government to date in implementing these changes.

With increasing focus on urban greening for cooling and amenity, and conservation of biodiversity increasingly a global imperative, an effective policy and regulatory framework is required to support local governments and their communities to manage vegetation on urban and environmental land. One option is to introduce a Vegetation Act in consultation with local government to support effective protection and management of vegetation and trees on urban and environmental land.

## Protection or remediation of local/regional environments

### 51 Albury City Council

### Management of cats

That Local Government NSW requests the NSW Government to review the provisions for cat management and control under the *Local Government Act 1993*, the *Companion Animals Act 1998* and associated Regulations including enabling councils to effectively manage the nuisance effects of cats on residents and wildlife.

**(Note: This motion covers the following motion set out in small font)**

#### Note from Council

The management and control of cats in our community is an ongoing challenge, particularly in environmentally sensitive areas. This is compounded by the limited powers and controls provided for managing cats under the *Companion Animals Act 1998* (NSW) and associated regulations. AlburyCity has received numerous submissions and representations from local community members and interest groups outlining their concerns and requests for stronger controls in relation to the nuisance effects of roaming cats on residents and native wildlife. These submissions are based on findings of recent studies undertaken in SA and the ACT that have identified the impacts of roaming domestic cats on residents and wildlife.

AlburyCity has adopted a local Cat Management Policy that provides for consideration of restrictions on new and future properties, especially those that are located close to sensitive environmental areas. The restriction will require domestic cats to be wholly contained within their own property at all times and reflects cat containment policies in place in other state and territory jurisdictions. These restrictions can be considered and applied in the case of new residential estates but is not proposed to be retrospective and applied at a broader level across the whole of the City. A more equitable approach would be enhanced regulatory controls and greater powers for local government with regard to effective cat management including improving the ability to regulate nuisance effects of roaming cats. Current controls are onerous and very difficult to implement and take action on, owing to the burden of proof required and protection offered for cat owners. Further consideration should also be given greater provisions to adopt and enforce a city-wide local policy for cat containment. This would be similar to systems in place in VIC and the ACT.

### Wollondilly Shire Council

### Nuisance cats

That Local Government NSW writes to the Minister for Local Government seeking amendments to the *Companion Animals Act 2008* to require:

- 1.1 the owner of a cat to take all reasonable precautions to prevent cats from escaping from the property on which it is ordinarily kept and that similar penalties apply for straying/nuisance cats as it does for straying/nuisance dogs;
- 1.2 compulsory de-sexing of cats unless a person is a registered breeder;
- 1.3 limiting the number of cats per household;
- 1.4 streamlining the animal registration system to make it easier to register pets; and
- 1.5 increasing penalties to owners whose animals are repeatedly seized in wildlife protection areas.

## Risk management – asbestos, hazard, pollutant reduction

### 52 Randwick City Council

### Electromagnetic Energy Reference Group

That Local Government NSW:

1. Notes that the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) has established an Electromagnetic Energy Reference Group (EMERG) to enable input from the community and other stakeholders on issues relating to electromagnetic energy (EME) and health.
2. Writes to ARPANSA requesting that the ARPANSA seek nominations from councils to be on the EMERG to advocate for local issues relating to EME and human health.

#### Note from Council

There is growing community concern with the increasing numbers of mobile phone facilities being installed in residential areas and the potential impact on human health from radiofrequency (RF) EME emissions. While the ARPANSA is responsible for setting limits on emissions from individual mobile phone facilities, there is currently no legislative requirement for telecommunication companies

or Federal, State or local government authorities to measure existing cumulative emissions prior to the installation of a new facility. While communities and their local councils are concerned about the cumulative RF EME emissions, they are not empowered under the relevant legislation to prevent the installation of new low impact telecommunication facilities that comply with the relevant acts.

### **53 Warrumbungle Shire Council**

### **Notification of building fires to council**

That a formal written notification procedure be developed whereby emergency services are required to inform the local council authority within two days when a building fire occurs within their local government area.

#### **Note from Council**

Over an extended period of time Council has become aware that building fires occurring within our Shire area have not been formally notified to Council. In many instances Council has become aware of building fires after the event by informal means such as social media, word of mouth and through complaints from the general public indicating that the site is an eyesore, and more often than not, that asbestos is present. In some cases Council is not aware the fire has occurred for weeks, and in some instances months, after the fire has destroyed a building within one of our communities. It has been identified that this problem may be across all council areas, and that there is no streamlined mechanism in place for notification of building fires by NSW Fire and Rescue (FRNSW) or other emergency services to relevant local government authorities.

The matter is of extreme concern to Council as we are responsible for public health and safety as well as having carriage of legal powers to enforce clean-up of debris material. More importantly, Council can also enforce management of burnt asbestos materials in a timely manner to ensure the wider community is protected from exposure to those materials. There is also an opportunity for Council to secure funding for emergency events, although quick action is required to enable Council to be eligible to apply for assistance. This cannot be achieved unless Council is informed of building fires immediately after the fire has occurred. For this reason Council needs to be advised very early of building fires to mitigate the impacts from friable asbestos materials. An appropriate trigger mechanism needs to be established to enable FRNSW or other emergency services staff to notify local council authorities as soon as possible after the event has occurred.

Notifying council in a streamlined manner so that the appropriate council officers are notified regardless of changes in staffing ensures that appropriate processes regarding safety incidents, hazards and risks are being adhered to. Council is willing to assist with development of an appropriate reporting system if required.

### **54 City of Parramatta**

### **Costs of domestic asbestos waste disposal**

That:

- (i) Local Government NSW, and its member Councils, acknowledge the significant risks to the environment and human health by asbestos in all its forms, and acknowledge that these risks make asbestos and products containing it unsuitable for recycling.
- (ii) Local Government NSW and its member Councils acknowledge that the costs of removing and safely disposing of asbestos waste are prohibitive for the average resident.
- (iii) That member Councils reaffirm their support for previous motions seeking the removal of the waste levy for the disposal of asbestos containing materials.
- (iv) Further that, in acknowledgement of the risks and challenges associated with asbestos, Local Government NSW advocates to the NSW Government seeking:
  - (a) Removal of the s88 (PoEO Act) Waste Levy for domestic asbestos waste, and
  - (b) Enabling the disposal of domestic asbestos containing materials (i.e. the tipping fee – but not the costs of removal and/or transporting) free of charge, with this disposal funded/subsidised from the s88 Levy on other – non asbestos waste types.

#### **Note from Council**

The risks of asbestos to human health and the environment are well established. The costs of safely removing and disposing of asbestos pose a barrier to the safe and effective removal of asbestos from the built environment. Costs include both the government imposed waste levy and the fees

charged by landfill operators. Previous motions have called for the removal of this levy from asbestos waste to reduce barriers to safe disposal. Asbestos cannot be recycled, the application of a waste levy on asbestos disposal is a disincentive and does not encourage safe asbestos disposal – it creates a further barrier to the safe and lawful disposal of this harmful product. The very application of the waste levy on the disposal of asbestos products appears to be inconsistent the stated policy objectives of the levy – “to “increase recycling and divert valuable resources from landfill back into the economy”, when asbestos wastes cannot be recycled.

Removal of the levy on asbestos waste disposal alone, however, will not do enough to encourage the safe disposal of asbestos waste. The base disposal fees charged by landfills to dispose of asbestos contaminated waste, when combined with the costs of its transport, may discourage the safe and lawful removal of this material.

## Other environment

### 55 Lane Cove, Hornsby Shire, and Hunters Hill Councils

### Review of the 10/50 Vegetation Clearing Scheme

That Local Government NSW calls on the NSW Government to undertake a formal review of the 10/50 Vegetation Clearing Scheme including:

- i. an assessment of the effectiveness of the entitlement areas in reducing bushfire hazard to people and property;
- ii. an assessment of the impacts of the introduction of the 10/50 Vegetation Clearing Code on tree canopy cover in entitlement areas;
- iii. an appraisal of reducing the entitlement area noting the implications of reduced canopy cover; and
- iv. Any unintended/unforeseen consequences on vegetation resulting from the introduction of the scheme.

### Note from Council

The 10/50 Vegetation Clearing Scheme commenced in August 2014 following the October 2013 bushfires which destroyed more than 200 homes in the Blue Mountains and initially applied to properties located within a 350 metre buffer of all bushfire prone land. The design of the 10/50 Scheme provided that a formal review of the Scheme was to be undertaken as soon as possible following two years of the Scheme’s operation to determine whether the policy objectives remain valid and whether the terms remain appropriate for securing those objectives (Section 100S of the *Rural Fires Act 1997*).

In response to significant community concern that the Scheme was being abused by some landholders to indiscriminately clear vegetation, in October 2014 following only two months of its operation, the NSW Rural Fire Service brought forward the planned review of the Scheme. Given the formal review was commenced following only two months of the Scheme’s operation, rather than two years operation as was the original intent of the legislation, it is questionable whether the review assessed the full impact of the 10/50 Scheme over time.

Undertaking a review at this point after the Scheme has been in operation for a number of years would allow for a thorough examination of the impact of the Scheme over time, whether its policy objectives remain valid and whether the Scheme’s terms remain appropriate for securing those objectives, and whether there have been unintended outcomes

### 56 Cabonne Council

### Right to farm

That Local Government NSW lobbies the NSW Government for legislation to ensure food security and sustainability for future generations, including introduction of legislation to protect the ‘right to farm’.

**(Note: This motion covers the following motion set out in small font)**



## Note from Council

Although the NSW Government has provisions to preserve prime agricultural land there are numerous occasions when such land is alienated or the ability of farmers to continue normal farming practices as a result of urban encroachment and lifestyle type developments.

### Tweed Shire Council

### Right to farm

That Local Government NSW advocates to the NSW Cabinet and Minister for Planning and Environment for the principles of 'Right to Farm' to be embedded within the planning legislation in such a way that consideration of the principle is accorded the same legal weight in decision making processes as are other significant factors affecting the State of NSW such as; economic, social and environmental considerations.

## Note from Council

The NSW Department of Primary Industry published a Right to Farm Policy in mid-December 2015, which states both the Government's recognition of the value of agriculture for growing food and fibre for domestic and international markets and its concern about the potential loss or impaired use of agricultural land. It recognises agriculture is important to local, regional, and state economies and communities.

This is an umbrella policy that reaches across a diverse range of legislation and government instrumentalities and that embodies 12 key actions; including that the NSW Government will:

- implement the Right to Farm policy to support farmers in exercising their lawful right to farm;
- work with local government and other stakeholders to identify and monitor nuisance complaints related to farming in relevant local government areas;
- review current land use planning mechanisms and instruments, with the aim of delivering a planning policy framework that supports the management of current and future farming practices;
- undertake a review after a period of two years of data collection or earlier if the evidence demonstrates the need. This review of the policy will consider other jurisdictions and overseas experiences, as well as the outcomes of the Legislative Council Inquiry and determine if legislative options are necessary.

### 57 Narrandera Shire Council

### Biosecurity

That Local Government NSW lobbies the NSW Government for increased funding for the implementation of the *Biosecurity Act 2015* and encourage all member councils to develop and implement policies that facilitate achievement of the objectives of the Act and the Regional Strategies.

## Note from Council

The *Biosecurity Act 2015* superseded the *Noxious Weed Act of 1993* and a number of other Acts. NSW Department of Primary Industries (DPI) has carriage of the Act and has developed a Biosecurity Weeds Management Policy that emphasises the roles and responsibilities of local government.

Broadly speaking, local councils have the following role and responsibility:

- the prevention, elimination, minimisation and management of the biosecurity risk posed or likely to be posed by weeds on their own lands
- to develop, implement, co-ordinate and review weed control programs
- to inspect land in connection with Local Control Authorities (LCA) weed control functions
- to keep records about the exercise of the LCA functions under the Act
- to report to the Secretary about the exercise of LCA functions under the Act.

This policy will assist all NSW councils meet their obligations under the Act. In addition to the policy DPI have developed Regional Strategies which provide a blue print for the management of weeds and identifies those plants considered as a threat in each of the regions of NSW.

Meeting these objectives will not be possible without increased funding and Council is calling on LGNSW to lobby the NSW Government to make realistic increases in funding available.

Unfortunately some councils are also inadvertently aggravating the situation in their communities by planting inappropriate species in street and park scapes. Councils should be encouraged to avoid species that have been identified as existing or potential threats and should particularly avoid planting known Queensland fruit fly hosts such as prunus and ornamental fruit trees.

**58 Tenterfield Shire Council****Harmonised biodiversity legislation**

That councils lobby State and Federal Governments to introduce harmonised biodiversity legislation with a view to improving dam/river catchment volumes and increased creek flows by returning the landscape to woodland and removing excess vegetation in riparian zones.

**Note from Council**

Since the introduction of the Native Vegetation Act it has been against the law to remove vegetation. In most instances, this has led to an excessive amount of vegetation in most catchments. There is evidence to demonstrate that the Australian landscape was by and large woodland or grassland with areas of rainforest with small patches of heathland and scrub.

The inability to remove excess vegetation has led to the degradation of our wetlands, fens, bogs and swamps by invasive woody vegetation. For a pristine water supply it is essential to manage these catchments so these wetlands, fens, bogs and swamps are in a healthy condition. These catchments act like a giant sponge and continually release water into the streams and creeks.

**Climate change mitigation and adaption****59 Board****Climate change**

That the NSW Government be called upon to deliver on their climate change policy framework and develop programs with tangible outcomes to meet the aspirational long-term objectives of achieving net-zero emission by 2050 and a community more resilient to a changing climate. This includes initiatives to:

- a) Update State Environmental Planning Policies to achieve improvements in liveability and sustainability of housing to:
  - ensure developments and precincts include measures to alleviate the urban heat island effect.
  - apply higher Building Sustainability Index (BASIX) targets and include other sustainability outcomes.
  - enable innovative approaches to community and public transport.
  - improve provisions to ensure the resilience of housing stock.
- b) Provide greater support to local government for coastal management especially in areas experiencing erosion exacerbated by state and federal infrastructure e.g. airports, ports and breakwaters.
- c) Set a renewable energy target of 40% by 2025 to support investment and market confidence in renewable energy projects.
- d) Support the community and business build resilience to current and future climate risks.

**(Note: This motion covers the following motions set out in small font)**

**Albury City Council****Development control plan**

That Local Government NSW requests the NSW Government to review and improve provisions for sustainable development in NSW including BASIX and State Environmental Planning Policy (Exempt and Complying Development) provisions to enable sustainability outcomes and enhanced capacity to pursue energy resilience.

**Note from Council**

The issues of energy efficiency and sustainability in our built environment remain a critical element for planning and encouraging energy resilience. There is a growing awareness and appreciation of these factors particularly in relation to residential housing. Our communities are responding to this and seeking more support and leadership with regard to development and construction outcomes. The opportunities that are available during the design and construction of a new dwelling are significant in the long-term with regards to sustainability, cost of living and comfort or liveability. However, current standards and regulatory requirements provide for a minimum design requirement. This isn't driving or promoting community leadership in these areas and leaves a gap in what could be achieved during these critical stages rather than trying to retrofit and adapt later solutions. There is an opportunity for greater emphasis on design outcomes relating to energy efficiency and sustainability through SEPP Codes that could encourage and support long-term sustainable outcomes.

**Bayside Council****Foreshore public assets**

That Local Government NSW lobbies the NSW Government to ensure safe access to the recreational and cultural foreshore public assets are maintained for future generations by:

1. taking a proactive role in monitoring coastal hazards and the condition of the foreshore;
2. planning actions to prevent environmental degradation of the foreshore area; and
3. allocating resources to respond to coastal erosion issues.

#### **Note from Council**

Bayside Council (and previously the former Rockdale Council) has recognised for many years that erosion and sand movements are significantly impacting on Lady Robinsons Beach and as a consequence has undertaken a number of studies to identify the causes, impacts and potential solutions as well as implementing on-ground works.

Many councils with coastal and estuarine assets are impacted by erosion, with the impact on Lady Robinsons Beach significantly exacerbated by State and Federal infrastructure that has been developed and operated within Botany Bay.

Hence Bayside Council is seeking support from LGNSW to advocate for State and Federal Government agencies to proactively manage coastal erosion into the future. The current practice of simply shifting responsibility to local government to monitor issues generated well below the mean-high water mark and respond by applying for grants to undertake works is inequitable and unsustainable.

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#### **Bellingen Shire Council**

#### **Community resilience**

That Local Government NSW calls upon the NSW Government to develop a long term strategy for local councils to deal with the ongoing weather patterns associated with our changing climate with the strategy to address research and implementation funding relative to water security, catchment management, community resilience and support to local businesses.

#### **Note from Council**

In the context of ongoing drought conditions wherein the whole of NSW has been drought declared with no significant rain forecast impacting significantly on all communities, it is appropriate to undertake long term and strategic planning processes around community resilience.

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#### **Orange City Council**

#### **Renewable energy**

That Local Government NSW lobbies the NSW Government to adopt renewable energy targets that at least match those set by Victoria - 25% by 2020 and 40% by 2025 - as a key step in achieving the Government's goal of net-zero emissions by 2050, and in order to demonstrate leadership to the community and provide local government, industry and individual consumers with the certainty and confidence to invest in renewable energy projects.

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#### **Shoalhaven City Council**

#### **CZMP acceleration and resourcing**

That the NSW Minister for the Environment accelerates consideration of the Coastal Zone Management Plans (CZMPs) and provides adequate resources to councils to support infrastructure along the coast.

#### **Note from Council**

Many coastal councils have completed CZMPs and submitted them to the Minister for the Environment for certification. These councils have worked closely with NSW Office of Environment and Heritage and put significant resources and funding into preparation of CZMPs with the aim of gaining certification of the plans before the transitional arrangements under the Coastal Management Act end in October 2018.

Without a certified CZMP, councils are only eligible to apply for a very limited range of grant categories in the Coastal and Estuary Grants Program. This significantly reduces the range of coastal maintenance and capital works council can implement to manage, coastal risks to protect beaches, public and private assets. The 2016 east coast low saw significant damages up and down the coast and councils are still carrying out management and remediation works to recover from these damages.

A certified CZMP will act as an overarching strategic policy, which facilitates and integrates work programs undertaken by State partner agencies and councils as well as giving direction to implementation mechanisms such as foreshore and bushcare policies.

With ongoing climate change and the predicted increase in coastal storm activity, it is likely there will be more significant coastal projects required to mitigate local impacts. On-going plan implementation to manage risk, repair infrastructure and maintain coastal assets to a safe and acceptable standard will be required. If grant funds cannot be accessed, public safety and asset protection will be at risk.

The Minister for the Environment is called upon to certify the CZMPs it has before it as a matter of priority so that councils and the NSW Government can work together to manage coastal hazards.

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#### **Hornsby Shire Council**

#### **Building Sustainability Index (BASIX)**

That Local Government NSW calls upon the NSW Government to review and raise the targets used by the Building Sustainability Index (BASIX).

#### **Note from Council**

The BASIX is a sustainable planning measure designed to reduce water and energy consumption in homes across NSW, delivering long term financial savings for the homeowner and improved environmental outcomes for our communities.

As population grows and more dwellings are provided to meet this demand, it is important that increasingly efficient buildings are constructed. Improved building designs will reduce energy and water consumption and reduce waste generation.

The opportunity exists to encourage more efficient buildings by reviewing and raising the current targets used by BASIX. This would support the design and construction of innovative buildings that contribute positively to creating healthy, attractive places for people to live and work.

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**Wollondilly Shire Council****Urban heat island effects**

That:

1. Local Government NSW writes to the NSW Minister for Planning, calling for all new State-led policies and planning instruments that apply to greenfield estates, to achieve improvements in liveability and sustainability through a consistent approach for alleviating the “urban heat island effect”. This should be supported by applying best practice in energy saving and water saving/recycling in new developments and by introducing controls to enable innovative approaches for access to community/public transport.
2. A copy of the letter be provided to the Greater Sydney Commission seeking the same support.

**Note from Council**

Council is concerned about the recent housing codes and policies being introduced by the NSW Government which are leading to poor planning outcomes for the community. Council is seeking to improve liveability and sustainability in local communities by alleviating the “urban heat island effect”, by encouraging best practice in energy saving and water saving/recycling in new developments and by ensuring access to community and public transport through new trends such as ‘smart cities.’ One way to achieve these liveability and sustainability improvements is to update local controls and state legislation in a consistent way and introduce standard conditions and controls or approaches that reflect innovative technological change.

## 4. SOCIAL POLICY

### Libraries

#### 60 Board

#### Libraries

That Local Government NSW acknowledges the NSW Government's recent investment in libraries and continues to work with the NSW Public Libraries Association to lobby the NSW Government for a sustainable funding model for NSW libraries.

**(Note: This motion covers the following motions set out in small font)**

#### Blue Mountains City Council

#### Renew Our Libraries

That this Conference:

- Acknowledges, following the 2017 Conference resolution, the partnership between LGNSW and NSW Public Libraries (NSWPLA) that has led to the launch of "Renew our Libraries" during Local Government Week on 1 August 2018;
- Acknowledges the positive support of local councils and their communities across NSW for Renew our Libraries and affirms our commitment to ongoing advocacy to increase NSW Government funding to Council-run public libraries;
- Expresses its disappointment and dismay that the NSW Government cut funding to public libraries in the 2018-2019 budget; and
- Calls on all political parties in the State parliament in the lead up to the State Election to commit to urgently doubling the funding to public libraries and to creating a sustainable funding model to build the libraries of the future.

#### Note from Council

In response to the funding crisis, at the 2017 LGNSW Conference, all councils unanimously agreed to joint advocacy and the NSWPLA and LGNSW have united to create Renew Our Libraries.

Renew Our Libraries is a platform for NSW communities to advocate for increased library funding, and the creation of a long-term, sustainable funding model to invest in the libraries of our future. The Renew Our Libraries campaign is bringing together communities, councils, public libraries and their supporters into a grassroots effort to demand action and funding commitments from all political parties in the lead up to the 2019 NSW State Election.

Yearly visits to NSW public libraries have increased from 27 million in 2000 to over 35 million in 2017, but State recurrent funding has not increased to match demand and was in fact, slashed by 5% in the recent 2018 NSW Budget.

The NSW Government must urgently double its funding to NSW public libraries and create a sustainable funding model to build the libraries of the future.

The campaign is calling for:

- A doubling in the NSW Government contribution to public libraries.
- A new funding model for NSW public libraries that is sustainable.

NSW libraries need sustainable funding so they can continue to deliver:

- Programs and activities – Whether it's writers workshops, English lessons, seniors' classes or kids rhymetime, public libraries need the resources to continue to deliver programs and activities that people from every part of our community can access and rely on.
- Technology and databases – No matter who you are or where you live, our local libraries are critical in giving everyone the opportunity to get connected and stay in touch.
- Infrastructure and community spaces – Public libraries are a focal point for people to meet, learn, study and create. Libraries need long term, sustainable funding to maintain and grow these increasingly popular community spaces.

#### Gunnedah Shire Council

#### Reverse funding cuts for public libraries

That Local Government NSW calls upon the NSW Government to reverse their decision in regards to funding cuts for public libraries.

#### Lane Cove Council

#### Restoration of public library funding cuts

That Local Government NSW calls on the NSW Government to restore and increase and funding for Public Libraries.

#### Note from Council

The NSW Government has slashed \$1,275 million from public library funding in the 2018/19 State Budget. This reflects a 5% cut to the recurrent funding with metropolitan councils completely locked out of infrastructure funding. As a result, many councils are likely to receive a reduced Library Subsidy and Local Priority Grant.

It is noted that the \$1.85 per capita subsidy for public libraries has not been indexed since 1990s. This motion supplements the combined LGNSW and NSW Public Libraries Association Renew our Libraries Campaign.

That:

1. This gathering acknowledges the announcement by the NSW Minister for Arts of \$60 million in funding for libraries within NSW.
2. Local Government NSW continues to lobby the NSW Minister for Arts to:
  - Formally adopt the recommendations of the Library Council of NSW in its Reforming Public Library Funding submission,
  - double the funding for public libraries, and;
  - create a long term, sustainable funding model to invest in our libraries into the future.

**Note from Council**

Whilst council receives funds from NSW Government, these have gradually declined. In 2015/16, State funding for public libraries covered only 7.5% of the total costs of operating the 368 libraries across NSW. This means that NSW public libraries receive the lowest per-capita funding from their State Government compared to all other states in Australia and are currently paying 92.5% of the costs to operate public libraries, up from 77% in 1980. In 2015/16, NSW Government funding for public libraries was only \$26.5 million compared to a contribution of \$341.1 million from local government. NSW councils are paying 12 times more than the State Government to provide library services to their communities. While the Minister for Arts has announced a \$60 million funding boost for NSW libraries, these funds will not be realised until the next financial year and would be contingent upon the NSW Government retaining power following the State Election next March.

The 2018/19 State Budget delivered a 5% cut to current funding and cut access to all infrastructure funding for metropolitan areas despite there being an increase in physical and virtual visitation, library borrowing and participation in library programs year on year. The Library Council of NSW worked with the NSW Public Libraries Association and the State Library of NSW to develop an evidence-based submission, Reforming Public Library Funding. This document, which recommended a fairer, simpler and more transparent method for the distribution of funds, was presented to the NSW Government in October 2012. Despite giving an undertaking to comprehensively review funding for its public libraries, the recommendations of Reforming Public Library Funding were ignored and the funding model was neither reviewed nor improved. This is not a party-political issue as every government since 1980 shares the blame for the current funding situation. Nevertheless, it is worth noting that the NSW Opposition released its Library Funding Policy on 26 March 2018 with an undertaking to increase overall funding to all suburban and regional NSW public libraries by \$50 million in the first term of government. This is a very significant pledge insofar as it is the first policy.

**Tamworth Regional Council****NSW public library funding**

That Local Government NSW continues to lobby the State Government to secure and increase the funding to NSW public libraries.

**Note from Council**

NSW continues to lag behind other Australian States when it comes to State funding of public libraries. Funding to public libraries has been cut by 18% in the 2018/2019 NSW Budget and has seen subsidised costs drop from 23% in 1980 to just 7% in 2017.

While this issue was raised at the 2017 Annual Conference, Tamworth Regional Council believes that it is extremely disappointing funding continues to drop while it is an active issue for LGNSW. Council further believes that this issue should be listed on the 2018 Business Paper, and remain as a topic for discussion and action until adequate resolution of this issue is achieved.

**Warren Shire Council****Library and arts funding**

That Local Government NSW continues to pursue the NSW Government to increase capital and ongoing funding of libraries and arts centres across NSW.

**Note from Council**

Regional and rural communities of low populations require ongoing support to maintain and improve library and art facilities and services.

**Wingecarribee Shire Council****Public libraries awareness and funding**

That Local Government NSW continues to work with the NSW Public Libraries Association (NSWPLA) to promote its strategic partnership to:

- a) Increase public awareness of the multiple roles that local government public libraries play in supporting the education, social, cultural and economic outcomes in local communities.
- b) Advocate, in the lead up to the March 2019 State Election, for improved State Government funding for local government public libraries in NSW to enable public libraries to meet the growing needs of our local communities.

**Note from Council**

The NSW public library network is a cohesive, State-wide network based on cooperation between council public libraries and the State Library of NSW. Changing demographics, community demand for a wider variety of library services and programming, an increased variety of collection formats, new technologies and e-government have created both enormous opportunities and challenges for the delivery of public library services and have resulted in increased pressure on library budgets. Public libraries are no longer solely store-houses of information but also fulfil an important educational, cultural and social role within the community.



- Band 2 – 30% of SA2s with moderate levels of socio-economic disadvantage (medium risk). Areas in this band would have scope for more poker machines to be approved.
- Band 1 – 50% of SA2s with lower levels of socio-economic disadvantage (low risk). Areas in this band would be free for all, for approval of extra poker machines.

Each LGA is made up of a number of SA2s. Hotels and clubs can now move gaming machines from neighbouring SA2s regardless of whether they lie in the same LGA. Under these new arrangements many LGAs will be faced with the possibility of poker machines being moved into an LGA from a neighbouring LGA.

Furthermore, applications for an increased number of machines in SA2s branded as either Band 1 or 2 can be made without a Local Impact Assessment if the machines are from within the same LGA. These applications are then assessed by the Department, potentially without any input by the local community.

In 2010, a Productivity Commission Report highlighted the link between regular use of electronic gaming or poker machines (EGMs) and high problem gambling prevalence rates. Problem gambling has been found to have the following impacts:

- Financial harm;
- Relationship breakdown, conflict or disruption;
- Emotional or psychological distress;
- Deconditioning of health;
- Cultural harm;
- Reduced performance at work/study; and
- Criminal activity.

For every person that experiences harm from problem gambling, approximately 5-10 others are impacted, including children. This does not consider full-lifetime impacts of gambling harm or the impacts of less severe problem gambling (Department of Social Services, 2017).

The availability of gambling machines in the community, also called accessibility, is often linked to problem gambling (Vasiliadis et al, 2013). The Liverpool local government area ranks in the top 10 LGAs of losses per poker machine in NSW, with each machine causing approximately \$87,305 in losses (Alliance for Gambling Reform, 2017).

Currently, the views of local communities and local governments are routinely ignored when it comes to the placement of poker machines. Local government should have the ability to meaningfully represent residents and have a genuine say on where poker machines are to be located.

The changes to the regulations threaten the health and wellbeing of our communities, especially young people who are at greatest risk.

#### **Byron Shire Council**

#### **Gambling Harm Prevention policies**

That Local Government NSW provides research and resources to support councils in NSW developing and implementing Gambling Harm Prevention policies.

#### **Note from Council**

NSW is Australia's most pokie-impacted State with over 92,000 machines and maximum \$10 bets. Losses in NSW have increased to over \$6 billion annually (Alliance for Gambling Reform). In Byron Shire alone, the losses equate to \$34,246 per day.

Councils around Australia are moving forward with progressive gambling policies and motions. A limited number of NSW councils have developed a Gambling Harm Minimisation Policy. The motion would result in additional resources being available to all councils, to assist and support in the preparation of local harm minimisation policies.



**63 Carrathool Shire Council****Resources for rural crime officers**

That Local Government NSW lobbies the NSW Government to allocate more resources for increased police numbers particularly rural crime officers in Western NSW Southern Region (Murrumbidgee Police District) to address concerns over community safety, rural thefts, vandalism problems with unacceptable response times on many occasions.

**(Note: This motion covers the following motions set out in small font)**

**Note from Council**

Councils frequently receive concerns from residents regarding lack of police in our towns and surrounding rural areas and associated arrangements whereby unacceptable delays occur in responding from other centres to reported incidents, many of which have potential community safety ramifications.

**Narrandera Shire Council****Police staffing levels**

That Local Government NSW lobbies the NSW Government to cease the practice of not replacing police that are on leave especially extended leave and implement a system where the authorised numbers of positions in stations are maintained.

**Note from Council**

At the moment each station in rural and regional NSW has an authorised complement of staff and those staff are rostered to go on duty throughout the district command. When an officer goes on extended leave they are not replaced effectively leaving the station understaffed for long periods. At Narrandera Station for example a number of permanent staff have been on extended leave for many months and not replaced, leaving the station with significantly less than the authorised level of staffing.

It appears this is common practice throughout NSW with the effect that the smaller stations in a district continually miss out. Council is seeking the support of LGNSW to lobby the State to remedy this situation which does not normally occur across other government agencies and of course would be totally unacceptable if applied to a local government service.

**Narrandera Shire Council****Police recruitment**

That Local Government NSW lobbies the NSW Government to implement an incentive scheme to assist in attracting and recruiting police to rural and regional areas.

**Note from Council**

It is becoming increasingly difficult to attract and retain staff to rural commands in NSW and it is felt that if an incentive scheme similar to the one that operates in the Department of Education was implemented for the police force staff would be encouraged to move to the country areas. Council is seeking the support of the conference to have LGNSW lobby the State Government to develop an incentive scheme to assist overcome this situation.

**Cultural services****64 Lane Cove Council****Review of arts and cultural policy regions**

That Local Government NSW calls on the NSW Government to review the impacts of the current model of grouping of local government areas into only three distinct regions in the State Government's arts and cultural policy framework and the resulting impact on associated funding priorities. The review to consider and identify:

- (i) any recommendations as to how NSW Government arts and cultural funding can be allocated to better meet and reflect the needs of local communities;
- (ii) should gaps be identified, funding levels to be increased rather than redistributed; and
- (iii) recommendations on how arts and cultural life be incorporated into liveability indicators in place-making and local strategic planning with appropriate Government funding to better support local and district based arts and cultural infrastructure and initiatives. Also how to enhance seeding grants to energise the creative sector at the local level to deliver social and economic benefits.

**Note from Council**

The three regions in Create in NSW, namely Sydney, Western Sydney and Regional NSW, reflect a State-based tier of funding when at the local level there are more distinct regions which may benefit from opportunities for NSW Government support. For example, around 70% of State funding goes to State Cultural Institutions which fall under the category of 'Sydney'. The Northern Sydney Regional Organisation of Councils (NSROC) area makes up close to 8% of the population of NSW and receives just 0.0056% of related State funding. While the policy framework for Create NSW refers to

Sydney as a distinct region, it is not listed as a priority area in the Arts and Cultural Development program for funding. With Create NSW the State Government objective is for everyone in NSW to enjoy the benefits that come from experiencing and participating in arts and culture. The rhetoric around the NSW Government's discussions of arts and culture at such macro regional levels may be skewing the level of financial support received at the local level.

## Ageing and disability

### **65 Lane Cove Council** **Housing for seniors or people with a disability SEPP**

That Local Government NSW calls on the NSW Government to review the Housing for Seniors or People with a Disability SEPP which is now 14 years old, in particular to remove inconsistencies with other planning instruments, definitions and requirements as follows:

- Zoning and site compatibility requirements for locating the developments.
- The definition of what is included in the calculation of Gross Floor Area, which is inconsistent with the standard instrument Local Environmental Plan.
- The need for design and amenity standards consistent with the Apartment Design Guide.
- The operation and ownership of the Affordable Housing Bonus component.

#### **Note from Council**

*Zoning and site compatibility* – Seniors' living development has specific requirements in relation to its location with reference to facilities, services and urban infrastructure particularly in relation to transport. Its compatibility in relation to existing developments needs to be established on an individual basis. Floor space ratio and height development standards should apply to all developments. All developments under the SEPP should be subject to the issue of a site compatibility certificate by the Director General.

*Gross Floor Area (GFA) definition* – The definition of GFA is inconsistent with that indicated in the standard instrument. The SEPP requires area to be measured from the "outer face of the external enclosing walls" where as the LEP based on the Standard Instrument requires area to be measured from the "internal face of external walls". The SEPP makes no mention of common vertical circulation where as standard instrument requires the common vertical circulation to be excluded.

*Design and Amenity Standards* – While State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and Apartment Design Guide applies to self contained dwellings, it does not apply to aged care beds which should also have minimum amenity standards, particularly with regard to solar access and cross ventilation.

*Affordable Housing Bonus* – The SEPP provides for a bonus floor space ratio in case of vertical villages and requires 10% of the dwellings to be affordable places. The requirement of affordable places only applies to independent dwellings. There is no proportion of independent dwellings and aged care beds specified. The SEPP is silent as to whether the affordable places should be managed as affordable places for a fixed period or in perpetuity. Council is of the view such should be for the life of the development.

While the SEPP requires affordable places to be to be owned and managed by an organisation providing community housing that is registered for the time being with the Office of Community Housing, it does not give the community and council confidence that the places are being managed as affordable places. The affordable places could be owned and managed by the council or otherwise a mandatory reporting mechanism be put in place to ensure such happens over the life of any development.

### **66 Wagga Wagga City Council** **Adult lift and change facilities**

That Local Government NSW lobbies the NSW Government to consider providing lift and change facilities at roadside rest stops at regular intervals along the major highways (under Roads and Maritime Services responsibility).

### **Note from Council**

Currently there is not a single lift and change facility along either the Hume Highway travelling from Wagga Wagga to Sydney or the Barton Highway travelling from Wagga Wagga to Canberra. It is requested that the NSW Government provide adult lift and change facilities at roadside rest stops at regular intervals along major highways.

### **Health services**

#### **67 Hay Shire Council**

#### **Health in rural areas**

That Local Government NSW calls for the NSW Minister for Health to:

2. Urgently form a joint task force representing local, State and Federal spheres of government, to formulate model financial packages for the engagement of doctors in rural towns, and contribute to those financial packages.
3. Advocate to the Federal Health Minister to ensure that safeguards are in place to prevent GP practices from appropriating patients' medical records and making a profit out of transferring them to incoming practitioners, and to advise councils on best practice legal agreements to secure the services needed and secure the patients' records. A similar motion was passed by a large majority by the National General Assembly calling on the Federal Health Minister.

**(Note: This motion covers the following motion set out in small font)**

### **Note from Council**

The Australian Medical Association (AMA) confirms that health in regional and remote Australia is a key area of concern as people in those areas have a shorter lifespan than those in major cities because of the inadequate access to local health services. In some areas local health services are only provided as a result of financial support from local government. Funding and legal expertise are both a concern to ensure that effective health services are provided, and the patients' medical records are not used by outgoing practitioners to make a profit from local communities. In Hay the outgoing GP service offered 5,000 patients' medical records for \$100,000.

Effective health services must be appropriately funded and integrated with other services and programs to ensure quality and consistency in service delivery. Best practice advice should be available to councils that have to step in to provide support to secure local health services to ensure that the support provided does secure the services needed, and the patients' records are secured for transfer to future providers.

#### **Gunnedah Shire Council**

#### **Funding support for regional and remote NSW health services**

That Local Government NSW lobbies the NSW Government seeking a more equitable distribution of its health infrastructure funding to support current health services in regional and remote NSW.

### **Note from Council**

A high percentage of regional and rural councils in NSW are experiencing a downgrading of services in hospitals and this comes at the expense of the wellbeing of patients. At the minimum, core services need to be delivered to ensure that regional hospitals have the ability to attract medical personnel to employment in a regional area, reduce the costs associated with transporting patients long distances (including costs to the health services and residents themselves) and keep the appropriate staffing levels maintained.

The ageing condition of some regional and rural hospitals must be addressed by an appropriate allocation of funds to ensure the safety and hygiene of patients and staff.

We request that urgent consideration be given to a redistribution of health funding to provide support to current health services being delivered in regional and rural NSW to ensure the reductions in service delivery are not experienced in these communities.

## NSW Aboriginal and Torres Strait Islander Peoples

### 68 Willoughby City Council

### Support the Uluru Statement

That Local Government NSW:

1. Acknowledges the significance of the Statement of the Heart as an important piece of political writing and gathering of our First Nations' Peoples. The elements of the Statement included a First Nations Voice to speak to Parliament, the establishment of a Makarrata Commission which would oversee truth telling and lay the foundation for a Treaty between Federal and State Governments and First Nation people.
2. Reviews its Aboriginal Affairs policy positions in consultation with its members upon release of the Parliament Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander Peoples final report due 29 November 2018.

**(Note: This motion covers the following motion set out in small font)**

#### Note from Council

- The 'Uluru Statement from the Heart' includes two key elements enshrining a First Nations Voice in the Australian Constitution that would empower Aboriginal and Torres Strait Islander people, and the establishment of a Makarrata Commission. The Makarrata commission would supervise the process of agreement making with Australian governments and oversee a process of truth telling.
- See the Parliament Joint Select Committee on Constitutional Recognition relating to Aboriginal and Torres Strait Islander peoples, at [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Joint/Constitutional\\_Recognition\\_2018](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Constitutional_Recognition_2018), with final report due 29 November 2018.
- The above Joint Committee is made up of selected Indigenous leaders from across the country who have undertaken extensive consultation under the ToR.
- Seeking for LGNSW to review its Aboriginal Affairs Policy Position on release of the final report.
- A key recommendation from the Local Government Aboriginal Conference and from the Anangu (traditional owners) of the Uluru area was to remove the word Uluru from the title of the Statement. The rationale for this request by the Anangu was to ensure that the 'Statement of the Heart' is inclusive from a First Australian perspective across our country.

### City of Ryde

### Uluru Statement from the Heart

That the Local Government NSW Conference:

Support the Uluru Statement from the Heart.

- (a) Recognise that the Uluru Statement is a clear expression of Aboriginal and Torres Strait Islander Peoples' vision toward Makarrata and reconciliation.
- (b) Acknowledge the challenges in the Uluru Statement and calls on our national parliament to rise to these challenges and to establish a First Nations voice to Parliament.
- (c) Endorse that a statement supporting the Uluru Statement be submitted to the Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples on behalf of LGNSW.

#### Note from Council

In May 2017 over 250 delegates from First Nations across the continent gathered on Anangu land and delivered the Uluru Statement from the Heart:

#### *ULURU STATEMENT FROM THE HEART*

We, gathered at the 2017 National Constitutional Convention, coming from all points of the southern sky, make this statement from the heart:

Our Aboriginal and Torres Strait Islander tribes were the first sovereign Nations of the Australian continent and its adjacent islands, and possessed it under our own laws and customs. This our ancestors did, according to the reckoning of our culture, from the Creation, according to the common law from 'time immemorial', and according to science more than 60,000 years ago.

This sovereignty is a spiritual notion: the ancestral tie between the land, or 'mother nature', and the Aboriginal and Torres Strait Islander peoples who were born therefrom, remain attached thereto, and must one day return thither to be united with our ancestors. This link is the basis of the ownership of the soil, or better, of sovereignty. It has never been ceded or extinguished, and co-exists with the sovereignty of the Crown.



### **Note from Council**

Currently, the Australian National Flag and the NSW State Flag are flown permanently from the Sydney Harbour Bridge except for special occasions when the NSW State Flag is replaced by an alternate flag. Those special occasions include the 15 days a year when the Aboriginal Flag is flown being Australia Day, National Reconciliation Week and NAIDOC Week. Other special occasions that have seen the flying of a temporary alternative flag include acknowledging QLD winning the State of Origin rugby league series and various other NSW club flags for teams participating in the National Rugby League competition.

The Sydney Harbour Bridge at Sydney Cove is an iconic Australian symbol recognised around the world and permanently flying the Indigenous flag would send a powerful message of truthfulness, reconciliation and respect. Currently the Australian, NSW and the Indigenous flag of our First Nation Peoples is flown 365 days a year at the front of the NSW Parliament House, as well as outside courthouses, public schools and local councils.

### **71 Wagga Wagga City Council**

### **Native title claim**

That the NSW Government review its decision to pass on responsibility for payment of damages in addition to compensation where a native title claim is determined in favour of a native title interest.

### **Note from Council**

The introduction of the *Crown Land Management Act 2016*, which came into force on 1 July 2018, changed some of local government's responsibilities in relation to the management of Crown Land. A key feature of the new legislation is the passing of responsibility for management of native title issues. This includes the requirement to employ or engage a native title manager, requirement of the native title manager to provide advice on certain dealings/activities relating to land, and the passing of responsibility for payment of compensation to Crown Land managers where such compensation is payable under the *Native Title Act 1993*.

### **Other Social**

### **72 City of Sydney**

### **Housing affordability**

That Local Government NSW notes:

- a. there is a crisis of housing affordability in NSW, creating unique challenges for both regional and urban areas; and
- b. local government has a key role to play in the easing of this crisis, and in supporting the creation of affordable housing.

That Local Government NSW resolves:

- c. to support the development of affordable housing targets of 25% on government owned land, and the establishment within 12 months of an effective mechanism of inclusionary zoning for privately developed land that responds to local need and context;
- d. to lobby the NSW Government on the issue of affordable housing, expressing the above view; and
- e. to develop strategies to support local councils in NSW in increasing affordable housing in their local government areas.

**(Note: This motion covers the following motion set out in small font)**

### **Note from Council**

There is a crisis in housing spanning across NSW, as individuals are finding it increasingly impossible to find affordable homes in their communities. We see this issue occurring from the cities to the bush, as the dream of home ownership becomes more remote for ordinary Australians and various pressures combine to mean that the supply of affordable rental housing stock is dwindling. In our cities, essential workers like nurses, teachers and police are unable to buy or even rent a home within the same metro area as their place of work. As people are forced out of our cities, prices are on the rise in regional areas, without sufficient job or wage growth to support the increasing population and cost.

Local government can take a strong leadership role in fighting for more affordable housing in our local communities.

A target of 25% affordable housing for new developments on government owned land could create up to 25,000 much-needed, new affordable homes in NSW each year.

#### **North Sydney Council**

#### **Affordable housing**

That Local Government NSW requests the NSW Government to fast track changes to affordable house legislation, committing to build 8,000 - 12,000 affordable homes per year, by having Statewide targets, and especially citywide target of 15% inclusion of affordable housing in major new developments on private lands; and 30% affordable housing on public land, ensuring that the housing is given by developers/State, in perpetuity.

#### **Note from Council**

We have 60,000 people on the public housing waiting list, of which only 1% of rental properties are affordable to people on the minimum wage. Severe lack of secure affordable rental housing, especially across Sydney, for key workers and those experiencing rental stress.

State Government should set targets of 15% of developments on private lands and 30% of developments on public lands to be for affordable housing, in all new developments; expedite the process of councils applying for inclusion under SEPP 70; expand the provision of SEPP 70 to apply broadly over the whole local government area verses in 'defined precincts' only within council areas; remove all loopholes for affordable housing being able to be transferred back to developers after 10 years, ensuring affordable housing in perpetuity.

#### **73 Griffith City Council**

#### **Affordable housing and homelessness**

That Local Government NSW endorses the 'Everybody's Home Campaign' to end homelessness and provide affordable housing for all Australians.

**(Note: This motion covers the following motions set out in small font)**

#### **Note from Council**

Australia's housing system is under severe stress. From people wanting to buy their very first house, to others struggling to just find a safe roof over their heads, it's clear that the system just isn't working for everyone.

Growing competition for rental properties is causing rents to skyrocket, making rental properties unaffordable for many. The demand for affordable or social rental properties is therefore outstripping supply and this chronic shortage of social and affordable housing is forcing record levels of homelessness.

Background information in relation to the Campaign is available at: <http://everybodyshome.com.au>.

#### **Tweed Shire Council**

#### **Homelessness – additional social housing**

That Local Government NSW lobbies the NSW Government to address homelessness as a State issue that requires a strategic targeted response across the continuum of crisis, short term and longer term solutions.

#### **Shoalhaven City Council**

#### **Homelessness support programs**

That the NSW Government provide greater funding and implement support programs to address homelessness in communities across the State.

#### **Note from Council**

Homelessness is a growing problem in all communities throughout Australia and is not confined to cities. By way of example, between July 2017 and June 2018, one local front line service in the Shoalhaven saw a total of 2,358 people, with 430 of these being new clients.

There is a lack of sustainable short-term solutions to the issue of homelessness. Without the provision of increased Government funding to provide longer term temporary accommodation and fund services to provide an increased number of emergency beds for men, women and children the situation will continue to degenerate. Wrap-around services need to be funded to support people to find and keep longer term, sustainable housing. This requires holistic case-management style support that assists people to access health, employment, financial counselling that will help people to maintain their tenancies.

Long-term solutions such as the construction of affordable housing, access to transport, employment and financial counselling are also key. It is important that the NSW Government provide greater funding and implement support programs

to address homelessness that focus on initiatives that support an increase in the quantity of affordable housing and increased funding for longer term temporary accommodation in communities across the State.

**74 Bega Valley Shire Council**

**Youth crisis accommodation**

That Local Government NSW lobbies the Departments of Health and Housing to establish a fund for youth crisis accommodation, prioritising local government areas currently lacking any appropriate facilities to alleviate this crisis.

**Note from Council**

The Premier has identified to the Local Health Districts that one of her priorities is the current crisis of youth homelessness. Many local government areas in rural and remote regions have no facilities to assist youth in crisis. Young people escaping domestic violence can find themselves placed alone in motels or caravans. Urgent action is needed to protect youth before they face the prospect of homelessness.

**75 Bega Valley Shire Council**

**Stronger Country Communities Fund**

That Local Government NSW requests the Premier and Deputy Premier to commit to the continuation of the very successful Stronger Country Communities Fund as an ongoing funding program with an equitable per capita funding calculation.

**Note from Council**

The Stronger Country Communities Fund, which has formed part of the Regional Growth Fund, has now operated for two grant rounds. This program is extremely relevant to local councils providing support through community infrastructure to local communities. This program allows country councils to deliver critical small scale infrastructure with and for the community and is delivering real and extremely successful projects in the country.



## 5. INDUSTRIAL RELATIONS AND EMPLOYMENT POLICY

### Awards and rates of pay

#### 76 City of Canterbury Bankstown

#### Full-time Councillors

That this Conference calls upon the NSW Government for provisions to be made for full-time councillors in NSW.

#### Note from Council

With the office of Councillor, there is great responsibility, arguably more than at any other time in history.

Following the structural change of Fit for the Future, for those newly created councils there is also generally an increase in the number of constituents and an increase in area across which those constituents are spread. This also places a greater demand on the time of Councillors.

To try and provide our residents with an equitable level of access to the democratic process, we must all spend more time, often at the expense of our own families.

We all have jobs, which we must, in order to provide for our families. The NSW Government must legislate the role of councillor inline with the demands of our important roles, where councillors can discharge their responsibilities and provide direction for their cities and towns and service to our residents at the expense of work and not at the expense of our families.

#### 77 Byron Shire Council

#### Councillor remuneration and superannuation

That Local Government NSW:

1. Continues to make submissions to the Local Government Remuneration Tribunal (NSW) during the Tribunal's annual review of the fees payable to councillors and mayors seeking the maximum permissible remuneration increases whilst the NSW Public Sector Wages Policy applies to such increases.
2. Lobbies the NSW Government to repeal Section 242A of the *Local Government Act 1993* (NSW) so that the Local Government Remuneration Tribunal is able to determine fair and reasonable fees for councillors, deputy mayors and mayors, unfettered by the Public Sector Wages Policy.
3. Lobbies the NSW Government to amend Section 241 of the *Local Government Act 1993* (NSW) to remove reference to "maximum and minimum" amounts of fees payable to councillors and mayors, so that the Local Government Remuneration Tribunal determines the actual annual remuneration to be paid to councillors and mayors.
4. Lobbies the NSW Government to amend Section 240(1) of the *Local Government Act 1993* (NSW) to include councils' "financial position and/or performance" as an additional criteria that the Local Government Remuneration Tribunal (NSW) is required to have regard to when determining categories for councils and mayoral offices.
5. Lobbies the NSW Government to amend the *Local Government Act 1993* (NSW) to include provisions similar to those in Section 226 of the *Local Government Act 2009* (QLD) requiring compulsory superannuation for councillors and mayors at the rate equivalent to the rate set out in the *Superannuation Guarantee (Administration) Act 1992* (Cth).

**(Note: This motion covers the following motions set out in small font)**

#### Note from Board

LGNSW is conducting a significant new review of the appropriateness of remuneration paid to mayors and councillors in NSW in order to make the case for increased remuneration and conditions.

#### Note from Council

Individual councils and LGNSW have been lobbying for improved remuneration and superannuation for mayors and councillors. Statutory change is required to remove the current limit on the Tribunal's

ability to genuinely review remuneration (from s242A) and to introduce statutory support for superannuation for mayors and councillors.

LGNSW has previously submitted to the Local Government Remuneration Tribunal (LGRT) that given the similarities between the work of MPs and councillors and the competence, skill and experience of local elected members, that councillor and mayoral remuneration is “woefully inadequate”. Lack of reasonable remuneration for effort and the current 'superannuation disadvantage' are significant disincentives that make elected civic leadership at the local level unaffordable and unattractive.

#### **Bega Valley Shire Council**

#### **Councillor and mayoral remuneration**

1. Amend Sections 241 and 242A of the *Local Government Act 1993* to:
  - (a) Require the Local Government Remuneration Tribunal (LGRT), by not later than 1 May in each year, to determine, in each of the categories determined under Section 239, the amounts of fees to be paid during the following year to councillors (other than mayors), deputy mayors and mayors; and
  - (b) Remove the requirement for the LGRT to determine “maximum and minimum” amounts of fees, so that councils are no longer required to determine the annual remuneration to be paid to councillors (other than mayors) and mayors; and
  - (c) Also include a category under Section 240 (1) of the need to take into account each council’s financials and performance.
2. Repeal Section 242A of the *Local Government Act 1993*, so that the LGRT is able to determine fair and reasonable fees for councillors, deputy mayors and mayors, unfettered by the Public Sector Wages Policy.

#### **Note from Council**

NSW councils are required to consider recommendations by the LGRT and determine the fees paid annually. This is not the process used by the State and Federal Governments. The system should be amended so that this independent body sets these allowances for each council.

#### **Bellingen Shire Council**

#### **Role and remuneration for mayors and councillors**

That Local Government NSW be requested to develop a position paper regarding the role of mayors and councillors and associated remuneration for consideration by the Board of Local Government NSW including broad engagement with the local government sector.

#### **Note from Council**

The NSW Local Government Remuneration Tribunal reviews fees for mayors and councillors, and chairpersons and members of county councils, annually.

Every three years, the LGRT must determine categories for councils and mayoral offices, and allocate each council and office into one of the categories. These categories are then used to set a minimum and maximum range of fees payable to mayors and councillors. In determining the categories, the Tribunal must consider:

- the size of areas
- the physical terrain of areas
- the population of areas and the distribution of the population
- the nature and volume of business dealt with by each council
- the nature and extent of the development of areas
- the diversity of communities served
- the regional, national and international significance of the council
- such matters as the Remuneration Tribunal considers relevant to the provision of efficient and effective local government
- such other matters as may be prescribed by the regulations.

In making its determination, the LGRT must give effect to NSW Government policies on making or varying awards for public sector employees under s146C of the *Industrial Relations Act 1996*.

Fees are paid monthly in arrears, and are not considered salary. Therefore, the ATO has ruled superannuation is not payable on mayor or councillor fees although they can make pre-tax contributions.

In the case of a rural council, the fees payable to the Mayor are \$37,740.

By way of comparison:

- 1 The Queensland Local Government Remuneration and Discipline Tribunal (LGRDT) establishes categories of local governments (8 applicable as of 2017 determination), decides which category each local government belongs to, and sets the maximum remuneration level for mayors, deputy mayors and councillors in each category. In setting remuneration, it is required to consider *Local Government Act 2009* provisions relating to the entitlements and responsibilities of councillors, and community expectations about what is appropriate remuneration. On 30 November 2017, the tribunal finalised its determination of remuneration arrangements for mayors, deputy mayors and councillors of local governments (except Brisbane City Council) to apply from 1 July 2018. The category that appears to most closely equate to rural councils is category one with the remuneration for the mayor being \$103,918 and councillors \$51,958.

- 2 In VIC, mayors and councillors receive an allowance to perform their duty as an elected official. The Victorian Government does not treat allowances as salary, but recognition of the voluntary or part time contribution elected representatives make to their communities in their capacity as councillors. The allowance is made up of two parts. Part A is the current maximum allowance and Part B is an additional amount equivalent to the superannuation guarantee payable by employers, even though councillors and mayors are not council employees. The Minister for Local Government sets a minimum and maximum allowance range for different council categories, with the exception of Melbourne and Geelong whose allowances are separately fixed. The category that appears and most closely equate to rural local is category 1 with the remuneration for the mayor being \$60,442 and councillors \$8,490-\$20,231.

The remuneration for mayors and councillors is significantly different in NSW to that provided in QLD and VIC. Arguably this disparity impacts on the quality of candidature and time that can be allocated by those holding these roles in NSW. This is further impacted by the requirement for mayors and potentially deputy mayors to hold membership of Joint Organisations, wherein the requirement to remunerate sitting members is not legislated.

#### **Maitland City Council** **Review of categories - Local Government Remuneration Tribunal**

That Local Government NSW writes to the Minister for Local Government, the Hon. Gabrielle Upton MP requesting the support of the Minister for a review of the categories of councils in NSW under the Local Government Remuneration Tribunal (LGRT), including the inconsistencies and vast differences between non-metropolitan categories.

##### **Note from Council**

The purpose of the proposed motion is for LGNSW to call on the Minister for Local Government to support a review into the categorisations of councils across NSW, in particular non metropolitan local government areas. Earlier this year we saw LGRT release its annual report and determination of categories for NSW councils. Despite submissions being received from 13 individual councils, not one submission was considered by the tribunal. As a result, we now have a system which holds large inconsistencies across NSW with the allocation of categorisations.

An example of this is the category of Regional Rural in which Maitland City Council currently sits. This category also sees our city which has a population of over 80,000 people placed under the same category as cities such as Byron (31,000), Broken Hill (17,000), and Lithgow (21,000). There is therefore a need for consideration for an additional category between Regional Rural and Regional Strategic Area.

#### **Murray River Council** **Increase to mayoral and councillor allowance**

That Local Government NSW advocates to the NSW Government for a review of councillor and mayoral allowances to bring them into line with interstate standards. Specifically Local Government NSW should advocate, that:

1. The government acknowledges a very large discrepancy that exists for the allowances paid to Councillors in NSW compared to other states of Australia.
2. The government acknowledges the significant additional workload imposed on councillors of merged councils due to the significant increases in council area size, population and, in many cases, operational centres.
3. The government acknowledges that the additional time required to discharge their duties imposes significant additional social and economic cost to councillors, particularly those actively involved in business and other employment.
4. The government acknowledges the disincentive represented by these additional costs to the attraction of younger engaged members of the community to stand for election to council.
5. The government undertakes a step wise increase in councillor and mayoral allowances over a suitable period to align them more closely to Victorian rates.
6. The government undertakes to reflect within these rates the additional workload imposed by the size of many council areas particularly those recently merged.

##### **Note from Council**

NSW allowances for councillors and mayors have long lagged behind those of comparative states. These differences are a significant disincentive for the attraction of many prospective councillors engaged in the workforce.

Increasing demands on councillors combined with substantial increases in council areas means that election to council would incur substantial costs to many as the existing allowances fall well short of costs incurred in maintaining their businesses.

#### **Tweed Shire Council** **Superannuation for councillors**

That Local Government NSW requests the NSW Government to consider introducing superannuation contributions in addition to councillor fees as the remuneration levels of councillors in NSW is considered inadequate given the increasing complexity of various legislative frameworks and assessments; diversity of functions and the time commitments involved.

## **Staff attraction, retention, productivity**

#### **78 Bourke Shire Council** **Employment initiatives**

That the Association lobbies the NSW Government to develop a range of incentives that will encourage experienced and qualified staff from all departments and from all disciplines to seek employment opportunities in Western NSW.

## Note from Council

The Police and other NSW Governments Departments have introduced incentives such as subsidised rental, increased training opportunities and preferential transfers to mention a few whilst other departments have lagged behind with the resultant shortages of qualified staff in some areas.

Whilst understanding that you cannot have ongoing subsidies, initial subsidies may encourage some staff to come west and hopefully come to recognise the benefits of living in the area.

## WHS and worker compensation compliance

### 79 Tweed Shire Council

### Psychological injury claims

That Local Government NSW lobbies the NSW Government to:

1. Amend Section 9A of the *Workers Compensation Act 1987* (NSW) to provide that:  
“A worker’s employment is not to be regarded as a substantial contributing factor to a worker’s injury if:  
(a) the injury is a mental health injury; and  
(b) a factor or factors other than the employee’s employment was a substantial contributing factor to the injury.”; and
2. Amend subsection 11A(1) of the *Workers Compensation Act 1987* (NSW) by adding the words “workplace change” and “restructure” to the subsection (after the word “discipline” and before the word “retrenchment”), so that the amended subsection reads as follows:  
“No compensation is payable under this Act in respect of an injury that is a psychological injury if the injury was wholly or predominantly caused by reasonable action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, workplace change, restructure, retrenchment or dismissal of workers or provision of employment benefits to workers.

## Note from Council

Psychological injuries are one of the highest growth areas of injury rates in NSW but local governments particularly are severely impacted. Increased costs on our workers compensation premiums do not benefit either workers or organisations. Funds that organisations would direct into preventative management strategies are being directed into premium costs as they skyrocket with psychological injury claims.

Psychological injuries are not one dimensional and it is unclear in a lot of instances where causal factors are generated as it appears to be a combination of “social, condition of the person and employment factors”. However despite the complexity of the issue the *Workers Compensation Act 1987* as it currently stands doesn’t support preventative actions or encourage either the worker or employer to find alternative dispute resolution means to what is a complex matter.

Section 11A of the *Workers Compensation Act 1987* provides a limited opportunity for employers to defend psychological injury claims by providing that employees are not entitled to compensation if the injury was wholly or predominantly caused by reasonable management action taken or proposed to be taken by or on behalf of the employer with respect to transfer, demotion, promotion, performance appraisal, discipline, retrenchment or dismissal of workers or provision of employment benefits to workers. This section, as currently worded, is not an adequate defence, as workers often include a range of issues outside of the scope of Section 11A that diminish its effect, such as “workplace change” and “restructure”.

Either widening the scope of defence that allows employers to provide information regarding reasonable management action outside of the current requirements stated within Section 11A or that the employee’s perception alone (needs to be evidence based) should not be sufficient for a successful claim against the employer.

## Other Industrial Relations policy

80 Bega Valley Shire Council	Extension of WHS protections to councillors
<ol style="list-style-type: none"><li>1. That Local Government NSW lobbies the Minister for Local Government and Office of Local Government (OLG) to:<ol style="list-style-type: none"><li>a) Fund the development and implementation of training for all councillors on their obligations under the work, health and safety legislation;</li><li>b) Amend the Code of Conduct to expressly provide that a failure by a council official to comply with the work, health and safety legislation may constitute a breach of the Model Code of Conduct.</li></ol></li><li>2. That Local Government NSW lobby the Treasurer and Minister for Industrial Relations to amend Section 230 of the <i>Work, Health and Safety Act 2011</i> to provide that an industrial organisation of employers and/or an employer may commence proceedings for breaches of the <i>Work, Health and Safety Act 2011</i>.</li></ol>	

### Note from Board

In regard to 1b) the OLG released a new Model Code of Conduct in September which includes a new definition of harassment, and a new section on bullying. The new Code of Conduct and new procedures will commence shortly on proclamation of a new regulation. Councils will then have 6 months to adopt a Code of Conduct and associated procedures to meet the new requirements.

### Note from Council

As leaders in local communities, councillors must uphold the highest standards of behaviour, demonstrating the principles of respect, inclusion and fairness. Councillors hold a particular position in terms of supporting, perpetuating or improving the culture of a region or shire and as such should lead the way to providing safer places for the community to work, play, be educated and be at home. As such, behaviours which are currently in much media and community focus, such as bullying and sexual harassment, should be met with force in councils, as they are met in workplaces.

The protections existing for staff of councils are not currently mandatorily included in local government's model Code of Conduct. Thus councillors are not explicitly protected or directed to procedures to resolve issues arising from bullying and harassment between councillors or between councillors and staff, including management. These protections should include:

1. The right to work in an environment safe from intimidation, threat, bullying and humiliation.
2. Harassment, in any form, is unacceptable behaviour and will not be tolerated under any circumstances. It includes bullying and discrimination.
3. The WHS Act 2011 and the Regulation 2011 require an employer to ensure the health, safety and welfare of their employees whilst at work. Stress associated with all forms of harassment is unacceptable and identified as an occupational hazard by SafeWork NSW. Failure to protect employees from such sources of stress would be a failure of duty of care under workplace laws.
4. Any reports of harassment will be investigated thoroughly and confidentially. Complainants and witnesses will not be victimised in any way.

## 6. GOVERNANCE/CIVIC LEADERSHIP POLICY

### Corporate governance

#### 81 Carrathool Shire Council

#### Council meeting webcasting

That Local Government NSW lobbies the NSW Government to not introduce compulsory webcasting of council meetings as the resources required to implement in rural NSW is exorbitant and internet facilities are negligible for the nil benefit gained.

#### Note from Council

Internet availability within rural and remote NSW is often poor and in many areas non-existent.

Regional areas such as Carrathool do not have the upload speeds to enable Council to stream the broadcasts. Councils are often on ADSL.

Regional areas such as this are also not on the plan for NBN anywhere in the near future.

#### 82 Uralla Shire Council

#### Funding for webcasting infrastructure

That Local Government NSW lobbies the NSW Government to provide financial assistance to rural/regional NSW councils to fund the implementation of webcast infrastructure and technology for council meetings if this remains a mandatory provision in the new Model Code of Meeting Practice.

#### Note from Council

The draft of the new Model Code for Meeting Practice includes a provision which mandates all council meetings to be webcast. The purchase and installation of the technology to facilitate this requirement is a financial burden upon councils and it would be helpful if this burden was met by the NSW Government.

#### 83 City of Parramatta

#### Webcasting of Local Planning Panel meetings

That Local Government NSW advocates that the NSW Government make the webcasting of Local Planning Panels (LPPs) mandatory for all councils in Greater Sydney and Wollongong at the cost of the NSW Government, in line with the Office of Local Government's draft Model Code of Meeting Practice requiring the webcasting of all meetings of the council and committees of the council.

#### Note from Council

In 2017, the NSW State Government introduced changes to make LPPs, formerly known as Independent Hearing and Assessment Panels (IHAPs), mandatory for all councils in Greater Sydney and Wollongong. This means panels of qualified, independent experts are determining the most sensitive and complex development applications, to improve planning outcomes and the probity of the system.

The webcasting and recording of all LPP meetings will increase access for residents and stakeholders to the decisions of LPPs while eliminating geographic barriers. Introducing webcasting to LPPs will mirror the introduction of webcasting to council meetings to improving transparency, accessibility and community participation. It provides greater flexibility and convenient access for residents. The public is able to watch the meeting in real time via the internet, or through published recordings of meetings, enabling greater accessibility into the level of detailed discussion and debate that is engaged in prior to a decision.

### Local government elections

#### 84 Gunnedah Shire Council

#### Duration of pre-polling

That Local Government NSW petitions the NSW Government to change the *Local Government (General) Regulation 2005* to allow a council by resolution to shorten the pre-poll voting period to the period including the Monday to Friday of the week before Election Day.

### **Note from Council**

The Regulation, through Section 326(1), currently prescribes that the pre-poll period shall be held between the twelfth and second day before Election Day. The cost of running an election for NSW councils is a significant burden, also for the candidates that have full time employment it can be very difficult to make available the time allowance required to man the pre-polling stations. Should the pre-polling time be reduced to one week a cost saving to councils would be achieved and potentially more suited candidates may stand for elections in future elections.

### **85 Port Stephens Council Local government elections exclusively by postal voting**

That Local Government NSW makes representations on behalf of all NSW councils for the Minister for Local Government to consider drafting a regulation to allow NSW councils to conduct their local government elections exclusively by postal voting and iVote, if available.

### **Note from Board**

If this motion is carried, it will contradict the sector's current position, which is to oppose the option of universal postal voting (LGA conference 2010 resolution 129).

### **Note from Council**

Section 310B of the *Local Government Act 1993*, allows the City of Sydney Council and other local government bodies to conduct their elections exclusively by postal voting if the local government authority is prescribed under the *Local Government (General) Regulation 2005* (the regulation). At this time only the City of Sydney Council is authorised to conduct an election in this manner.

To enable other local government areas to conduct their elections exclusively by postal voting the regulation would need to be drafted and passed by the NSW Parliament, in consultation with the NSW Electoral Commission. This move would see a cost saving back to many communities.

It should be noted that the NSW Electoral Commissioner has made recommendations regarding postal voting in the 'NSW Electoral Commission – Report on 2017 Local Government Elections'.

### **86 Dubbo Regional Council Review of ward requirements**

That Local Government NSW makes representations to the Minister of Local Government to consider the feasibility and appropriateness of an amendment to the *Local Government Act 1993* (NSW) to allow a process for:

1. the creation of electoral wards with variations in the number of electors of more than 10% in each ward in the area; and
2. different numbers of councillors to be elected for each ward provided that the councillor:elector ratio of each ward is such as to maintain the principle of democratic representation across the area.

### **Note from Council**

As a result of the 2016 merger of the former Dubbo City and Wellington Councils, the Dubbo Regional Council local government area (LGA) was divided into 5 wards with 2 Councillors being elected from each ward. Basically, the 5 wards consisted of one ward being the former Wellington Council area while the remaining 4 wards were formed by dividing the former Dubbo City Council area equally by the number of electors.

During the local government election in 2017 Council and the candidates received numerous complaints from electors that people living inside Dubbo could not vote for their preferred candidate as that person was running in a ward within the city they were not registered as an elector. There were many comments that this was not democratic as even though they lived within the city they could not vote for their preferred candidate due to the ward system. There were also significant complaints from electors that the ward system was not understood or acceptable. Several candidates expressed that if they were elected they would look to review the ward system.

It is suggested by Dubbo Regional Council, the same outcome would be achieved by dividing the LGA into 2 wards with 8 Councillors in one ward and 2 in the other. This distribution of wards would

still have the same proportion of electors to Councillors in each ward and therefore maintains democratic representation. It would also promote democracy as electors residing within the city limits would have the ability to vote for any candidate running within the city. In effect this would merge all 4 wards of the former Dubbo City Council area and allow those electors to vote from a pool of 8 Councillors reducing the confusion introduced through the ward system in the former Dubbo City Council area. It would be expected that this could also benefit other merged councils in a similar situation. It also maintains proportional representation across the LGA.

#### **87 Mosman Council Use of word 'independent' in local government elections**

The *Local Government Act 1993* be amended to ensure that councillors and candidates who are members of a major political party, or have been a member of a major political party during any part of the 12 months prior to seeking council election/re-election, be prohibited from using the word 'Independent' beside their name on the ballot paper and on all election advertising materials.

#### **Note from Council**

In local government elections, members of major political parties who are not endorsed as the official candidate for their party, are currently permitted to use the word 'independent' beside their name on the ballot paper. This non-disclosure is both misleading and incorrect information for the voting public and other candidates standing for election.

Voters and other candidates are entitled and expect to know the political allegiances of all nominated candidates, so they can make an informed decision based on correct information.

### **Local government legislative & regulatory settings**

#### **88 Riverina Water County Council Term of the chair for county councils**

That Local Government NSW makes representations to the NSW Government to amend Section 391(2) of the *Local Government Act 1993* so as to read "the chairperson holds office for two years subject to this Act".

#### **Note from Council**

The *Local Government Act 1993* was amended in recent years to provide that mayors of councils elected by the councillors holds the office of mayor for two years, subject to the Act.

The change was brought into effect following representations from councils during the Fit for the Future program and was a recommendation contained in the NSW Independent Local Government Review Panel Report dated October 2013.

At the time that the legislation was changed in August 2016, it appears that a similar amendment to the Act in respect of the term of chairs of county councils was not considered.

The proposed amendment will bring the term of chairs of county councils into parity with Mayors of councils and enhance political leadership and stable governance of county councils.

Initial discussions have been held with senior staff at the NSW Office of Local Government who advised that they would be prepared to consider the proposed amendment.

#### **89 Central Coast Council Parliamentary privilege**

That Local Government NSW advocates that councillors be given the equivalent of Parliamentary privilege for comments and statements made inside the council chambers.

**(Note: This motion covers the following motion set out in small font)**

#### **Note from Council**

Local government, as one of the three tiers of government, is an essential component of democracy. However, unlike State and Federal representatives, local government representatives are not



protected by Parliamentary privilege while debating issues in the council chambers. Councillors need the protection of Parliamentary privilege to empower them to be the voice for local communities.

#### **Tweed Shire Council**

#### **Privilege (Parliamentary) within council meetings**

That Local Government NSW requests the NSW Government to consider affording Parliamentary privilege at Council meetings for Councillors.

#### **90 City of Parramatta**

#### **Public notice requirements for councils**

That Local Government NSW advocates that the NSW Government review the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation) in regards to the requirements for NSW councils to publicly advertise in local newspapers, to enhance efficiency and flexibility for councils by:

- Removing the requirement for certain notices to be published in newspapers;
- Allowing councils to determine the method of publication they will use to best bring a notice to the public's attention, in recognition of the changing communications landscape and the rise of alternate digital and social media channels;
- The introduction of a state-wide notification website to ensure all information required to be advertised by councils, local and state planning panels can be found in a centralised location.

**(Note: This motion covers the following motions set out in small font)**

#### **Note from Council**

NSW councils value input from the community and stakeholders as it helps create good public policy and cities that have people at their core. Due to the changing communications landscape and the rise of alternate digital communications and social media channels, there is a greater opportunity for local government to use these channels to disseminate information, conduct transactions and engage in community building and collaboration.

The diverse nature of the communities that make up local government areas, and the State as a whole, highlights that a one-size-fits-all communication and engagement approach no longer works. Councils in NSW must be allowed to employ a range of engagement methods that provide flexibility, and the ability to determine the method for the publication of notices to bring these to the attention of members of the public. Amendments that allow this flexibility will enable the publications of notices in alternate channels, online where appropriate, including in newspapers that are available in digital form and through social media platforms.

#### **Wagga Wagga City Council**

#### **Legislative requirements - public notice**

That the NSW Government remove all legislative requirements to provide public notice through local newspapers.

#### **Note from Council**

The NSW Office of Local Government recently released a Council Circular relating to changes to the requirement to provide public notice through local newspapers as per the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*. These amendments only related to some notices, and are aimed at enhancing the efficiency and flexibility for councils to provide public notice. It is requested that the NSW Government make these changes across all legislation to provide councils with the flexibility to provide public notice to meet community needs, without the requirement to publish in a local newspaper.

#### **City of Newcastle**

#### **Additional changes to the publication of local government notices**

That Local Government NSW:

1. Notes recent changes to the *Local Government Act 1993* (the Act), following the passing of the *Statute Law (Miscellaneous Provision) Bill 2018*, which removes the requirement for certain notices to be published in newspapers and allows councils to determine the method of publication they will use to best bring a notice to the public's attention;
2. Recognises that local councils have a great understanding of their residents and know the best way to bring a notice to the attention of their local community;
3. Acknowledges the powerful role of social media and online communication tools as a method of communication between local councils and the community (a recent Newcastle City Council survey found that 85% of people find out about council activities via social media and council's website); and
4. Writes to the Minister for Local Government and the Attorney General to call on the NSW Government to amend this legislation to allow for local councils to determine the most appropriate method of publication of all notices and removes the requirement to publish local government notices in newspapers.

**Note from Council**

Refer to Office of Local Government Circular to Councils: Changes relating to the publication of notices, 27 June 2018.

**91 Bega Valley Shire Council****OLG and Crown Lands resourcing levels**

That Local Government NSW urgently requests the Minister for Local Government, Minister for Planning and the Minister for Lands to increase staffing levels to support councils deliver required services.

**Note from Council**

Over the past number of years the hard working staff of these departments have faced significant challenges with change projects and significant legislation requiring delivery by the local government sector. The Audit Office of NSW released their report on council reporting on service delivery in February 2018. There were 4 main recommendations for the Office of Local Government (OLG) to action by mid 2018. All were extremely valuable and a number are items the sector has been waiting for over many years. To date there has been no release of any of the updates on the progress of these matters. The Biodiversity Legislation implementation and Crown Lands Management Act bring with them significant changes to how local government operate and confusion and concern to landowners and others and other lands matters are held up sometimes for months. Local government needs to have support to streamline its service delivery to the community. Resourcing of these key departments is seriously impacting our capacity to deliver in a timely and appropriate way.

**92 Blue Mountains City Council****Redrafting Part 7 s438(l) of the LG Act**

That this Conference calls on the NSW Government to re draft Part 7 s438(l) of the *Local Government Act 1993* to limit the power of the Minister for Local Government to suspend or dismiss democratically elected councils in all but the most extraordinary circumstances.

**Note from Council**

Vesting power in the Minister to suspend a council on as little as seven days notice on the grounds of a media reports poses a threat to every democratically elected council in NSW. The sovereign right of citizens to elect or dismiss the local government of their choice should not be denied them in anything but the most serious circumstances. And then only on the basis that a new election be called as soon as practicable.

**93 City of Canterbury Bankstown****Flexible procurement**

That this Conference calls upon the NSW Government to undertake a review of the Local Government Act, Regulation and procurement guidelines to provide councils with a flexible framework for unsolicited proposals and to remove barriers to embracing innovation in procuring goods and services.

**Note from Council**

Traditional procurement practices have provided important transparency and accountability in the expenditure of public funds. The current legislative framework and guidelines have embedded this approach which favours mature and fully tested approaches, single transactions where all the steps and outcomes are known, established companies with extensive experience and a specification driven product or service.

Many cities are recognising that if they are to keep pace with the rapidly changing technology and needs of their data driven communities, then local government, in particular the procurement processes, also need to change.

While this procurement model has supported councils well to this point, it is becoming apparent that, for innovative approaches to old and new challenges and opportunities, the old model does not provide the flexibility required to respond to a rapidly changing environment. As many local governments begin to search for more efficient and innovative ways of delivering services for their communities, there are a range of challenges emerging surrounding procurement.

**94 Orange City Council****Council enforcement action**

That Local Government NSW requests the NSW Government to investigate all available options to make it easier and less expensive for local councils to take enforcement action and apply sanctions to landowners and developers responsible for intentional, serious and/or continued breaches of planning law.

**Note from Council**

Local government is delegated with the responsibility by the State for a range of enforcement functions including compliance with development consents, environmental and heritage protection, noise and animal management. Enforcement is expensive. There is a risk that compliance decisions are not being made on the basis of community interest, but based on whether the council can afford to undertake enforcement action. This may encourage some developers to make judgments about non-compliance based on financial risk assessment of the likelihood that the council will not pursue enforcement.

**95 Randwick City Council****Call for review of Land Acquisition Act**

That Local Government NSW calls on the NSW Government to conduct an immediate review into the Just Terms Compensation legislation, with public hearings to allow for full and effective contributions from interested parties, in accordance with Recommendation 20 of the Review of the NSW Land Acquisition Framework by David Russell SC, known as The Russell Review.

**Note from Council**

The compulsory acquisition process in NSW is governed under the *Land Acquisition (Just Terms Compensation) Act 1991*. Each year hundreds of people in NSW are forced to move from their homes to allow for the construction of public and private infrastructure and other projects including motorways, railways and hospitals. This process causes great distress, emotional and financial hardship, and the irretrievable fracturing of local communities. While the NSW Government commissioned a review of the Act in 2012, the results of the review were not made public until 2016 and many households who have had, or are still in the process of having their homes forcibly acquired, remain distressed and deeply unsatisfied with both the process and financial compensation they have been offered.

**Structural reform****96 Carrathool Shire Council****Joint Organisations - ongoing funding**

That Local Government NSW lobbies the NSW Government to allocate ongoing funds to ensure the financial viability of Joint Organisations (JOs) and support JOs being effective tools for regional areas.

**(Note: This motion covers the following motions set out in small font)**

**Note from Council**

The already promised setup funds are needed to allow the JOs to set up. Once these funds are expended however the full cost of the JOs will fall on the members. The ongoing costs, even of an efficient JO, will result in membership rates that are beyond small councils. As the NSW Government will benefit from the JOs through streamlined access to councils, for example, it is fitting that the NSW Government should assist with the costs of running the JO.

**Lake Macquarie City Council****Regional transport planning role for Joint Organisations**

That Joint Organisations be granted powers and resources to develop and implement regional transport plans.

**Note from Council**

The NSW Parliament has recently passed legislation to constitute 11 Joint Organisations (JOs) of local councils across NSW. The purpose of these organisations is to "collaborate, plan, set priorities and deliver important projects on a regional scale." (Office of Local Government, 2018).

JOs are required to articulate the strategic priorities for their region that they plan to deliver, and report on progress annually. In many regions, including the Hunter, transport is a key priority; however, the capacity of local councils, through their JO, to influence transport outcomes is currently limited.

Transport for NSW has developed an overarching State-wide Future Transport Strategy to guide transport planning across the State. Transport for NSW has prepared a Regional NSW Services and Infrastructure Plan, however, in most regions, there is no specific Transport Plan to support implementation of that Strategy at the regional level.

Improved transport outcomes in regions could be achieved by devolving responsibility for planning to JOs, in consultation with Transport for NSW and providing adequate resources to ensure the implementation of regional priorities.

#### **Tamworth Regional Council**

#### **Joint Organisation funding**

That Local Government NSW requests the NSW Government to appropriately fund Joint Organisations as a local government body in addition to existing Financial Assistance Grants.

#### **Note from Council**

Joint Organisations (JOs) of councils have now been established under the Local Government Act and as such should be funded as any other local government body via the Financial Assistance Grants (FAGs) program. Each JO of councils in NSW will be provided with foundation funding from the NSW Government and membership contributions from councils to establish the organisation. Once established the relationships built, JOs of councils are able to provide and undertake services and functions of groups of Local Government Authorities and facilitate inter-governmental relationships. As the role of a JO is intended to benefit both the NSW Government and local government then a JO should be funded beyond establishment and they should be funded accordingly. The implementation of JOs should not result in a reduction in Financial Assistance Funding to local government.

#### **97 Lane Cove Council**

#### **Forced council amalgamations**

That Local Government NSW lobbies for a change to the Local Government Act to prevent the forced amalgamation of councils without the support of a plebiscite.

#### **Note from Council**

At the time of the merger period, the NSW Government did not have a mandate from the taxpayers of NSW to forcibly merge the Local Government sector; in fact there was an undertaking from the former Premier, Barry O'farrell that forced mergers would not occur.

However, the NSW Government chose not listen to its local communities and put in place a plan to forcibly merge local government areas against the wishes the communities and notwithstanding also that in the case of Lane Cove and many other councils, they were financially sound and demonstrated good governance.

It is worth noting that in December 2012 the 'Independent Local Government Review Panel' provided its report to the NSW Government recommending across the board amalgamations. In that report, it states that only 3 Metropolitan councils were polled and the overwhelmingly response from the communities surveyed is that they wanted community representation.

During this period Lane Cove, and in fact many councils, called on the Government to give the community the chance to vote at a poll on amalgamations. But there continues to be no commitment from the NSW Government to facilitate this process and abide by the outcome.

Lane Cove Council's own polls demonstrated on a number of occasions over 70% support, not to amalgamate with Hunters Hill and Ryde as proposed.

It is therefore proposed that the NSW Government be called upon to legislate to make it mandatory in considering any merger proposals for a Council Poll be conducted on the issue in accordance with Section 14 of the Local Government Act, to assess the level of community support for any such proposal.

## Other Governance/Civic Leadership

98 Board	Superannuation
That:	
<ol style="list-style-type: none"><li>1. Local Government NSW expresses concern to LGSS Pty Ltd, trading as Local Government Super (“LGS”) at the ongoing funding request for additional employer superannuation contributions from employers in relation to employees belonging to the Retirement Scheme (Schedule 2 of the LGSS Trust Deed) and Defined Benefit Scheme (Schedule 4 of the LGSS Trust Deed);</li><li>2. Local Government NSW requests that LGSS Pty Ltd, trading as Local Government Super (“LGS”), undertake an independent review of the investment strategy for LGS’ Retirement Scheme (Schedule 2 of the LGS Trust Deed) and Defined Benefit Scheme (Schedule 4 of the LGS Trust Deed) to give confidence to stakeholders that the returns on superannuation funds are reasonable;</li><li>3. Local Government NSW requests that LGSS Pty Ltd, trading as Local Government Super (“LGS”), cease requiring additional employer superannuation contributions from employers in relation to employees belonging to the Retirement Scheme (Schedule 2 of the LGSS Trust Deed) and Defined Benefit Scheme (Schedule 4 of the LGSS Trust Deed) as soon as the liabilities and asset of those schemes are deemed to be fully vested and comply with the minimum acceptable risk level requirements set by the Australian Prudential Regulation Authority (APRA); and</li><li>4. Recommendations by Local Government NSW to LGSS Pty Ltd concerning the appointment of Directors onto the Board of LGSS be based on merit, whereby the person(s) selected have the greatest merit determined according to:<ol style="list-style-type: none"><li>a. The nature of the duties of the position; and</li><li>b. The abilities, qualifications, and experience of those persons.</li></ol></li></ol>	
<b>(Note: This motion covers the following motion set out in small font)</b>	

Goulburn Mulwaree Council	Local government superannuation
That:	
<ol style="list-style-type: none"><li>1. Local Government NSW Conference express its concerns to Local Government Superannuation (LGS) at the continuous demand on all councils for additional contributions which often exceeds more than 1% of councils general rate take beyond the normal percentage on superable salary for the Defined Benefit Plan (DBP).</li><li>2. Local Government Superannuation be requested to undertake an independent audit on the investment strategy to give confidence to stakeholders that the returns on superannuation funds are reasonable.</li><li>3. Conference requests that Local Government Superannuation to cease the additional contributions on the defined benefit plan as soon as the liabilities and the asset are balanced at 100%.</li><li>4. Local Government NSW be requested to ensure that the Directors appointed to the Local Government Superannuation Board of Directors are ‘skills based’ which relate to Finance, Superannuation investments and/or legal skills.</li></ol>	

### Note from Council

In 2009 after the global financial crisis LGS requested all councils in NSW to make additional contributions to help fund the dramatic downturn in value in the Defined Benefit Plan (DBP). The additional contributions that were sought from LGS totalled \$40,000,000 per annum over the whole State and were to last for five years.

All councils would have received a letter from David Smith, CEO of LGS in January 2018 stating that they wish to continue with these demands on Local Government until at least 2022 at which stage it would be reviewed with no guarantee that these demand have an end date.

The DBP is based on a formula with three parts. The first part is councils are required to pay 1.9% the employee contribution. The second part being 2.5% of the employee’s superable salary and finally a third part required if the sum of the first two parts don’t add up to 9.5% of the superable salary (the Superannuation Guarantee Levy). Most councils therefore pay between 9.5% and 19.6% of the superable salary to LGS for their employers. There are exceptions where some councils are paying well above the 19.6%.

Additional to this for the last 10 years LGS has demanded from councils this additional contribution totalling \$40,000,000 per annum across the State. It is this additional contribution that should cease now. In reality councils across NSW have paid an additional \$400,000,000 to LGS to cover the losses incurred in the GFC. This will increase to \$600,000,000 if LGS get their way.

At a recent meeting of Country Mayors - Mr David Smith, CEO of LGS - stated that the scheme lost \$600,000,000 during the global financial crisis. LGS want councils to fully fund their losses. In the last 10 years we have seen significant

increases in share markets around the world where LGS invests. Government bonds have also enjoyed healthy returns. LGS have stated that they need to ensure that the assets in the DBP exceed their liabilities. We would agree but believe it is now up to the Board of LGS to manage these funds better than what they have done to date rather than continuously calling on councils for this unreasonable financial support. Their annual return is 6% with 70% at high risk and 30% at conservative. Other schemes with this mix of investment are returning in excess of 10%. For further information Mr Smith also stated to Country Mayors that their overheads (salaries, administration and rent) totalled \$30,000,000 pa.

It is inappropriate for LGS to treat councils throughout NSW as cash cows to continually fund this scheme over and above very generous contributions that we provide at this time. LGS have for 10 years made demands upon Council and Goulburn Mulwaree believe that \$400,000,000 over that period is enough and they must now manage the funds in accordance with the Director obligations and prudent financial standards.

All councils in NSW work very hard to ensure we meet our community expectations within limited financial resources. The additional contributions that LGS demand of us exceed 1% of the monies raised for general rate funds. Goulburn Mulwaree would all like to be able to increase the services to our community rather than continually paying this additional contribution to LGS who should manage their own business.

Conference need to request an immediate cessation of these additional contributions. We are not asking a review of the funds up to 19.6% superable salary as this is part of the rules of the DBP. The scheme will have assets exceeding liabilities in the next few months and that is when the additional contributions must cease.

The last part of this motion is in regard to the appointment of Directors. LGNSW and the Unions appoint all the Directors to the LGS Board – the LGNSW from within the Executive of LGNSW. Councils within NSW need assurance that the Directors appointed by LGNSW have the appropriate financial and investment skills to properly manage a large scale superannuation business.

## **99 Lane Cove Council**

## **LGNSW Annual Report - additional details**

That Local Government NSW includes in its annual report the following additional information:

### *Controlled Entities*

Entities that are controlled to have a copy of their respective Profit and Loss and Balance Sheet either included into the notes or added as an attachment;

- Local Government Procurement Partnership
- Local Government Procurement Pty Ltd
- LGP (LGA NSW) Pty Ltd
- LGP (SA NSW) Pty Ltd
- LGP (LGA NSW) Trust
- LGP (SA NSW) Trust
- Other related entities

### *Remuneration*

Total Remuneration of all board members including their appointment to external Boards  
Related Party Disclosure. Notwithstanding the elimination entries on consolidation, a table detailing transactions between related entities that include, loans, distributions, management fees, and other material transactions over \$15,000.

### *Appointments to External Boards*

Table indicating the names of Councillors appointed to external Boards (LGSS Pty Ltd and StateCover Mutual Limited), their term and remuneration.

## **Note from Council**

As the peak organisation representing the interests of NSW general and special purpose councils, the transparency and accountability of the organisation is considered vital in maintaining and strengthening an effective, democratic system of local government across NSW. It is noted that LGNSW owns a subsidiary company, Local Government Procurement and also appoints members to external boards. Whilst it is acknowledged that brief descriptions of the entities are provided in the LGNSW's Annual Report and financial statements, more detailed information is lacking. Additional disclosures in relation to controlled entities, related parties, remuneration and appointment to external boards is essential in the interest of providing effective, responsive and accountable leadership to member councils.

That Local Government NSW seeks an amendment to the *Local Government Act 1993* (NSW) that will enable local councils to apply a voluntary Special Charge Scheme (opt in system) to council rates to fund environmental programs such as solar photovoltaic (PV) bulk buy programs.

### Note from Council

To enable a Special Charge Scheme through the Council rating system similar to VIC and SA to fund voluntary environmental programmes. Riverina and Murray Joint Organisation (RAMJO) wants to encourage and enable the promotion of solar PV systems for individual households through a discounted PV Bulk Buy Programme, with a focus on low-income households as a specific target audience. This would enable councils to source reliable solar PV systems and installers through the bulk buy program, and for the residents to repay the costs through their rates over a 10-year period as a percentage of the savings received from the PV system. This would leave participating rate payers with no up-front or out of pocket costs, and enhance the energy resilience of these households.

Currently the *Local Government Act 1993* enables commercial building owners to participate in Building Upgrade Finance (BUF) also known as Environmental Upgrade Agreements. BUFs enable building owners to implement environmental improvements and then repay the loan via a council's rating system. The BUF amendment to the Act also provides a mechanism for councils to include an administration charge so they do not incur a financial burden from implementing the program. A Special Charge Scheme would enable individual households to participate in a similar scheme on a voluntary basis, and thereby increase the opportunity for uptake of solar PV systems to these households.

# CATEGORY 2 MOTIONS

Motions in this section are not proposed for debate because they are already:

- existing LGNSW policy;
- supported by Conference resolutions from recent years; and/or
- the subject of recent or ongoing representations by LGNSW.

LGNSW will use the the content of these motions to strengthen our position on these issues.

## 1. ECONOMIC POLICY

<b>X1 Bellingen Shire Council</b>	<b>Local government funding</b>
That Local Government NSW seeks a review of the principles that define the distribution of the Financial Assistance Grants (FAGs) to local government with a view to including consideration of horizontal fiscal equalisation in the calculation of the FAG funding.	

### **Note from Council**

Whilst the NSW Government has undertaken a rating review (conducted by Independent Pricing and Regulatory Tribunal (IPART)) the report has never been released. The Mid North Coast Region of Councils (MIDROC) has actively sought to obtain a copy of the rating review report by way initially of a GIPA request to both the Office of Local Government and IPART. Both of these requests were denied and MIDROC has now appealed the matter to the Office of the Information Commissioner.

In terms of financing what is required is a review of the principles for distribution of the FAGs by the Federal Government, who provide the funding to the State to guide its distribution to local government. The recent redistribution of GST revenue using the principles of horizontal fiscal equalisation arguably establishes a relevant and important precedent for revision of the FAGs principles. To contextualise the GST review related to transfer of GST between the States and Territories with the aim of equalising States' fiscal capacities to deliver public services (Productivity Commission Report 15 May 2018).

I trust that the foregoing resolution will stimulate debate at the upcoming conference and look forward to assistance from LGNSW in progressing this important issue.

<b>X2 Bourke Shire Council</b>	<b>Limitation of increases in costs by government agencies</b>
That:	
<ul style="list-style-type: none"><li>• All NSW Government Departments be made aware of the rate increase allowed for councils each year and to take that figure into consideration when looking to set any fees and charges impacting on local government.</li><li>• Local Government NSW lobbies the NSW Government that where a new fee/charge or an increase to an existing fee/charge is proposed, the rate of increase is to be no greater than the IPART determined rate page increase for that year. Where such an increase above the rate peg is proposed, the secretary/head of agency is to write to the Council, setting out the reasons for the proposed increase, including any costings that justify the increase.</li></ul>	

### **Note from Council**

Councils have their General Rate increases determined by the Independent Pricing and Regulatory Tribunal (IPART) and there is an expectation that councils will work within that increase. At the same time, councils have had increases far in excess of the rate peg amount imposed by government agencies. Council, when setting its own fees and charges, looks to ensure "cost recovery" and accepts that these government agencies look to do likewise but there are times when agencies should have to consider the ability of councils to meet the increase in charges.

An example from Bourke Shire Council saw Council's contribution to the Rural Fire Service (RFS) increase by 27.5% last year. While the RFS were able to offset that increase last year, the increase is still applicable this year, and it is yet another cost that councils are expected to absorb.

<b>X3 City of Parramatta Council</b>	<b>Financial reporting for local government</b>
That Local Government NSW advocates that the NSW Government work with NSW councils on reducing the complexity and associated cost in preparing and auditing General Purpose Financial Statements of local councils, with a focus on:	
<ul style="list-style-type: none"><li>- reducing disclosure requirements for non-financial non-current assets;</li><li>- eliminating the requirement to fair value non-financial non-current assets at each reporting date;</li><li>- developing a consistent cost effective approach across the councils; and</li><li>- eliminating other extensive disclosures outside user needs.</li></ul>	

### **Note from Council**

In order to comply with the annual fair value re-measurement requirements, City of Parramatta Council spends over \$250k worth of resources. This includes the cost of external valuers, external auditors and the time of internal experts. Non-current non-financial assets attract minimum interest of external users as they represent highly non liquid asset classes such as



roads, drainage, community land etc. Neither the balance of fixed assets nor its annual fair movement demonstrates actual efficiency of the Council operations or its sustainability.

Additionally, as there is no clear guidance for revaluation of these type of assets, each council “reinvents the wheel” to calculate the gross replacement cost for revaluation. As a result, some of unit rates differ by over 100% between the councils. This results into completely different annual depreciation expenses across the councils for the same types of assets which makes comparison of performance indicators across the industry skewed.

#### **X4 Greater Hume Shire Council**

#### **Grant funding guidelines**

That Local Government NSW makes strong representations to State and Federal Governments and departmental heads, to ensure that grant guidelines acknowledge and consider the important role that rural councils and the myriad of country towns and communities contribute to the social and economic fabric of NSW.

#### **Note from Council**

Greater Hume Shire is a small rural council of approximately 10,500 people and consisting of 5 towns and 6 villages and a number of smaller localities.

It is of great concern that an increasing number of Federal and State Government funding programs are significantly weighting assessment criteria on cost/benefit analysis of greater than 1.

In many instance the increasingly emphasis on economic benefit is disregarding benefits of social/community development or indeed the cost, if investment is not made in these small country communities.

Every rural council and country community is made up of taxpayers that are entitled to a share of the Federal and State revenue pools so that community well being improves and communities can reach their full potential. This cannot always be measured by an economic cost benefit analysis model. People live in communities not economies.

#### **X5 Gunnedah Shire Council**

#### **Changes to FAGs allocations**

That Local Government NSW lobbies the Federal Government to review and provide options for a more sophisticated allocation of the Financial Assistance Grants (FAGs) funding that increases the allocation of funds to rural and remote areas of need.

#### **Note from Council**

This review would examine the principle of the *Local Government (Financial Assistance) Act 1995*, including the minimum grant principle and distribution methodologies applied by both the Commonwealth Grants Commission and the state based Local Grants Commission and report options for change to see funds better distributed to areas of need.

#### **X6 Gunnedah Shire Council**

#### **Abolish rate pegging**

That Local Government NSW lobbies the NSW Government to abolish rate pegging.

#### **Note from Council**

In light of the increasingly mobile nature of populations and the business community in NSW and Australia. This will empower local government areas to set their own rates in a competitive fashion to deliver the services desired by their community at a price point which attracts and retains a population and business community.

#### **X7 Kyogle Council**

#### **Forestry rates payments**

That Local Government NSW lobbies the NSW Government to require Forests NSW to pay rates on native forest and plantation timber production land.

#### **Note from Council**

Forests NSW and plantation timber producers use council infrastructure such as roads and bridges yet pay no rates.

#### **X8 Murray River Council**

#### **Cross border issues**

That Local Government NSW advocates to the NSW Government to press for the urgent appointment of a Cross Border Commissioner in Victoria to facilitate effective and comprehensive resolution of the multitude of cross border anomalies that exist between our two States.

Specifically Local Government NSW should advocate for:

1. The early appointment of the Victorian Commissioner to permit the urgent addressing of these issues.
2. That the Victorian Commissioner be based in Echuca, given its central position along the Victorian NSW border.
3. That the NSW Commissioner assign the highest priority to the engagement with the appointed Commissioner for Victoria.
4. That the NSW Commissioner consult urgently with NSW border councils to create a comprehensive list of issues needing resolution.

#### **Note from Council**

Cross border anomalies continue to frustrate the efficient and effective conduct of business, and presents impediments to social health and well-being in border communities.

Literally hundreds of anomalies exist, all of which impair social functions to some degree. They include sub-optimal access to healthcare, delivery of emergency services, professional accreditation, pensioner access to discounts and economic distortion caused by the container deposit scheme, and many, many others.

The commitment by major parties in VIC to appoint a Cross Border Commissioner is welcome. Notwithstanding the NSW government must exert influence to ensure the earliest possible appointment and appropriate funding for the position to allow these issues to be effectively addressed.

<b>X9 Orange City Council</b>	<b>Electricity prices</b>
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That the NSW and Federal Governments take immediate action to reduce unsustainable and excessive electricity prices on local government, business, industry and individual consumers including, that:

- a) the NSW Government outlines the specific actions it plans to take to reduce the impact of excessive electricity prices for local government, businesses and residents;
- b) the Australian Government develop an urgent and extensive response to the Australian Competition and Consumer Commission's report on its Electricity Supply and Prices Inquiry, with the aim of addressing the major factors leading to high prices identified in the report.

**Note from Council**

According to the Grattan Institute "[w]holesale electricity prices rose across the National Electricity Market (NEM) by 130% between 2015 and 2017." In June 2018 the Australian Competition and Consumer Commission released its Retail Electricity Pricing Inquiry Final Report on electricity prices. It found that the major causes of excessive prices rises include: poor regulation of excessive spending by electricity suppliers; inappropriate reliability standards that failed to take account of community interests; concentration of markets leading to lack of competition; poorly designed renewable energy schemes which have now ended; and, confusing price structures offered by retailers. The report identified a lack of regard for community interests within the electricity market which engaged in extensive price gouging knowing that electricity is an essential service and the community and business would be forced to pay. The Report sets out a series of recommendations for the Government that it believes would place downward pressure on electricity prices including boosting competition in generation and retail; lowering costs; and increasing price transparency and consumer protection.

<b>X10 Tamworth Regional Council</b>	<b>Pensioner subsidies</b>
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That Local Government NSW calls on the NSW Government to increase the level of rebate offered to councils for the pensioner subsidy applicable for the payment of rates and charges.

**Note from Council**

Local governments across NSW are recognising that the population is aging and the impost on councils to cover the pensioner rebate for the discount provided to pensioners on their rates and charges is a matter that needs urgent review. The current rebate is 50% to a maximum of \$250 for general-rates and domestic waste, 50% to a maximum of \$87.50 for water supply availability and 50% to a maximum of \$87.50 for sewer supply availability and usage. Council can only claim 55% of the grant while the balance is a direct expense for local government. This burdens the Tamworth community with an unacceptable and additional expense of \$840,000 per year that could be spent on improving infrastructure and services.

<b>X11 Tweed Shire Council</b>	<b>Pensioner rebates – review of limits and level of subsidy</b>
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That Local Government NSW requests the NSW Government to fund an increase in the Concessions for pensioners legislated under section 575 of the *Local Government Act 1993* (NSW).

<b>X12 Wagga Wagga City Council</b>	<b>Payroll tax for businesses in regional NSW</b>
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That Local Government NSW lobbies the NSW Government to advocate for a reduction in payroll tax for businesses in regional NSW to be comparable to the rate offered to regional Victorian employers (2.425%)

**Note from Council**

The NSW Government recently announced that the payroll tax threshold would be progressively lifted to \$1m by 2022. While this is welcomed and means that some businesses will no longer pay payroll tax, those businesses sitting above the threshold will still need to meet all of the complex payroll tax obligations. The Victorian State Government offers a lower payroll tax rate of 2.425% for regional employers, which is half the metropolitan rate. It is requested that the NSW Government consider a similar rate for regional NSW to help regional businesses grow, and encourage more businesses to establish themselves and create jobs in regional NSW.

<b>X13 Wagga Wagga City Council</b>	<b>FAGs program</b>
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That Local Government NSW lobbies the Federal Government to increase the funding allocated to local government through the FAGs program to reflect 1% of total tax income received by the Federal Government as per the figure in 1996.

**Note from Council**

In 1996, local government received around 1% of total tax recovered by the Federal Government. This has progressively decreased and today the contribution stands at 0.57% of total tax income. During the same period, total local government expenditure has increased from \$8.8b in 1996 to \$35.9b in 2017. In comparison to State and Federal Government, local government receives the least amount of funding from tax income. While councils do their best with the limited revenue

sources at their disposal, we urge the Federal Government to increase its contributions to local government to further enable us to deliver services and meet the expectations of our communities.

#### **X14 City of Newcastle**

#### **Status of the City of Newcastle**

That Local Government NSW:

1. Notes the continued uncertainty surrounding the status of cities of local government areas (LGAs) commonly classified as either 'regional' or 'metropolitan' councils (for example Newcastle and Wollongong councils)
2. Writes to the NSW Premier, the Hon. Gladys Berejiklian MP, seeking clarification about regional and metropolitan boundaries in NSW.
3. Calls on the NSW Government to provide certainty to these local government areas regarding eligibility for grant funding opportunities.

#### **Note from Council**

The motion is seeking clarity about whether the City of Newcastle is classified as either as a 'regional' or 'metropolitan' city.

## **2. INFRASTRUCTURE AND PLANNING POLICY**

#### **X15 Moree Plains Shire Council**

#### **Natural Disasters**

That Local Government NSW makes representations to the NSW State and the Federal Treasurer regarding concerns over both the current and potential future natural disaster funding arrangements. In particular, that:

- The definition of a Natural Disaster should be linked to the capacity of a community to recover from an event, rather than a definition of "serious disruption";
- Funding be directed to outcomes that are more resilient to future natural disasters so that community betterment is achieved;
- No further cost shifting occur to local government, noting proposals to increase the level of contribution that councils are required to make;
- Relief funding recognise the needs of business, in particular small business, which require support to recover from a range of natural disasters; and
- Support be provided post-disaster to improve community social and economic resilience to future events.

#### **Note from Council**

"Serious disruption" is an intrinsically subjective notion and one that can result in many natural disasters not triggering relief arrangements. The aim of natural disaster assistance should be to place communities in a similar economic condition to that existing prior to the event but at the same time increase that community's social and physical resilience to future similar events. This is consistent with findings of the 2014 Productivity Commission report.

Of particular concern is the potential for an increased financial burden on local government when disaster relief arrangements are triggered. Councils come under particular pressure during a disaster both in terms of additional call on resources and at the same time many in the community have reduced capacity to pay rates, etc. Historically, "one-off" funding support has been directed towards residential property owners. This ignores the major disruption that is caused to business communities, in particular small business. In order to rebuild economic capacity, the business sector is equally reliant on support. There is minimal reviews on the causes and response to natural disasters unless the disaster is very significant such as the 2009 Victorian bushfires or the 2012 QLD floods. There needs to be support for community-based reviews following any natural disaster that triggers relief arrangements. This should be by way of financial support to the local council to conduct the post-incident review.

#### **X16 Warren Shire Council**

#### **Natural disaster (flooding) preparation**

That the NSW Government allow for the betterment of destroyed infrastructure that has occurred as the result of a natural disaster, rather than just its replacement, in that such a move may reduce the possibility of further future damage.

#### **Note from Council**

Councils, along with State agencies, recognise that natural disaster events can be better controlled with an investment into prevention. This motion is specific to flood events, where over many years the same areas of road, culvert or bridge damage continue to occur and cost the State millions of dollars. By taking a preventative action and investing in improvements, the cost to the State and the communities will be reduced over the long term.

#### **X17 Blue Mountains City Council**

#### **State transport infrastructure planning**

That Local Government NSW requests the NSW Government to improve its processes around the engagement and announcement on significant projects affecting local councils and their communities.

#### **Note from Council**

Such is the concern of the Council around the lack of forward engagement by the Minister on highly significant transport infrastructure projects and the long term impact on local communities that the Council, at its meeting of 24 July 2018 resolved:

1. That the Council notes that the NSW Government has recently announced the proposed Great Western Highway bypass of Blackheath and Mount Victoria; and
2. That the Council writes to the Hon. Melinda Pavey MP, Minister for Roads, Maritime and Freight, and the Hon. Andrew Constance MP, Minister for Transport, to request more information on the proposed Great Western Highway bypass of

Blackheath and Mount Victoria and that this letter requests that the Ministers, Roads and Maritime Service (RMS) and Transport for NSW consult directly with the Blue Mountains City Council (BMCC), community and Member for the Blue Mountains Trish Doyle, on any future planning and economic appraisal of the proposed bypass".

It is incumbent upon the NSW Government to actively engage with Council and the effected communities on these projects which will, both during the investigation and construction phases, have a lasting impact and legacy on the liveability of these Blue Mountains communities.

BMCC has had a long and successfully association with respective State Governments and the RMS for over 20 years on the upgrade and safety works of the Great Western Highway. This strong and positive relationship has allowed the old highway to be transformed into a highly efficient, safe and fit for purpose 21st transport infrastructure.

#### **X18 Murrumbidgee Council** **Telecommunication services**

That the Annual Conference support Murrumbidgee Council's efforts to address the telecommunications blackspots which exist in its local government area (LGA).

##### **Note from Council**

Council suffers from a large black spot in telecommunication in the vicinity of the original boundary between the two previous LGAs, on the Newell Highway and the Kidman Way. This places a safety concerns for staff as they travel through the LGA.

Staff are out of contact for a third of the distance travelling between the two major offices which are situated 100km apart. While this location has been identified as a black spot for some 6 years, telecommunications black spot funding applications have been unsuccessful. Like other merged councils in this region there has been no recognition of the new requirements of council staff and the safety issues associated with now daily requirement to traverse black spot areas since merger.

Council is looking for support from Conference for its applications to fund additional telecommunications installation, as a result of the new pressures placed on merged councils.

#### **X19 Albury City Council** **Rural Fire Service assets**

That Local Government NSW continues to advocate on behalf of councils for all Rural Fire Service (RFS) equipment to be removed from council asset registers, by progressing discussions with relevant state agencies such as the NSW Treasury, RFS and the Office of Local Government (OLG) to ensure there is a whole-of-government approach to this issue.

##### **Note from Council**

LGNSW has been advocating to the NSW Audit Office and the OLG for RFS assets to be recorded against state agency asset registers, as LGNSW believes those agencies have effective control of the assets.

The NSW Auditor-General in her report on the local government 2016/17 financial audit recommended that "the Office of Local Government should address the different practices across the local government sector in accounting for rural fire-fighting equipment before 30 June 2018. In doing so the Office of Local Government should work with NSW Treasury to ensure there is a whole-of-government approach".

#### **X20 Tamworth Regional Council** **Rural Fire Service assets**

That Local Government NSW lobbies the NSW Government for all Rural Fire Service (RFS), assets to be removed from Council asset registers and accounts and the responsibility undertaken by the RFS.

##### **Note from Council**

The *Rural Fires Act 1997*, established the RFS to co-ordinate bush fire fighting and prevention throughout the state and to provide rural fire services for NSW. The NSW Rural Fire Fighting Fund holds all contributions required to meet the costs of the service and is maintained by the NSW Treasury. Annual contributions to the fund are sourced from the following:

- NSW Treasury 14.6%;
- Relevant councils 11.7%; and
- Insurance companies 73.7%.

Rural Fire Districts and Rural Fire Brigades are established generally in line with local council areas and in accordance with Rural Fire District Service Agreements. The RFS is a reporting entity and records all income and expenditure for the fund. This includes the purchase of fire fighting equipment for individual brigades. They however do not recognise these purchases as assets on the basis that formal ownership of them is vested with the local councils.

The issue of asset recognition is complex however and requires the consideration of all factors of control and not just ownership. It is considered that when all criteria of asset recognition included in the AASB Accounting Framework and Standards are taken into account, the underlying substance and economic reality of the benefits provided by fire fighting equipment assets indicate that effective control lies to the greater extent with the RFS than individual councils. It is considered that the ownership vested in council by the Fire Services Act and the subsequent usage agreement between a council and the local RFS brigade is merely a formal arrangement in respect of the historic situation and is no reflection of the substance of the actual operations since the introduction of the Fire Services Act.

It is also considered that in regard to the objectives of financial reporting, councils' obligation and commitment to the rural fire fighting function is fully and accurately reflected in the statutory contribution expense made and the net cost of other relevant facilities provided under the local agreement.

#### **X21 Uralla Shire Council**

#### **Transfer RFS and SES assets to RFS and SES**

That Local Government NSW lobbies the NSW Government to enable councils to transfer fire-fighting and emergency services assets currently managed by the NSW Rural Fire Service (RFS) and the State Emergency Services (SES) to the RFS and the SES respectively, thereby removing the requirement for councils to account for RFS and SES assets.

#### **Note from Council**

Currently the assets associated with the RFS and SES are considered the property of the council and as such these are included within council's asset register and contribute to council's depreciation costs. There is current debate within the local government industry about the merits of this approach with a preference seeming to be that the RFS and SES be responsible for their respective assets, including the associated depreciation.

#### **X22 Coolamon Shire Council**

#### **Recognition of RFS assets in local government financial statements**

That Local Government NSW advocates that only those assets where council has both control and receives the future economic benefits of the asset, as defined by SAC4, AASB116 and the 'Framework for the Preparation and Presentation of Financial Statements', be recognised as assets in Council's financial statements.

#### **Note from Council**

As part of the 2017 Audit Office Report on Local Government, the Auditor General commented on the inconsistencies around how NSW RFS assets are recorded, and advised that the NSW Treasury and the NSW RFS are of the view that they should be included in councils financial statements.

Accounting Standard AASB116 requires that there be a clear nexus between future economic benefit and control of the asset, and the body responsible for reporting them. In regard to NSW RFS equipment (primarily the red fleet) council has neither control nor future economic benefit. Whilst the Rural fires Act vests the assets with council, the reality of the definition and standards of accounting do not warrant their inclusion on councils financial statements.

The Auditor General recommends in its report that the Office of Local Government and the NSW Treasury work to ensure there is a whole of government approach to this issue. It is believed that LGNSW, as the industry representative be included in this discussion and advocate on behalf of local government to ensure the accounting standards are applied consistently.

#### **X23 Moree Plains Shire Council**

#### **DA Plans and use for planning purposes**

That Local Government NSW requests that the Minister for Planning, the Hon. Anthony Roberts MP, clarify the relationship of the NSW *Environmental Planning and Assessment Act* (EPA Act) and the *Commonwealth Australian Copyright Act 1968* (by way of legislation if necessary) to provide that any person having the benefit of a development approval under the EPA Act is entitled to a physical or electronic copy of the approved plans, notwithstanding copyright in those plans being held by another party.

#### **Note from Council**

A recent review report of the Information and Privacy Commission (IPC Reference IPC17/R000591) of a request under the NSW *Government Information (Public Access) Act 2009*, has held that a council was correct in not releasing a physical or electronic copy of approved development consent plans to a person having the benefit of a consent on the basis that this would breach copyright, notwithstanding an acknowledgement that the position of a person having the benefit of a consent was "an appropriate consideration in favour of releasing the information to the applicant" (paragraph 27). This is notwithstanding a provision in the NSW *Environmental Planning and Assessment Act, 1979*, that Copyright does not restrict the use of plans "for a planning purpose". On the basis of this decision, it is clear that there needs to be improved legislative certainty as to who is able to obtain a copy of the approved plans of a development. While it is recognised that not all third parties should have access to plans, such as interior layouts of residential property, the person having the benefit of a consent, particularly a person who was not the original applicant, should be able to obtain a copy of the plans, and not merely inspect them. This would facilitate compliance with a consent as issued, and would also facilitate, for example, a modification of that consent. A strict reading of the review report would suggest that approved plans could only be released to the copyright holder, and not, for example, to the applicant for a development, unless the copyright holder had specifically waived copyright.

### **3. ENVIRONMENTAL POLICY**

#### **X25 Blue Mountains City Council**

#### **NSW Waste Levy charge for asbestos containing materials**

That Local Government NSW calls on the NSW Government to review its position on the NSW Waste Levy charge for asbestos containing materials (ACM) and to develop a state-wide strategy that supports and recognises the increasing costs in receiving and managing ACM plus the environmental and social costs associated with the disposal and illegal dumping of asbestos waste from local government areas.

#### **Note from Council**

The management and disposal of asbestos waste affects all councils, not just the Blue Mountains. All NSW councils face the challenges of receiving asbestos containing materials and the high costs associated with processing and disposal of

them. There is clearly a need for NSW Government support for the management of asbestos waste to reduce the cost shifting on to local government through the shared management and disposal of this toxic legacy.

The application of the NSW Waste Levy to asbestos waste creates a significant disincentive to appropriate disposal, resulting in the illegal dumping of this dangerous material, with all of the attendant impacts on the community, and the local and State land managers that must respond to these incidents. Removing this financial disincentive to the appropriate disposal of asbestos would send a strong, clear and positive message to the community that the NSW Government is fully committed to addressing the serious issue of asbestos pollution.

#### **X26 Moree Plains Shire Council**

#### **Insurance and burned out houses**

That Local Government NSW makes representations to the Insurance Council of Australia to request that their membership provide, as a standard, building insurance policies that cover site clearance in the absence of proposed reconstruction of a building.

#### **Note from Council**

The majority of home building policies will only cover site clearance costs when a building is being replaced. In many rural and regional areas replacement of the building is not sought when it is destroyed by, for example, fire. Rather than seek building replacement many people, where the value of the property is low, will abandon the land which ends up with the local council for unpaid rates. Where a property has a partially destroyed or burned out building the costs of clearing the site are often well in excess of the land value. Many dwellings in rural and regional Australia contain asbestos and the costs of clearing a burnt out building with asbestos present can exceed \$50,000. At times the land value is only \$3,000 – \$5,000. This places severe cost burdens on the local authority which they are generally unable to recover from the property owner. Further, funding these removals is often only able to occur over lengthy time periods which creates an ongoing public health hazard where asbestos is present. By ensuring that all building policies cover site clearance in the absence of building replacement there is an opportunity for local authorities to seek site clearing from the owner with the costs being met from the insurance policy. It is noted that these costs are a small fraction of dwelling replacement costs which may be up to 10 times the amount of site clearance.

#### **X27 City of Ryde**

#### **Renewable energy options**

That the Local Government NSW Conference advocates for increased State and Federal financial assistance and the reinstatement of incentives such as rebates that target low income and medium density residential communities in order to increase equitable access and the uptake of renewable energy options in NSW for this demographic.

#### **Note from Council**

NSW as the highest populated Australian State (31.96% of the population) represents only 16.9% of dwellings with solar panels compared to 32.2% in QLD and 31.6% in SA. Growth projections for NSW show population is expected to grow to 9.9 million people by 2036 so this gap in the take up of solar installations is expected to widen unless renewable energy options are better incentivised and assisted by Government.

It is important to acknowledge that photovoltaic (PV) systems have become the dominant renewable energy technology installed for domestic systems. PV, or grid connected distributed, systems are the major renewable energy installation in Australia.

Increasingly local government is faced with responding to the community, who are concerned with a lack of equitable and accessible options for purchasing and installing renewable power. The impact of this sees a widening gap between those financially able to reduce energy costs through purchasing their own solar systems and those living in low income environments or multi-unit dwellings.

Current government investment initiatives in this space under the Clean Energy Fund and the Australian Renewable Energy Agency are aimed predominantly towards projects based deployment, the commercial sector, research and development and in fuel transitioning. These models do not address the increasing inequity at a local level that previous rebate schemes sort to do.

The investment by the Federal Government in the Solar Credits Subsidy in 2008 sparked the beginning of a market surge by households interested in reducing their consumption and energy costs. This in turn contributed to a marked reduction in greenhouse gas emissions from the solar scheme uptake. This subsidy provided access to those households whom otherwise may not have had impetus or ability to transition to a cleaner energy source and reduce the costs of living. Unfortunately rebates were terminated some 5 years ago.

The current model of 2018 towards the Federal Government's Renewable Energy Targets are giving rise to a larger gap in equitable energy access and an increasing opportunity for 'energy poverty' for those on low incomes or residing in medium and high densification within apartments.

This Assembly has the opportunity to encourage the greater uptake of solar panel systems across the State and at the same time target the more needy with financial assistance to maximise uptake.

#### **X28 Bega Valley Shire Council**

#### **Phasing out single use plastics**

That Local Government NSW phases out single use plastics (cutlery, cups & straws) at their events - and advocates for councils to do the same at council venues and events, commencing immediately.

### **Note from Council**

As of July 2018 every Australian State has legislated to ban the use of thin plastic bags except NSW. The billions of plastic bags entering our waterways and soils represent incomprehensibly high risks to sea and bird life as well as to human health. It is time NSW joins the rest of the country and the major retailers, which have acknowledged the problem and are taking action to reduce catastrophic levels of plastic waste.

### **X29 City of Ryde**

### **Phasing out single use lightweight plastic shopping bags**

That the Local Government NSW Conference support the phasing out of all single use lightweight plastic shopping bags. Accordingly, the conference seeks the NSW Government to provide strong leadership by banning single use lightweight plastic shopping bags throughout NSW. In planning the phasing out of these shopping bags, comprehensive consultation needs to be undertaken with communities and businesses in making this transition successful.

### **Note from Council**

The City of Ryde is supporting the above motion to build on the recent actions taken by Coles and Woolworths.

The City of Ryde's goal in moving this motion is to continue to build upon the momentum to reduce our use of single use plastic shopping bags, so that all shopping outlets phase out their use.

This motion seeks the NSW Government to show leadership on this matter and ban single use lightweight plastic shopping bags, as it is the only State in Australia not to be actively pursuing the phasing out of lightweight plastic bags. Any such action, will require to be supported by an extensive and comprehensive consultation program with both the broader community and business.

### **X30 Gunnedah Shire Council**

### **Social use of Travelling Stock Reserves (TSRs)**

That Local Government NSW calls upon the NSW Government to make legislative changes that will allow some Travelling Stock Routes (TSR's) to be utilised by recreational vehicle (RV) users where so identified and supported by councils in consultation with Local Land Service (LLS).

### **Note from Council**

The NSW Government has recently undertaken a review of legislation in relation to TSRs in recognition of the fact that many of these TSRs are no longer utilised by the large flocks of sheep and mobs of cattle which once travelled along their reserves.

As many of these reserves are valuable outdoor areas immediately adjacent to rivers, wetlands, mountains and forested areas which attract large numbers of RV users, it would be of considerable value (economically, tourism wise and ecologically) to local communities and RV users to be able to utilise these areas for limited stay (say a maximum of 72 hours) for camping and caravan/motorhome usage.

This will require legislative change such that local councils, after consultation with the LLS, can deem such areas identified as appropriate for use by RV users.

### **X31 Murray River Council**

### **Kangaroo management**

That Local Government NSW advocates to NSW Government for further measures to mitigate the risk to the travelling community posed by increasing kangaroo numbers in rural and regional NSW. Such advocacy should include support for the following:

1. Responsible culling of kangaroos in the worst affected areas.
2. Funding for appropriate fencing where deemed practical.
3. Investigation and trialling of electronic and other technologies to deter kangaroos from roadways.

### **Note from Council**

The risk presented by kangaroos to road traffic is an issue of long standing. The current drought has resulted in significantly more kangaroo numbers in southern regions of NSW, particularly along road sides.

Whilst culling of kangaroos provides one means of reducing their numbers, it presents logistical and regulatory challenges. High traffic areas and areas of high kangaroo population should be evaluated for the potential benefits to safety that appropriate fencing could deliver.

Additional methods of mitigating collision risk should be investigated. Technologies that deter animals from the roads, particularly in the presence of vehicles, are currently available or are in developmental stages.

### **X32 Willoughby City Council**

### **More accurate recording on the NSW Companion Animals Register**

That Local Government NSW make representations to the NSW Government requesting a more robust process to ensure that owners of companion animals are recorded with more accuracy in the NSW Companion Animals Register. This would include accurate identification of owners when companion animals are registered.

#### **Note from Council**

The Companion Animals Register was introduced in conjunction with the commencement of the *Companion Animals Act 1998*. The current process by which a person is able to register an animal requires the submission of information that is able to be recorded in the register. This information includes the address and phone numbers that relate to the location of the animal and its owner. This provides valuable and useful information for an Authorised Officer to investigate Companion Animals matters. The information required for the owner's personal details on the other hand has some problems that reduce its usefulness. Of particular note is the requirement for only the first given name and family name to be recorded. This reduces the accuracy of the register and can restrict the ability to positively identify the owner of the animal. In practice the owner's details can often be demonstrated to be inaccurate. In some cases, a shortened version of the owner's name has been used e.g. Bob for Robert. This leads to problems with Authorised Officers following up offences against the Companion Animals Act. Revenue NSW (the collector of fine revenue) also confirms that the recovery rate for fines related to the Companion Animals Act are very low.

It is suggested that if personal information recorded on the register were subject to a points identification system (such as required when opening bank accounts) to ensure the information recorded is more accurate, these identification difficulties would be alleviated. This more accurate process would also be assisted by ensuring that any documentation relating to the registration is also checked to confirm its veracity.

## **4. SOCIAL POLICY**

### **X33 Blacktown City Council**

### **Transport Access Program (TAP)**

That Local Government NSW calls on the NSW Government to engage the community to develop and implement transparent assessment criteria for the prioritisation of train station infrastructure facilities, and upgrades for the provision of lifts and accessible facilities. The assessment should take into account suitable criteria such as: how many people use the station, the number of aged, frail and people with a disability using the station, whether the station is used for interchanging and the demographics of the area.

#### **Note from Council**

Transport for NSW provides funding for station accessibility upgrades as part of its Transport Access Program (TAP), including the provision of lifts.

People with a disability represent a significant proportion of the population, with up to 1 in 5 Australians having a disability. The provision of accessible public transport infrastructure, such as lifts at stations, plays a critical role in the lives of people with disabilities.

Concerns have been raised in recent years about the transparency of decision making for the provision of lifts at stations. For example, repeated requests for lifts at some stations have been declined for a number of years, even decades, with no rational explanation as to why some stations are funded whereas others are not.

This has resulted in concerns about ad-hoc decision making and the potential for marginal seats to receive funding ahead of stations that appear to be worthy of funding.

Transparency in decision making is urgently needed to provide infrastructure where it is most needed and provides the most community benefit. It is vital that assessment criteria for the prioritisation of station infrastructure facilities and upgrades for the provision of lifts and accessible facilities at stations be based on suitable criteria and that the community be engaged on the assessment criteria.

Councils aim to create healthy and thriving communities and the provision of lifts at stations is a critical issue to allow people with a disability to reach employment, shopping, family and friends, and to participate in social and recreational activities.

### **X34 City of Parramatta**

### **Funding for Meals on Wheels and other social inclusion services**

That Local Government NSW advocates that the Federal Government maintains grant funding assistance to local government and smaller not for profit providers for Meals on Wheels and other social inclusion services after 30 June 2020.

#### **Note from Council**

The advent of the National Disability Insurance Scheme and the proposed further funding reform of the Home Support Program by the Federal Government are making high quality in home food services and social inclusion support services for older people and those with disabilities much more difficult to conduct by many council and smaller not for profit (NFP) organisations, and is effectively wiping out many local council and community connections.

A highly competitive market place where volumes of service provision and basic service offers and quality are features will see local councils and smaller NFPs struggle to deliver quality services based on smaller volumes and better short and long term results. For older people and those with disability with lower level health care and support needs, options for these types of services provided at an affordable price will disappear.



**X35 Warren Shire Council****Aged services**

That Local Government NSW commences discussions with the NSW Government to undertake a review of aged services to rural communities and the disadvantages for age people that are not covered under the National Disability Insurance Scheme (NDIS) program.

**Note from Council**

It is recognised that in rural NSW, a growing group of people who are aged are not covered under the Federal Government NDIS provisions and are not being supported by either Federal or State services. It is requested that LGNSW work with the NSW Government to develop social and health policies to provide support services to our aging communities who fall outside the NDIS group.

**X36 Albury City Council****Refugee attraction**

That Local Government NSW requests that the Federal Government recognise the benefits of refugee resettlement in regional areas in NSW and support the expansion of the Community Sponsorship Program (CSP).

**Note from Council**

A number of councils in recent years have declared themselves Refugee Welcome Zones to indicate a commitment to welcoming refugees in our community, uphold the human rights of refugees, demonstrate compassion for refugees, and enhance cultural and religious diversity in the community. Regional councils recognise the benefits of expanding and improving the existing Australian Government CSP. The Federal Government and community agencies are currently responsible for the resettlement process. The CSP enables communities, businesses and individuals to propose applicants for humanitarian visas, with an offer of employment. Regional and rural communities can benefit from programs that bring refugees into local areas ensuring population renewal and workforce availability, as well as providing social and economic stimulus to these areas.

**X37 Cessnock City Council****Mobility parking**

That Local Government NSW works with the Ministers responsible for locating and relocating government departments and agencies to ensure greater cooperation between local, State and Federal governments in the selection of locations and provision of adequate suitable parking, especially parking of mobility impaired clients.

**Note from Council**

It is important to ensure safe and convenient access to community services and facilities. Councils are generally not well placed to meet such costs arising from short-notice tenancy changes and relocation of essential government services.

Recent relocation of Australian Government services and facilities in the town of Kurri Kurri has highlighted the impact on local amenity and the impost on local council in providing equitable access to these services following any relocation.

As with private development projects, it is appropriate that all customer needs, especially access equity provisions associated with proposed government service/facility premises be taken into consideration at an early stage and a suitable contribution be made towards the provision of such infrastructure when government agencies elect to relocate.

Where agencies such as Australia Post or Centrelink are relocating, growing or changing, a greater level of liaison and planning with local government would ensure that safe and convenient infrastructure is available. Where facilities such as parking and equitable access cannot be provided on site, consideration of funding for provision of this infrastructure should be considered.

**X38 City of Ryde****Funding to investigate anti-discrimination and racist behaviour**

That this Conference request the Premier of NSW, the Hon. Gladys Berejiklian MP, and the Minister for Police, the Hon. Troy Grant MP, to increase funding for the NSW Police force to target anti-discriminatory and racist behaviour across the State.

**Note from Council**

Over the past few years, the City of Ryde has experienced inappropriate, racist and anti-discriminatory signs being placed across our City. Council has acted quickly and removed these signs when advised or observed. Council is also aware of similar experiences in other council areas.

The City of Ryde took a number of actions in respect of the latest incident in April this year as detailed below;

- Media conference with the ABC and multilingual agencies
- Mayoral Minute in 3 languages that;
  - o Condemned those responsible for the distribution of racist material on our community, which is also an illegal act breaching the *Graffiti Control Act 2008* (NSW) and the *Anti-Discrimination Act 1977* (NSW);
  - o Acknowledged that our City is made richer by the many peoples and cultures who choose to live, work and learn in our community
  - o Confirmed Council's commitment to the 'Racism its stops with me' Campaign and continues to promote this initiative through city-wide communications and normal media channels
  - o Sought feedback from a number of community groups and committees on ways that Council can further promote multiculturalism and inclusiveness.

The City of Ryde has a very positive relationship with its local police command, who are very responsive to these issues. However, this matter just adds to everything else our police are supposed to do and additional resources for the police to focus on this issue are needed to ensure this matter gains the priority it deserves.

In an effort to address this inappropriate behaviour across NSW, the City of Ryde is seeking the support from this Conference to urge the NSW Government to provide additional resources to NSW Police.

**X39 Hawkesbury City Council** **NSW Government community engagement infrastructure projects**

That the NSW Government reviews its strategy for community engagement relating to current, future and proposed infrastructure projects.

**Note from Council**

In 2018, residents and community members from many local government areas across NSW have been impacted by the announcement of several large-scale projects, such as the Bells Line of Road – Castlereagh Connection Corridor, the Outer Sydney Orbital Corridor, the proposal to raise the wall of Warragamba Dam; or the commencement of construction for other projects such as the Sydney Metro Northwest. Due to the limited nature of the consultation, citizens have reported to their local councils that they feel uninformed, distressed by the suddenness of announcements, limited information that is provided, and powerless to affect the decision-making process by making submissions to NSW Government agencies.

Local councils are also affected by these types of projects, however are not provided with sufficient information and opportunities for dialogue to allow decisions to be made regarding future planning for infrastructure and service delivery at the council level.

In June 2018, the NSW Information and Privacy Commission (IPC) published a document entitled “Charter for Public Participation – A guide to assist agencies and promote citizen engagement”. The stated aim of the Charter is “to assist NSW agencies to seek effective public input into the development and delivery of policies and services.” The Charter is founded upon the object of the NSW *Government Information (Public Access) Act 2009* (GIPA Act), which is to advance government that is open, accountable, fair, and effective. We suggest that the eight principles for public participation, and other strategies suggested in the IPC Charter, should be considered by the NSW Government when conducting public participation activities.

We call on the NSW Government to review its strategy for community engagement relating to current and future infrastructure projects, with the aim of improving the timeliness, accessibility and transparency of its public participation activities relating to current, future and proposed infrastructure projects.

**X40 Randwick City Council** **Support for women and children affected by domestic violence**

That Local Government NSW writes to the NSW Premier, the Hon. Gladys Berejiklian MP, the NSW Minister for Women, the Hon. Tanya Davies MP, and the Hon. Pru Goward MP, NSW Minister for the prevention of domestic violence and sexual assault, calling for the following measures to be taken to support women and children affected by domestic violence:

- A substantial increase in direct funding for specialist services and crisis accommodation providers.
- Funding for affordable long-term accommodation.
- A substantial increase in direct funding of legal services.
- Transparent reporting of all spending on domestic and family violence programs.

**Note from Council**

Domestic and family violence has widespread and devastating impacts on women and children. On average at least one woman a week is killed by a partner or former partner in Australia. One in three Australian women has experienced physical violence since the age of 15. Domestic or family violence against women results in a police call out on average once every two minutes across the country. Of those women who experience violence, more than half have children in their care. Intimate partner violence contributes to more death, disability and illness in women aged 15 to 44 than any other preventable risk factor. Domestic or family violence against women is the single largest driver of homelessness for women. The combined health, administration and social welfare costs of violence against women has been estimated to be \$21.7b a year, with projections suggesting that if no further action is taken to prevent violence against women, costs will accumulate to \$323.4b over a 30 year period from 2014-15 to 2044-45.

## 5. INDUSTRIAL RELATIONS AND EMPLOYMENT POLICY

**X41 City of Newcastle** **Local Government Veterans Employment Program**

That Local Government NSW:

1. Acknowledges that the NSW Government's Veterans Employment Program has led to the over 500 veterans employed into the NSW public service since 2016;
2. Notes that while Veterans can experience barriers to employment following their Australian Defence Force careers, statistics indicate that employers and colleagues have a very positive experience working alongside veterans;
3. Notes that the skills veterans acquire in the ADF are highly transferable to public sector workplaces, particularly local government;
4. Writes to the Minister for Veterans Affairs, calling on the NSW Government to work with Local Government NSW, to develop a program to assist veterans to find employment in local government in NSW.

### **Note from Council**

The City of Newcastle is calling on the NSW Government to expand the NSW Veterans Employment Program by creating a program for local government.

## **6. GOVERNANCE/CIVIC LEADERSHIP POLICY**

### **X42 Gunnedah Shire Council**

### **Legislation changes required**

That Local Government NSW requests the NSW Government carry out a review of the Local Government Act orders and costs recovery powers to create a new system of powers and costs recovery mechanisms that will allow councils to simply and effectively address unsightly, untidy, overgrown and unhealthy properties in line with community expectations.

### **Note from Council**

The Gunnedah Shire Council constantly receive customer complaints from community members requesting that we take enforcement action on property owners that have residences or properties that are in a state of unsightly, untidy, overgrown, unsafe and unhealthy condition.

The legal costs involved in following through with these actions are considerable and the laws are such that any actions followed through by Council will most likely not achieve a positive result.

Council is seeking the NSW Government to review the orders provision in both the Local Government Act and the Environmental Planning and assessment Act to create a simplified process, limiting or removing, the need for legal action to confirm powers and enforce orders, to give councils a clearly defined ability to carry out the enforcement actions in all circumstances on behalf our communities.

### **X43 North Sydney**

### **Parking and storage of unattended property**

That NSW legislation concerning parking and storage of unattended property including but not limited to boats/trailers/rental bikes/small water craft be reviewed to facilitate local government authority to fine and impound such property to ensure fair and equitable usage of resources.

### **Note from Council**

Ongoing complaints from residents concerning long-term parking of trailers/boats in streets with limited car parking availability.

Large and increasing number of rental bikes left on footpaths/nature strips which under current State legislation cannot be removed unless deemed abandoned.

Limited storage and water access for small water craft requiring owners to utilise private property for same – see Council's recent community feedback.

### **X44 Wollondilly Shire Council**

### **Illegal dumping of cars**

That Local Government NSW lobbies the NSW Government to develop better options to assist councils dealing with illegally dumped cars in areas where currently its officers have no authorisation to impound.

### **Note from Council**

Council has recently experienced on-going issues with abandoned vehicles in both public and private places where Council is not authorised to impound these vehicles. This has resulted in long delays in the removal of these vehicles; increased vandalism, risk to public safety and fire risk to National Parks and Council's assets if these vehicles are torched.

### **X45 Wingecarribee Shire Council**

### **Councillor diversity within NSW councils**

That a report be prepared by Local Government NSW that outlines the current diversity amongst councillors within NSW councils, including the reasons for the varying levels of diversity across councils and a set of recommendations to promote diversity that better reflects community demographics. This report should be issued at least 15 months before the next NSW council election so individual councils can consider implementing recommendations as appropriate.

### **Note from Council**

Councillors in NSW local government are expected to represent and make decisions that are in the best interest of the whole community. As such, the governing body should broadly reflect the diversity of its community.

The Office of Local Government survey for the 2012 elections found that typically a councillor was a professional male, aged 60-69 years, who spoke English as a first language and did not identify as an Aboriginal or Torres Strait Islander.

There is a strong case to improve the diversity representation on councils throughout NSW. To achieve increased diversity within local government areas requires an understanding of the following:

- the current diversity and make-up of councils in NSW.
- what are the factors which encourage/enable or discourage/prevent diversity on councils.

**X46 Murrumbidgee Council****Difficulties facing merged councils**

That the Annual Conference support Murrumbidgee Council's call on NSW Government agencies to realign their regional boundaries to coincide with new boundaries created by merged councils.

**Note from Council**

Murrumbidgee Council is a new council formed from the merger of the former Jerilderie Shire and Murrumbidgee Shire Councils. At the time of merger the boundary of the majority of NSW Government agencies followed the common boundary between the two Councils. Since merger some progress has been made by agencies having adjusted their regional boundaries however council continues to be hampered in its progress by dealing with two different regions for some agencies where no alignment exists. Council deals with two local members, the member for Murrumbidgee and the member for Murray. We understand that this will be addressed in the future when the NSW government carries out electoral boundary realignment, however it continues to be one of the considerable sources of duplication hampering progress developing the new Council.

**X47 Bega Valley Shire Council****NSW State Election priorities**

That Local Government NSW develops a clear one page list of local government elections priorities to deliver to all parties for consideration and response prior to the State Election in March 2019.

**Note from Council**

The 2018 ALGA conference included a clear simple focus of priority items applicable to all members for presentation to all parties prior to the next Federal election.

These 12 priorities were presented in a powerful two page statement which can be adapted and presented by local councils to local candidates.



# FEDERAL RULES



[142N: Incorporates alterations of 23/04/2018 in matter R2018/5]  
Replaces Rulebook dated 01/03/2017

I CERTIFY under section 161 of the Fair Work  
(Registered Organisations) Act 2009 that the pages  
herein numbered 1 to 37 both inclusive contain a  
true and correct copy of the registered rules of the  
Local Government and Shires Association of New South Wales.

DELEGATE OF THE GENERAL MANAGER  
FAIR WORK COMMISSION

[IMPORTANT: Enquiries about these rules or other rules relating to this organisation which are currently in force may be directed to any office of the Fair Work Commission.]



## Contents

Rules of the Local Government and Shires Association of New South Wales

<b>CONSTITUTION</b>	<b>1</b>
<b>PREAMBLE – AMALGAMATION COMPACT</b>	<b>1</b>
<b>INTERPRETATION</b>	<b>1</b>
<b>OBJECTS</b>	<b>5</b>
<b>POWERS</b>	<b>6</b>
<b>MEMBERSHIP</b>	<b>7</b>
<b>REGISTER OF MEMBERS</b>	<b>9</b>
<b>ANNUAL SUBSCRIPTIONS</b>	<b>9</b>
<b>SPECIAL LEVIES</b>	<b>10</b>
<b>DISBURSEMENT OF MONIES RAISED BY LEVY</b>	<b>11</b>
<b>CONTROL AND GOVERNANCE OF THE ASSOCIATION</b>	<b>11</b>
<b>CONFERENCES</b>	<b>13</b>
<b>ANNUAL CONFERENCES</b>	<b>18</b>
<b>SPECIAL CONFERENCES</b>	<b>18</b>
<b>DELEGATES TO A CONFERENCE</b>	<b>18</b>
<b>BOARD OF DIRECTORS</b>	<b>19</b>
<b>ELECTION PROCESS FOR MEMBERS OF THE BOARD</b>	<b>22</b>
<b>GENERAL</b>	<b>22</b>
<b>ELECTION ARRANGEMENTS</b>	<b>22</b>
<b>CASUAL VACANCIES</b>	<b>22</b>
<b>SUSPENSION FROM OFFICE</b>	<b>23</b>
<b>REMOVAL FROM THE BOARD</b>	<b>24</b>
<b>BOARD MEETINGS</b>	<b>25</b>
<b>AUDITOR</b>	<b>26</b>

## CONTENTS

---

<b>FINANCE</b>	<b>27</b>
<b>CHIEF EXECUTIVE</b>	<b>29</b>
<b>ACCESS TO RECORDS</b>	<b>29</b>
<b>PATRON OF THE ASSOCIATION</b>	<b>29</b>
<b>AMENDMENT</b>	<b>30</b>
<b>NOTIFICATION OF DISPUTES</b>	<b>30</b>
<b>DISSOLUTION</b>	<b>30</b>
<b>CALCULATION DATE FOR ELECTION OF OFFICES IN 2017 – SPECIAL RULE</b>	<b>31</b>
<b>SCHEDULE A</b>	<b>32</b>
<b>SCHEDULE B</b>	<b>33</b>

## **Rules of the Local Government and Shires Association of New South Wales**

### **CONSTITUTION**

1. (a) The name of the Organisation shall be the Local Government and Shires Association of New South Wales (the “Association”) but may also be known as “[Local Government NSW]”.
- (b) The registered office of the Association is situated at Level 8, 28 Margaret Street, Sydney, New South Wales.

### **PREAMBLE – AMALGAMATION COMPACT**

2. (a) These Rules form part of the scheme of amalgamation for the amalgamation of the Local Government Association of New South Wales (“LGA NSW”) and the Shires Association of New South Wales (“SA NSW”) to form the Association.
- (b) These Rules are intended to reflect the compact between the LGA NSW and the SA NSW that their respective membership constituencies (that is, Metropolitan/Urban councils and Rural/Regional councils respectively) would, post the amalgamation, each have an approximately equal voice in the governance of the Association.
- (c) The principal means by which this compact is implemented in these Rules is through the composition of conferences of the Association and the Committee of Management (“Board of Directors”), and arrangements for alternative access to the office of President from the two different constituencies.

### **INTERPRETATION**

3. (a) Unless the context otherwise requires:

“Aboriginal Land Council” or “the ALC” means the New South Wales Aboriginal Land Council as constituted under the Aboriginal Land Rights Act 1983 (NSW).

“Act” or “the Act” means the Fair Work (Registered Organisations) Act 2009 (Cth).

“Administrator” means an Administrator appointed in accordance with the Local Government Act 1993 (NSW) or Division 2 of Part 11 of the Aboriginal Land Rights Act 1983 (NSW).

“ALC Region” mean a Region constituted under the Aboriginal Land Rights Act 1983 (NSW).

“Amalgamation” or “the Amalgamation” means the amalgamation between LGA NSW and SA NSW, each of which were organisations registered under the Act immediately prior to the amalgamation date.

## INTERPRETATION

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“Amalgamation date” means the date fixed by Fair Work Australia as the date upon which the Amalgamation and these Rules takes effect, being such date as Fair Work Australia determines but being no earlier than 1 March 2013

“Associate member” means a member who is not an Ordinary member.

“Association” means the Local Government and Shires Association of New South Wales, the Association governed by this Constitution.

“Badge” means all those records, signs and facilities that allow a person to be identified as and discharge the functions of a Delegate at a Conference.

“Board” or “the Board” means the Board of Directors of the Association, which is the Committee of Management of the Association for the purpose of the Act.

“calculation date” means the first day of March last occurring prior to a Conference, except for the purpose of calculating the voting entitlement of each member of the Association at the 2017 Annual Conference and in the 2017 elections for office at that Conference, where the provisions of Rule 76 shall apply.

“Chief Executive” means the most senior employee of the Association, whose position and general responsibilities are specified in Rule 70.

“Conference” means the Annual Conference or a Special Conference of the Association as provided by these Rules.

“Constitution” or “this Constitution” means these Rules as they provide from time to time.

“Council” means a council constituted under the Local Government Act 1993 (NSW) and the ALC but does not include a County council.

“Councillor” means a person elected or appointed to civic office under the Local Government Act 1993 (NSW), but does not include an Administrator.

“County council” means a County council established under Part 5 of Chapter 12 of the Local Government Act 1993 (NSW).

“Director” means a member of the Board including an Office Bearer (unless the contrary intention appears from the context).

“Delegate” means an elected member of a council or a member of the Board of the ALC, the LHIB, the NIRC or RLGB or an Administrator who are by virtue of this Constitution entitled to vote at a Conference.

“Financial year” means the period from July 1 in one year to 30 June in the following year.

## INTERPRETATION

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“LGA NSW”, means the Local Government Association of New South Wales, an organisation of employers registered under the Act until the Amalgamation Date.

“LHIB” means the Lord Howe Island Board as constituted under the *Lord Howe Island Act 1953* (NSW).

“Member” means a Council, County council, the ALC, the LHIB, the NIRC or a RLGB that is a member of the Association, whether as an Ordinary member or as an Associate member.

“Metropolitan/Urban County council” means a County council which is identified in Schedule A attached to these Rules as a Metropolitan/Urban County council.

“Metropolitan/Urban council” means a council which is identified in Schedule A attached to these Rules as a Metropolitan/Urban council.

“NIRC” means the Norfolk Island Regional Council as constituted under the *Norfolk Island Act 1979* (Cth).

“Office” has the same meaning as defined by section 9 of the Act, but to avoid doubt includes the office of Director.

“Office Bearer” means the President, Immediate Past President, Vice President (Metropolitan/Urban), Vice President (Rural/Regional) and/or Treasurer of the Association.

“Officer” has the same meaning as defined by section 6 of the Act, but to avoid doubt includes a Director.

“Ordinary member” means a member that obtains and retains ordinary membership pursuant to Rule 6 of these Rules.

“Political objects” means the expenditure of money:

- (i) on any contribution to the funds of, or on the payment of any expenses incurred directly or indirectly by, a political party;
- (ii) on the provision of any service or property for use by or on behalf of any political party;
- (iii) in connection with the registration of electors, the candidature of any person, the selection of any candidate or the holding of any ballot in connection with any election to a political office;
- (iv) on the maintenance of any holder of a political office; or

- (v) on the holding of any conference or meeting by or on behalf of a political party or of any other meeting – the main purpose of which is the transaction of business in connection with a political party (including any expenditure incurred in connection with the attendance of delegates or other participants).”

“Related local government body” or “RLGB” means an association, body corporate or body politic that is controlled by:

- (a) one or more Councils; or
- (b) An entity constituted under a law of the state of New South Wales to perform the functions of a council, other than a Council or County council.

In this definition:

- (i) A “related local government body” is controlled by a Council if that Council has the capacity to determine the outcome of decisions about the body’s financial and operational policies, and is controlled by more than one Council if those Councils concerned, acting jointly, have that capacity;
- (ii) In paragraph (b), the expression “the functions of a council” means those functions that are of a kind conferred on a council by the *Local Government Act 1993*, even if the entity concerned has other functions.

“Roll of Voters” shall mean all those Delegates of members of the Association who are, by virtue of these Rules, entitled to vote in the election of members of the Board.

“Rural/Regional County council” means a County council in the State of New South Wales other than a Metropolitan/Urban council.

“Rural/Regional council” means a council in the State of New South Wales which is a council in the said State which is other than a Metropolitan/Urban council.

“SA NSW” shall mean the Shires Association of New South Wales, an organisation of employers registered under the Act (until the Amalgamation Date).

- (b) Unless the contrary intention appears:
- the singular shall include the plural and vice versa, and a reference to one gender shall include a reference to the other gender;
  - headings are for convenience and do not affect meaning;

- schedules shall form part of these Rules; and
- a reference to any particular statute or regulation shall include any successor to or substitute legislation or regulation, as the case may be.

### OBJECTS

4. The objects of the Association shall be in New South Wales and elsewhere:
- (a) to encourage, promote, protect and foster an efficient and effective autonomous, democratic system of Local Government elected by and responsible to local communities with its position constitutionally guaranteed and with adequate resources including revenue from State and Commonwealth Governments;
  - (b) to promote, maintain and protect the interests, rights and privileges of Local Government in New South Wales and of the constituent members of the Association;
  - (c) to encourage and assist Local Government to seek out, determine, assess and respond to the needs and aspirations of its constituents;
  - (d) to encourage, assist, promote and foster the achievement and maintenance of the highest level of integrity, justice, competence, effectiveness and efficiency of Local Government;
  - (e) to develop, encourage, promote, foster and maintain consultation and co-operation between councils and Local, State and Commonwealth Governments and their instrumentalities;
  - (f) to develop, encourage, promote, foster and maintain the financial and economic well-being and advancement of Local Government and for such purposes to undertake, establish, acquire, conduct or dispose of any business, enterprise, undertaking or venture which in the opinion of the Association is necessary, desirable or convenient;
  - (g) to represent the members of the Association and Local Government generally in their dealings with State and Commonwealth Governments, with statutory and other corporations, with the media and with the public;
  - (h) to promote, support and encourage Local Government at a State and national level;
  - (i) to provide an industrial relations service to members including:
    - (i) representing the interests of members in industrial matters before courts and tribunals;
    - (ii) assisting in negotiations relating to the settlement of disputes between members and their employees;

## POWERS

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- (iii) representing the interests of members in negotiating the establishment of and/or variation of industrial awards and agreements;
- (iv) promoting training programs aimed at enhancing the performance of Local Government.
- (j) to undertake or promote any activity which the Board determines to be for the benefit and/or interest of members and local government in New South Wales.

### POWERS

5. The Association is empowered:

- (a) to purchase, take on lease or in exchange, hire, invest in and otherwise acquire any real and personal property and any interest therein and any rights or privileges and in particular any land, buildings, easements, machinery, plant, shares, debentures, mortgages and securities;
- (b) to enter into with any council or government or statutory authority, or any incorporated or unincorporated body or any association of persons, any arrangement, joint venture, union of interest or field of co-operation intended directly or indirectly to advance the interests or objects of the Association;
- (c) to apply for, promote and obtain any statute, order, regulation, ordinance or other authorisation or enactment which may seem calculated directly or indirectly to benefit the interests or objects of the Association and to oppose any bills, proceedings or applications which may seem calculated directly or indirectly to prejudice the Association's interests or objects;
- (d) to construct, improve, maintain, develop, manage, carry out or control any buildings and other works intended directly or indirectly to advance the Association's interests and to contribute to, subsidise or otherwise assist or take part in the construction, improvement, maintenance, development, working, management, carrying out or control thereof;
- (e) to invest, deposit, lend, pay out, grant, donate and deal with money of the Association in such manner as may from time to time be thought fit but subject to legislative requirements;
- (f) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments;
- (g) to borrow or raise or secure the payment of money in such manner as the Association may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the Association in any way and in particular by charges upon all or any of the Association's property (both present and future) and to redeem or repay any such securities;



- (h) to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Association;
- (i) to do all such other things as are incidental or conducive to the attainment of the objects, the furtherance of the interests and the exercise of the powers of the Association.

### MEMBERSHIP

- 6. (a) Membership of the Association shall be open to Councils, County councils in the State of New South Wales, the ALC, the LHIB, the NIRC and RLGB's.
- (b) Membership of the Association shall be limited to:
  - (i) Ordinary members; and
  - (ii) Associate members.
- (c) Any Council shall be eligible for Ordinary membership of the Association subject to compliance with the requirements of Rule 7 and payment of the prescribed annual subscription in accordance with Rule 13, Annual Subscriptions.
- (d) County councils and the ALC (each of which is referred to in this sub rule as an "entity") shall be eligible for Ordinary membership or Associate membership of the Association, at the election of the entity concerned, provided that:
  - (i) the original application for membership made by such entity complies with the requirements of Rule 7 and the prescribed subscription is paid in accordance with the requirements of Rule 13;
  - (ii) the election as to the category of membership that such entity wishes to make is communicated to the Chief Executive at the time of application for membership or, in the case of renewal of membership, not later than 21 days after the date upon which notice is given to the member by the Chief Executive pursuant to Rule 13 (c);
  - (iii) any such election shall remain in force for not less than 3 (three) financial years; and
  - (iv) where an entity that has made an election pursuant to this sub Rule is entitled to exercise a further election, a failure to exercise that election will be regarded as an election to remain in that entity's existing category of membership.

- (e) RLGB's, the LHIB and the NIRC shall be eligible for Associate membership of the Association subject to compliance with the requirements of Rule 7 and payment of the prescribed annual subscription in accordance with Rule 13, Annual Subscriptions. Where a RLGB covers or relates to a geographic area that falls within one or more Metropolitan/Urban councils and one or more Rural/Regional councils, that RLGB shall be included in the category of councils that is most appropriate by reason of the area of the State or the population of the State or of the category of councils it covers, or any combination of those factors, as determined by the Board. A RLGB may at not less than three (3) yearly intervals following commencement of its membership apply to the Board for reconsideration of its category allocation.
  - (f) Associate Membership of the Association confers on the Associate Member the right through its delegates to attend, participate and vote on resolutions proposed at conferences of the Association, and to participate in or receive such benefits or services as the Board shall deem appropriate for provision to Associate Members from time to time, but does not confer any right to have its delegates stand for or vote in elections for any office within the Association.
7. (a) An application for membership of the Association, whether as an ordinary member or as an associate member, shall be in writing, signed by the General Manager, to the Chief Executive.
- Upon receipt of an application for membership the Chief Executive shall inform the applicant in writing of:
- (i) the financial obligations arising from membership; and
  - (ii) the circumstances, and the manner, in which a member may resign from the Association.
- (b) Any application for membership of the Association shall be promptly submitted to the Board which may either approve or reject the application, but may only reject the application if it is not in accordance with these Rules or does not comply with the Act.
8. A member of the Association may resign from membership of the Association by written notice addressed and delivered to the Chief Executive. A notice of resignation from membership of the Association takes effect:
- (a) where the member ceases to be eligible to become a member of the Association:
    - (i) on the day on which the notice is received by the Association; or
    - (ii) on the day specified in the notice, which is a day not earlier than the day when the member ceases to be eligible to become a member;

whichever is the later; or

- (b) in any other case:
  - (i) at the end of two (2) weeks, or such shorter period as is specified in the Rules of the Association, after the notice is received by the Association; or
  - (ii) on the day specified in the notice;

whichever is the later.

- 9. A member shall cease to be a member in the following circumstances:
  - (c) the member resigns in accordance with Rule 8;
  - (d) the member is a council that is dissolved;
  - (e) the member fails to pay all or any monies due and payable to the Association pursuant to these Rules (whether by way of annual subscriptions or special levies or otherwise) for a period in excess of six (6) months after the due date;
  - (f) by order of a court in accordance with the Act.
- 10. When a member of the Association merges with another council or when a member is to be dissolved such member shall notify the Association of the change.

### **REGISTER OF MEMBERS**

- 11. The Chief Executive shall keep or cause to be kept a Register of Members in which shall be recorded the name and address of every member of the Association and whether the member is an Ordinary Member or an Associate Member of the Association. Such Register of Members may be inspected during the ordinary office hours of the Association in accordance with any relevant provisions of the Act.
- 12. An entry of the name of a member in the Register of Members shall be evidence of membership of the Association.

### **ANNUAL SUBSCRIPTIONS**

- 13. (a) All members must pay an annual subscription of such an amount as may be determined by the Board from time to time.
- (b) The Board may determine the amount of subscriptions to be paid by members and in doing so may determine different subscriptions for different classes of members as it sees fit.
- (c) The Chief Executive must give written notice to each member specifying the amount of its subscription.

## SPECIAL LEVIES

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- (d) A member's subscription is payable within thirty (30) days after notice of the amount of its subscription has been given to it. A member who is in arrears of subscriptions for more than thirty (30) days shall be regarded by the Association as an unfinancial member until such time as subscriptions are paid.
- (e) While soever a member is an unfinancial member that member shall not be entitled to any of the benefits or privileges of membership, including voting at any meeting, conference or election conducted within or by the Association, and shall be precluded from having any delegate or councillor stand for office in the Association.
- (f) Should a member join the Association after more than half of the financial year has expired then the subscription for the remaining period of that financial year shall be fifty (50) percent of the annual fee as may be determined by the Board.
- (g) Notwithstanding the above, the payment by a member or applicant for membership to the Local Government and Shires Association of New South Wales being an organisation registered under the *Industrial Relations Act 1996* (NSW) (the "State organisation") of the prescribed membership contribution or subscription shall constitute payment in full of the membership contributions and fees to the Association.

### SPECIAL LEVIES

- 14. (a) The Board may make a levy or levies on members from time to time to establish a fund or funds to defray any extraordinary expenditure (incurred or to be incurred) in carrying out a matter to further the objects of the Association.
- (b) The Board may determine, in respect of any particular matter, the amount of levy to be paid by members and in doing so may determine different levy amounts for different classes of members as it sees fit.
- (c) No levy is to be imposed on members for political objects and no donations or other payment for political objects is to be made out of amounts levied by the Association.
- (d) Where a special levy is made under this Rule, the Chief Executive shall give written notice to each member specifying:
  - (i) the amount of the special levy payable by it; and
  - (ii) the purpose for which such special levy is made.
- (e) Nothing in this Rule shall be taken to reduce, qualify or abridge the power of the Board to make arrangements with all, some or a group members for voluntary levies for particular purposes determined by the Board to be in the interests of the Association or some members of it.

**DISBURSEMENT OF MONIES RAISED BY LEVY**

15. Disbursements of monies raised by levy must be for the purpose for which the levy is made.
16. If the purpose for which a levy is made or completed or exhausted, and monies raised by levy remain unexpended, those monies must be reimbursed to members in proportion to the respective amounts of levies paid by members.

**CONTROL AND GOVERNANCE OF THE ASSOCIATION**

17. The Scheme for control and governance of the Association prescribed by these Rules is in summary form as follows:
  - (a) a Conference of all ordinary and associate members of the Association, which conference shall be the supreme policy making body of the Association;
  - (b) a Board of Directors which shall be responsible for the governance of the Association between Conferences, subject to the resolutions of any Conference from time to time;
  - (c) a Senior Executive Group to assist and make recommendations to the Board in relation to that Committee's responsibilities under these Rules;
  - (d) the President, who shall have the role of representing the Association between conferences and meetings of the Board, shall chair meetings of the Board and the Senior Executive Group, and may act on behalf of the Association between these meetings provided that all such action is consistent with the objects of the Association, any relevant resolutions of conferences and the Board and where there is any such resolution for the purpose of carrying out any such resolution;
  - (e) the Vice Presidents shall participate in Board and Senior Executive Group meetings, chair meetings where the President is unavailable (with the Vice President to chair any such meeting being that Vice President who is from the same group of councils as the President, unless that Vice President is also unavailable) and undertake such other duties as are conferred on those office by these Rules; and
  - (f) the Treasurer shall, subject to the responsibility of the Board under Rule 62, have overall responsibility for the financial administration of the Association, together with such specific duties as are conferred on that office by these Rules.
18. A Conference of the members shall be the supreme policy making body of the Association, and while a Conference is sitting the Conference shall have the control and governance of the Association, such that it may take any action or make any decision(s) for the furtherance of the objects of the Association as it may think fit, subject to compliance with these Rules provided that a Conference may not appoint or dismiss staff of the Association.
19. The Board is the Committee of Management of the Association for the purposes of the Act, and shall have the control and governance of the Association in between Conferences, such that it may take any action or make any decision during this time as it thinks fit for the furtherance of the objects of the Association in accordance with these Rules, provided that any such action or decision:

- (a) is consistent with any relevant policy decision of the members at a Conference; and
- (b) may be reviewed, amended or quashed by the members at a Conference, except in relation to the appointment or dismissal of staff.

Without limiting the generality of the foregoing the powers of the Board extend to the appointment and dismissal of the Chief Executive (see Rule 70), and to the appointment, constitution and dissolution of committees to investigate for and/or make recommendations to the Board in relation to particular matters falling within the objects of the Association. Any such Committee may, with the consent of the Board, co opt suitably qualified persons to assist the Committee with its work.

20. (a) The Senior Executive Group shall consist of :
- (i) the President, the Immediate Past President (if applicable) the two Vice Presidents and the Treasurer,
  - (ii) two directors chosen by and from the seven (7) directors representing Metropolitan/Urban members of the Association elected in the immediately preceding elections, and
  - (iii) two directors chosen by and from the seven (7) directors representing Rural/Regional members of the Association elected in the immediately preceding elections
- (b) The method of selection of the members of the Senior Executive Group other than the Office bearers shall be determined by the respective college (that is, as specified in paragraphs (20(a)(ii) and 20(a)(iii)) from which they are to be chosen.
- (c) No business shall be transacted at any meeting of the Senior Executive Group unless a quorum is present in person or by telephone or video-conference or a combination of these forms at the same time. The quorum for a meeting of the Senior Executive Group shall be fifty percent of the total number of Senior Executive Group members, plus one.
- (d) The Senior Executive Group shall have the following functions:
- (i) to make a recommendation to the Board as to who it ought appoint as Chief Executive;
  - (ii) to monitor the management of the Association by the Chief Executive, in accordance with and subject to all or any directions prescribed by the Board from time to time;
  - (iii) to develop service standards of the Association and priorities for it, and to monitor its performance;
  - (iv) to recommend to the Board the annual budget of the Association and to provide regular reports to the Board on financial performance;

## CONFERENCES

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- (v) to invest the funds of the Association in accordance with the policy determined from time to time by the Board;
  - (vi) to recommend to the Board the remuneration and/or allowances to be paid to the President, other office bearers and other directors;
  - (vii) to recommend to the Board any expenses policies for the Association;
  - (viii) to undertake such other functions as may be delegated to the Group by the Board provided that such functions are subject to supervision and directions for their exercise by the Board.
- (e) A member of the Senior Executive Group shall attend at all meetings of the Senior Executive Group unless granted leave of absence by or having reasonable excuse acceptable to the Senior Executive Group. A failure by a director to attend three consecutive meetings of the Board, the Senior Executive Group or a combination of both without leave shall be deemed to constitute a breach of the duties of a director under these Rules.
21. The President of the Association shall have, in addition to such powers as are specifically conferred on him or her by these Rules, the power to act on behalf of the Association between meetings of the Board, provided that such action(s):
- (a) are consistent with any resolution(s) of the Board, and
  - (b) are for the purpose of carrying out the objects of the Association,

PROVIDED THAT any such actions are consistent with any relevant policy decision(s) of a Conference of the members.

## CONFERENCES

### General

- 22 A Conference shall consist of Delegates from all Members of the Association provided that the Member must be financial on both the calculation date and on the date that the roll of voters closes as provided for in Schedule B. Where an Annual Conference does not involve elections for the Board, the roll of voters (for voting on motions) shall be deemed to close eight weeks prior to the first business day of the Annual Conference.

## CONFERENCES

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23. The voting delegation to which any Member of the Association is entitled at a Conference of the Association is determined in accordance with the following formula.

### STEP 1

Determine the number of delegates for each member (other than the ALC), by applying the latest population statistics for each council area either published by the Australian Bureau of Statistics (ABS) in ABS publication 3218.0 entitled 'Regional Population Growth Australia' or, where that publication does not contain population statistics for a Member, the latest such statistics as can be obtained from the ABS for that Member (even if on an estimate basis only) as at the calculation date for those Members that were financial on the calculation date, using the following scale:

Group No. (Councils other than County councils)	Population	Delegates
(1)	Up to 10,000	1
(2)	10,001 - 20,000	2
(3)	20,001 - 50,000	3
(4)	50,001 - 100,000	4
(5)	100,001 - 150,000	5
(6)	Over 150,000	7
County councils		
	each Metropolitan/ Urban County council	2
	each Rural/ Regional County council	1
LHIB		1
NIRC		1
Related local government bodies	Each RLGB	1

### STEP 2

- (a) If the ALC is a member of the Association at a time when the formula in this Rule is to be applied, allocate the ALC 9 delegates.
- (b) The 9 delegates from the ALC shall consist of one delegate from each of the 9 ALC Regions constituted under the Aboriginal Land Rights Act 1983 (NSW), each such delegate being a member of the Board of the ALC.



- (c) Treat each such ALC Region as being a Rural/Regional council for the purpose of the Table in Step 1 above, except for the Region for Sydney/Newcastle, which Region shall be treated as a Metropolitan/Urban council for the purpose of that Table.
- (d) The ALC shall notify the Association in writing not later than 28 days prior to the relevant Conference as to allocation of the nine ALC Regions between the nine members of the ALC Board, identifying which ALC Region is to be represented by which ALC Board member.

### STEP 3

Determine the total voting strength of the Metropolitan/Urban Councils and the Rural/Regional councils as follows.

1. Determine the total number of delegates from Metropolitan/Urban councils and County councils and the total number of delegates from Rural/Regional councils and County councils resulting from the application of Steps 1 and (if applicable) 2.
2. Then add to the total number of delegates from Metropolitan/Urban councils so determined the additional votes given to directors who are delegates from those councils pursuant to Rule 30 and add to the total number of delegates from Rural/Regional councils so determined the additional votes given to directors who are delegates from those councils pursuant to Rule 30.
3. Then add to the total number of delegates from Metropolitan/Urban councils so determined the number of delegates from any RLGB covering the geographic area of Metropolitan/Urban councils (if applicable), and add to the total number of delegates from Rural/Regional councils so determined the number of delegates from any RLGB covering the geographic area of Rural/Regional councils (if applicable).
4. Then add to the total number of delegates from Rural/Regional councils a vote for the delegate from the LHIB and NIRC (if applicable).

### STEP 4

If as a result of Steps 1 – 3 there is a greater number of delegates from the Rural/Regional category than the Metropolitan/Urban category, increase the total number of delegates from the Metropolitan/Urban category, so that that total number is the same as the total number of delegates from the Rural/Regional category, then distribute that additional number of delegates among the Metropolitan/Urban councils (except for the Sydney/Newcastle ALC Region and any RLGB), by attributing to each such council additional delegates in accordance with that council's proportion of the total population of all these councils, rounded off to the nearest whole number.

If as a result of Steps 1 – 3 there is a greater number of delegates from the Metropolitan/Urban category than the Rural/Regional category, increase the total number of delegates from the Rural/Regional category, so that that total number is the same as the total number of delegates from the Metropolitan/Urban category, then distribute that additional number of delegates among the Rural/Regional councils (except for the ALC, the LHIB, the NIRC and any RLGB), by attributing to each such council additional delegates in accordance with that council's proportion of the total population of all these councils, rounded off to the nearest whole number.

### STEP 5

If the adjustment required to be undertaken in Step 4 results arithmetically in a Metropolitan/Urban council or Rural/Regional council being entitled to more than 15 delegates, that council's delegation is capped at 15 delegates.

### STEP 6

Except in the case of the ALC, where any member that has less councillors holding office than the total number of votes to which that member is entitled pursuant to the application of the formula for determining votes under this Rule, the Council affected shall nominate the delegate (or delegates if applicable) who shall be allocated an extra vote . In the case of the ALC, the formula in Step 2 only shall apply.

Example: If a member is entitled to 10 votes but has only 8 councillors holding office, the Council affected will nominate in writing which 2 of those 8 councillors will have an extra vote each, the ultimate outcome being that 6 of the councillors will have 1 vote each and 2 of the councillors nominated by the Council will have 2 votes each.

### STEP 7

On each anniversary of the amalgamation date, carry out steps 1, 3 4, and 5 by reference to the population for each Council area published by the Australian Bureau of Statistics in that edition of ABS publication 3218.0 Regional Population Growth Australia last published prior to that anniversary.

[NOTE: the voting entitlement of Ordinary members in elections is dealt with in Rule 37.]

24. A Conference shall be presided over by the President, and in his or her absence by one of the Vice Presidents. Should neither of the Vice Presidents be present, a Director shall preside.
25. The quorum for a Conference shall be fifty per cent of the total number of delegates to the Conference, plus one. The business of a Conference shall not be conducted unless a quorum is present. In the event of the Conference not having a quorum:
  - (a) A record of the names of voting delegates that are present at the time be taken on return of the electronic handset and voting card.

## CONFERENCES

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- (b) Each constituent council be provided with advice on which of their voting delegates were present and which were not at the time the meeting became inquorate.
  - (c) That all constituent councils be provided with a report detailing which councils had voting delegates who were not present at the time the meeting became inquorate.
26. Subject to Rule 73 (Amendment), any question to be determined by a Conference shall be the subject of a resolution, and a resolution shall be regarded as adopted if it is supported by a majority of the delegates present who vote on the resolution, where the Conference is quorate in accordance with Rule 25.
27. (a) A Conference shall be conducted in accordance with Standing Orders.
- (b) Standing Orders do not form part of these Rules and may be varied by a resolution of Conference.
28. (a) The Association may establish groupings of members (“divisions”) which may consider and place motions before a Conference.
- (b) A Member may bring any matter falling within the objects of the Association before a Conference of the Association for opinion or action by forwarding a statement to the Chief Executive not less than twenty eight (28) days prior to the first day of the Conference and the Chief Executive shall, subject to any direction from the Board of the Association, place such business upon the Business Paper for the consideration of Conference;
- (c) Where the Chief Executive receives a statement from a Member that it wishes to bring a matter before a Conference and less than twenty eight (28) days notice has been given, the Board may allow the matter to be considered by the Conference as a late item;
- (d) A Conference may, should a majority of the members present so approve, consider any business not introduced as provided for by the foregoing paragraphs, subject to at least 24 hours notice thereof being given;

PROVIDED THAT the Board may exclude any business so proposed if the Board determines that such business concerns a matter not falling within the objects of the Association.

29. Subject to these Rules:
- (a) each Delegate shall be entitled to one vote only;
  - (b) except in an election for Office Bearers and Directors, the person presiding over a Conference shall in the case of an equality of votes have a casting vote.

## DELEGATES TO A CONFERENCE

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30. Office Bearers of the Association shall be entitled to speak on any matter before a Conference and furthermore any Director (whether an Office Bearer or not) shall be entitled to vote on any matter before a Conference, and in that regard have one vote as a Delegate and an additional vote as a consequence of being Director. In the case of a person presiding over a Conference, the right to a casting vote shall be in addition to the vote as a delegate and the vote as a Director.

### ANNUAL CONFERENCES

31. The Annual Conference of the Association shall be held each year at a time and place to be determined by the Board provided that no more than eighteen (18) months shall expire between successive annual general meetings.
32. The notice of the holding of an Annual Conference shall be forwarded to members at least four (4) months before the holding of the Annual Conference. The business paper shall be forwarded to members prior to the Annual Conference.

### SPECIAL CONFERENCES

33. (a) A Special Conference of the Association may be convened:
- (i) by the President; or
  - (ii) by resolution of the Board; or
  - (iii) by a petition signed by at least 10% of the member councils of the Association.
- (b) Where a Special Conference is called for under sub-rule (a) of this Rule the Chief Executive shall convene a Special Conference for a date not later than four (4) weeks after the receipt of the notice calling for the Conference.

### DELEGATES TO A CONFERENCE

34. (a) Each member shall nominate its Delegate(s) to a Conference by such date as the Chief Executive may specify. Thereafter no alteration to the list of delegates shall be permitted other than as hereinafter provided.
- (b) If it is desired to change the nomination of a delegate prior to the first day of the Conference written notice shall be given to the Chief Executive or his or her nominee of the name of the delegate being replaced and the name of the substitute delegate. Such notification shall be signed by either the Mayor or the General Manager of the Council, or in the case of the ALC, the LHIB, the NAIC or a RLGB, by the Chairperson or Chief Executive Officer of that entity. The badge of the delegate being replaced shall be surrendered by that person to the Chief Executive or his or her nominee and replaced with a new badge.

- (c) If it is desired to change the nomination of a delegate on or after the first day of the Conference written notice in accordance with sub-rule (b) of this Rule shall be given. In addition, the delegate's badge of the person being replaced as a delegate shall be surrendered to and destroyed by the Chief Executive or his or her nominee before a fresh badge is issued to the incoming delegate.
35. (a) Subject to clause 16 of Schedule B, a Delegate may not appoint a proxy to attend or vote at a Conference.
- (b) Nothing in sub-rule (a) of this Rule shall prevent the appointment of substitute delegates in accordance with Rule 34.

### BOARD OF DIRECTORS

36. (a) The Board of the Association (which may be referred to as “the Board of Directors”) is the Committee of Management of the Association and shall consist of a President, the Immediate Past President (where applicable under Sub Rules(b) hereof) two Vice-Presidents (one from a Metropolitan/Urban council and the other from a Regional/Rural council), a Treasurer and 14 Committee members (7 from Metropolitan/Urban councils and 7 from Regional/Rural councils).
- (b) Upon the election of a new President of the Association, the person who immediately preceded in office as the President shall assume the office of “Immediate Past president”, provided that a President who resigns or is removed during his term shall not assume the office of Immediate Past President.
- A person who assumes the office of Immediate Past President in accordance with this Sub Rule shall continue in that office for a maximum period of two (2) years. If after that period there is no new Immediate Past President (ie because the successor President is elected as President to serve an additional 2-year term), then the office of Immediate Past President shall lapse until a different person is eligible to assume the office of Immediate Past President.
- (c) All Directors, whether Office Bearers or not, are required to give proper and diligent attention to their duties to the Association, whether such duties are prescribed by these Rules or by the Act or any other law.
- (d) Without limiting the foregoing provisions of this Rule, a Director, whether an office bearer or not, is under a duty to the Association to comply with the provisions of the Association’s “Code of Conduct – members of the Board” as such Code provides from time to time.
37. (a) It shall be a prerequisite for any person to be nominated or elected to the Board of the Association, or to vote in such an election, that he or she be either a Councillor of a Council which is an Ordinary member of the Association or if the ALC is an Ordinary member, a member of its Board, provided that any such person who is suspended from office under either the *Local Government Act 1993* or the *Aboriginal Land Rights Act 1983*, as the case may be, shall not be eligible.

- (b) An Administrator of a Council that is an Ordinary member shall not be eligible for nomination or election as a member of the Board nor be entitled to vote in any such election.
  - (c) Each Council which is an Ordinary member shall be entitled to a maximum voting delegation for Board elections equal to the delegation to which such Council is entitled for voting at Conferences, as prescribed by the formula in Rule 23, and to avoid doubt each of the 9 delegates from the ALC Regions shall be entitled to cast only one vote each.
  - (d) In addition to the foregoing, a Director (whether an office bearer or not) shall have a right to vote in elections for the Board next occurring, in addition to any right to vote in such elections arising from being a delegate for a member.
38. Commencing from the Annual Conference first conducted after the Amalgamation Date, Directors shall be elected, or declared elected in the case of a secret postal ballot, biennially at an Annual Conference.
39. (a) As part of the compact between LGA NSW and SA NSW, referred to in Rule 2 of these Rules, it is intended that, so far as practicable, the office of President should alternate regularly between eligible candidates from Metropolitan/Urban councils and Rural/Regional councils. The following provisions of this Rule shall be interpreted in the light of that intention.
- (b) Subject to the limitations provided in the following provisions of this Rule, all Councillors for Ordinary members, or members of the Board of the ALC if it is an Ordinary member, are eligible to nominate for any election for the office of President. In this Rule, such person(s) shall be referred to as “eligible candidates” or “eligible candidate”.
  - (c) The electorate for the election of the President shall be Delegates of Ordinary members who are entitled to vote at a Conference.
  - (d) The term of office for the office of President shall be two years, commencing at the conclusion of the annual Conference in each alternate year, and concluding at the conclusion of the annual Conference in each alternate year thereafter. To avoid doubt, if such conferences should be more than two (2) years apart due to conference scheduling or venue arrangements, the President shall, subject to these rules, continue to hold office until the conclusion of the conference in the relevant alternate year.
  - (e) The eligible candidate elected as President may stand for re-election for President at the following election for President but may only serve two consecutive terms. This does not preclude that eligible candidate standing again for the office of President at a subsequent election for that office, if otherwise eligible.

- (f) If an eligible candidate from a Metropolitan/Urban council holds the office of President and, being eligible, nominates for a second term in that office, no other eligible candidate from a Metropolitan/Urban council is eligible to nominate for the office of President at such election.
  - (g) If an eligible candidate from a Rural/Regional council holds the office of President and, being eligible, nominates for a second term in that office, no other eligible candidate from a Rural/Regional council is eligible to nominate for the office of President at such election.
  - (h) If an eligible candidate has held the office of President for two consecutive terms (and thus may not nominate to the office of President for a third consecutive term) the only eligible candidates eligible to nominate for the next election for President are eligible candidates from the other category of councils to that from which the retiring President was an eligible candidate.
  - (i) If an eligible candidate holding the office of President vacates that office for any reason, the casual vacancy thereby occurring shall be filled in accordance with the provisions of Rule 44 and (if applicable) Rule 49. In such a case, the eligible candidate elected or appointed to fill the vacancy will be treated as having completed one term in that office, for the purposes of determining eligibility for re-election as prescribed by sub-Rule (e), unless the balance of the term of office after the occurrence of the vacancy is less than one year.
- 40
- (a) The office of Vice President (Metropolitan/Urban) shall be filled by election by an electorate that shall consist of those delegates entitled to vote at a Conference from Metropolitan/Urban councils that are Ordinary members and, if the ALC is an Ordinary member, the member of the Board of the ALC who is the delegate for the Sydney/Newcastle ALC Region. The persons entitled to stand for such office are Councillors from Metropolitan/Urban Councils that are Ordinary members and, where the ALC is an Ordinary member, the member of the board of the ALC for the Sydney/Newcastle Metropolitan Region.
  - (b) The office of Vice President (Rural/Regional) shall be filled by election by an electorate that shall consist of those Delegates entitled to vote at a Conference from Rural/Regional councils that are Ordinary members and, if the ALC is an Ordinary member, the members of the Board of the ALC who are delegates from those ALC Regions that are treated as Rural/Regional Councils for the purpose of Step 2 of Rule 23. The persons entitled to stand for such offices are Councillors from Rural/Regional councils that are Ordinary members, and if the ALC is an Ordinary member, the members of the board of the ALC who are delegates from those ALC Regions that are treated as Rural/Regional Councils for the purpose of Step 2 of Rule 23.
  - (c) The electorate for the election of the Treasurer shall be those delegates of Ordinary members who are entitled to vote at Conferences, together with the members of the board of the ALC if the ALC is an Ordinary member. The persons entitled to stand for such office are Councillors from Councils that are Ordinary members together with members of the Board of the ALC if it is an Ordinary member.

- (d) The various offices of other Directors (Metropolitan/Urban) shall be filled by election by an electorate that shall consist of those delegates entitled to vote at a Conference from Metropolitan/Urban councils that are Ordinary members and, if the ALC is an Ordinary member, the member of the Board of the ALC for the Sydney/Newcastle ALC Region. The persons entitled to stand for such offices are Councillors of Metropolitan/Urban Councils that are Ordinary members and, if the ALC is an Ordinary member, the member of the Board of the ALC for the Sydney/Newcastle ALC Region.
- (e) The various offices of other Directors (Rural/Regional) shall be filled by an electorate that shall consist of those delegates entitled to vote at a Conference from Rural/Regional councils that are Ordinary members, and, if the ALC is an Ordinary member, the members of the board of the ALC who are the delegates from those ALC Regions that are treated as Rural/Regional councils for the purpose of Step 2 of Rule 23. The persons entitled to stand for such offices are Councillors from Rural/Regional councils that are Ordinary members, and if the ALC is an Ordinary member, the members of the board of the ALC who are delegates from those ALC Regions that are treated as Rural/Regional Councils for the purpose of Step 2 of rule 23.
- (f) The term of office for Vice Presidents, Treasurer and the other Directors shall be the same as that for the President, as prescribed by Rule 39 (d), mutatis mutandis. All delegates holding these offices are eligible for re-election without limitation.

### **ELECTION PROCESS FOR MEMBERS OF THE BOARD**

#### **GENERAL**

- 41. Elections for Directors (including the Office Bearers) (hereafter “the elections”) shall be conducted by a Returning Officer appointed or authorised under the Act.

#### **ELECTION ARRANGEMENTS**

- 42. The elections shall be conducted in accordance with the requirements of Schedule B.

#### **CASUAL VACANCIES**

- 43. A casual vacancy on the Board of the Association occurs when a Director
  - (a) dies;
  - (b) resigns the position by notice in writing delivered or sent by post to the Chief Executive, and such resignation be accepted;
  - (c) is removed from office as a Director in the manner provided for in Rule 50; or
  - (d) ceases to be eligible under the Rules to hold office as a Director.



## SUSPENSION FROM OFFICE

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44. Subject to Rule 48, a vacancy in the office of President shall be filled as follows:
- (a) if the former President came from a Rural/Regional council the Vice-President (Rural/Regional) shall succeed to the office of President;
  - (b) if the former President came from a Metropolitan/Urban council the Vice-President (Metropolitan/Urban) shall succeed to the office of President.

If there be no such Vice-President then in office, the position shall be filled by the Board by the election thereto of a member of the Board.

45. Subject to Rules 48 and 48A, a vacancy in the office of Vice President or Treasurer shall be filled by the Board by the election thereto of a member of the Board.
46. (a) Subject to Rule 48, a vacancy in the office of a Board member shall be filled by the Board by the appointment thereto of the candidate at the most recent election for the Board from the appropriate category of councils for the vacancy who polled highest of the unsuccessful candidates at that election within that category of councils.
- (b) If there be no such candidate as contemplated by sub-rule (a) of this Rule, the position shall be filled by the Board by the election thereof of a person then qualified to hold such position.

[Note: this Rule can be applied to multiple vacancies – see the first dot point at the foot of Rule 3.]

47. A casual vacancy shall be filled within ninety (90) days of the occurrence of such vacancy provided, however, that non-compliance with this Rule shall not invalidate or otherwise prejudicially affect the proceedings of business carried out or performed by the Board during the continuance of any such vacancy beyond the said period of ninety (90) days.
48. Subject to rule 48A, where a casual vacancy or further casual vacancy is to be filled for so much of the part of the term as exceeds three quarters of the term of the office the vacancy shall be filled by way of secret postal ballot in accordance with the provisions appropriate to the election for the vacant office.

### SUSPENSION FROM OFFICE

- 48A. Notwithstanding any other provision of these Rules, where a casual vacancy occurs more than six months after the commencement of the term of the office concerned because a Director ceases to hold office by reason only of being suspended from office under the *Local Government Act 1993* or the *Aboriginal Land Rights Act 1983*, as the case may be, that vacancy shall not be filled unless that person subsequently becomes eligible to be elected a director by reason of the said suspension ceasing during the balance of the term of the relevant office. In such event the person so removed shall fill the vacancy, provided that person is otherwise eligible for such appointment. No other person will be eligible to fill that vacancy.

**REMOVAL FROM THE BOARD**

49. (a) The Board may remove from the Board any Director if the person has been found guilty, under the Rules of the Association, of:
- (i) misappropriation of the funds of the Association; or
  - (ii) a substantial breach of the rules of the Association; or
  - (iii) gross misbehaviour or gross neglect of duty.
- [Note: See Rule 36 and Rule 51: Failure by a member of the Board to attend three consecutive meetings of the Board, without leave, constitutes a breach of Rule 51 and gives rise to liability in the director to expulsion from office under (ii) or (iii) above.]
- (b) If a person is believed by the Board to be guilty of any of the offences specified in sub-rule (a) of this Rule the Board shall call on such person to appear before the next meeting of the Board to show cause why that person should not be expelled from his or her position on the Board.
  - (c) The person called to show cause pursuant to this Rule shall be given at least fourteen (14) days notice of the time and place of the meeting to which that person is called. The notice calling such person shall also specify the ground or grounds upon which it is proposed to consider such removal.
  - (d) The Board shall give to any person so called an opportunity to show cause why that person should not be removed from the Board.
  - (e) The Board may proceed to hear and determine the matter under this Rule notwithstanding the absence of the person called if due notice of the hearing has been given in accordance with this Constitution.
  - (f) Where the Board expels a person from the Board in accordance with these Rules, such expulsion shall operate from the date of the decision of the Board.
50. A person ceases to be a Director and vacates his or her position on the Board (by operation of this Rule and without any further action) upon him or her ceasing to be a Councillor of an Ordinary member, or otherwise ceasing under these Rules to be eligible to be a Director.

**BOARD MEETINGS**

51. The Board of the Association shall meet at least four (4) times each calendar year but shall meet at such additional times as may be required by the President or by requisition in writing to the Chief Executive signed by not less than five (5) directors. The meetings of the Board shall take place at such times and places as may be determined by the Board, and upon not less than forty eight (48) hours notice to its members. Wherever practicable, notice of any meeting of the Board shall be in writing and shall specify the nature of the business to be conducted at the meeting. Without limiting the generality of Rule 36, a director shall attend at all meetings of the Board unless granted leave of absence by or having reasonable excuse acceptable to the Board. A failure by a director to attend three consecutive meetings of the Board without leave shall be deemed to constitute a breach of the duties of a director as referred to in Rule 36.
52. Where the President or a majority of the Office Bearers of the Association believe that business should be considered by the Board before a scheduled meeting, the Board may meet by telephone or videoconference, or a combination of these forms of meeting or communication. Where any such meeting is conducted other than by way of all of the participants being present in person, such meeting shall be as valid as if all participants had met in person provided that:
  - (a) wherever practicable all directors are given at least seven (7) days notice of the time, date and agenda for the meeting; and
  - (b) a quorum of directors participate in the meeting by the chosen electronic means or in person.
53. Meetings shall be presided over by the President or, in his or her absence, by one of the Vice Presidents (with the Vice President to chair any such meeting being that Vice President who is from the same group of councils as the President, unless that Vice President is also unavailable); should neither of these be present, the Board may elect a chairperson.
54. The President or person so presiding over a Board meeting shall have control of the meeting and shall call upon members to speak. The person so presiding shall have an original and, in the case of an equality of votes, a second or casting vote.
55. (a) No business shall be transacted at any meeting of the Board unless a quorum is present in person or by telephone or video-conference or a combination of these forms at the same time. The quorum for a meeting of the Board shall be fifty percent of the total number of Board members then holding office, plus one.

## AUDITOR

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- (b) Subject to sub-rule (c), no business shall be transacted at any meeting of the Board unless a quorum is present in person or by telephone or video-conference or a combination of these forms at the same time.
  - (c) Where in the opinion of the President a matter requires the urgent consideration of the Board before a scheduled Board meeting, the Board may be consulted in writing (including electronic means) by flying minute. A motion put before the members of the Board by way of flying minute shall become a resolution of the Board as at the date set for return of responses, provided that the motion is supported by at least fifty percent of the total number of Board members, plus one. A resolution passed by way of flying minute shall be reported to the next Board meeting.
56. (Contents of Rule 56 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
57. (a) The Directors must cause minutes to be made of:
- (i) all appointments of Directors and officers;
  - (ii) the names of the Directors present at each meeting of the Directors;
  - (iii) all orders made by the Directors;
  - (iv) all declarations made or notices given by any Director (either generally or specifically) of their interest in any contract or proposed contract or of their holding of any office or property whereby any conflict of duty or interest may arise; and
  - (v) all resolutions and proceedings or all general meetings and meetings of Directors and retain the minutes in a minute book.
- (b) The minutes of a meeting must be signed by the chairperson of the meeting or the chairperson of the next meeting.
- (c) In the absence of evidence to the contrary, contents of the minute book that is recorded and signed in accordance with this Sub Rule (d) is evidence of the matters shown in the minute.
58. The Board may exercise any of its powers, duties and functions by itself or by direction to staff or agents of the Association.

### AUDITOR

59. (a) The Board shall appoint one or more auditors. Any person appointed as an auditor by the Board must be a registered auditor under the Act.
- (b) The position of auditor becomes vacant on the following grounds:
- (i) the written resignation of the appointed auditor; or

- (ii) a resolution by the Board passed at a meeting of the Board by an absolute majority of its members on one or more of the following grounds:
    - A. the service is executed to an unprofessional standard; or
    - B. the auditor's costs are considered excessive; or
    - C. if the person ceases to be a registered company auditor.
  - (iii) at the expiration of the term of appointment.
60. The Board may not remove a person as auditor during the person(s) term of appointment without each director and the auditor having been given fourteen (14) days notice of the intention to remove the auditor from office, and may not so remove the auditor(s) without giving the person(s) a reasonable opportunity to make oral submissions on the matter at a meeting of the Board.

### FINANCE

61. The sources from which the Association's funds may be derived are as follows:
- (a) amounts of entrance fees, subscriptions, fines, fees, levies or commissions received by the Association;
  - (b) interest, rents or dividends derived from investments of the Association's funds;
  - (c) the proceeds of any disposal of parts of the funds;
  - (d) any monies or credits received in pursuance of the Association's Objects, as defined in Rule 4, or in the exercise of Powers, as defined under Rule 5 of this Constitution.
62. (a) All moneys received for and on behalf of the Association shall be placed to the credit of the Association at such bank or such other financial institution(s) the Board shall direct and all cheques, promissory notes, draft bills of exchange and other negotiable instruments and all receipts and moneys paid to the Association shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such other manner as the Board may determine.
- (b) A loan, grant or donation must not be made by the Association unless the Board has approved the making of the loan, grant or donation and has satisfied itself:
- (i) that the making of the loan, grant or donation would be in accordance with these Rules; and
  - (ii) in the case of a loan - that, in the circumstances, the security proposed to be given for the repayment of the loan is adequate and the proposed arrangements for the repayment of the loan are satisfactory.

63. The Board shall have management of the Association's property and investment of funds.
64. The Association's funds shall only be expended on the objects of the Association.
65. The Association shall develop and implement policies and procedures relating to the expenditure of the Association.
66. (Contents of Rule 66 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
67. (Contents of Rule 67 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
68. (Contents of Rule 68 deleted due to statutory changes. See now Part 2A of Chapter 9 of the Act.)
69. In respect of each financial year of the Association the accounts and financial statements required to be prepared by the Association shall be prepared, audited, and presented to the Board and a Conference of the members (either Annual or Special as may be required) in accordance with the requirements of the Act, and without limiting the generality of the foregoing:
  - (a) as soon as practicable after the end of each financial year, the Association shall cause to be prepared a General Purpose Financial Report, to be prepared in accordance with the Australian Accounting Standards, from the financial records kept by the Association in relation to the financial year concerned;
  - (b) as soon as practicable after the end of each financial year, the Association shall cause to be prepared an Operating Report in relation to that financial year, the preparation of which Report shall be the responsibility of the Treasurer and staff of the Association acting under his or her instructions and directions;
  - (c) the Association's Auditor must audit the financial records of the Association for each financial year and must furnish to the Board his or her report in relation to that year within a reasonable time of having received the General Purpose Financial Report;
  - (d) the Association shall provide, free of charge to its members, either a full report in relation to each financial year (consisting of a copy of the Auditor's Report, the General Purpose Financial Report and the Operating Report) or if the Board so resolves, a Concise Report for the said financial year in accordance with the requirements of the Act;

- (e) the Report in relation to a financial year to be presented to members as referred to in the preceding sub-Rule shall be provided to members not less than 21 days before the Auditor's Report, the General Purpose Financial Report and the Operating Report are presented to a Conference of the members following the end of the relevant financial year of the Association;
- (f) the Auditor's Report, the General Purpose Financial Report and the Operating Report in respect of each financial year, shall be presented to a Conference of the members of the Association not later than six (6) months after the end of the relevant financial year or such longer period as may be allowed by a Registrar in accordance with the Act;
- (g) a copy of the Auditor's Report, the General Purpose Financial Report, the Operating Report and any Concise Report in respect of any financial year, shall be lodged with the Office of the Industrial Registrar not later than fourteen (14) days after the presentation of the said reports to a general meeting of the members of the Association.

#### **CHIEF EXECUTIVE**

70. The Chief Executive shall be appointed by the Board, which shall be responsible for determining the terms his or her conditions of employment and, if found necessary, the termination of the employment of the Chief Executive. In the exercise of these powers the Board will be guided by, but not bound by any relevant recommendations of the Senior Executive Group.

The Chief Executive shall be responsible for the day to day administration of the affairs of the Association and shall give effect to all directions given to him or her by the Board or, where the Board has authorised the Senior Executive Group or the President to give such directions, the Senior Executive Group or the President, as the case may be. The Chief Executive shall at all times act in accordance with and subject to such directions as are given to him or her pursuant to this Rule.

#### **ACCESS TO RECORDS**

71. (a) Except as provided under Rule 62, all records, books, documents, and securities relating to the management and governance of the Association shall be in the custody of the Chief Executive.
- (b) A member of the Association may access the records of the Association in accordance with and subject to the limitations for such access prescribed from time to time by the Act.

#### **PATRON OF THE ASSOCIATION**

72. (a) In order to recognise outstanding service to Local Government and to the Association, the position of 'Patron of the Association' is created, such position to be honorary only. It shall be open to serving or former elected members, including former Presidents of the Association, the LGA NSW or the SA NSW.

## DISSOLUTION

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- (b) In the case of serving or former elected members, the Annual Conference shall determine such appointment(s) on the recommendation of the Board.
- (c) In the case of former Presidents, the Board shall determine such appointment(s).

### AMENDMENT

73. (a) Subject to sub-rules (b) and (c) of this Rule, no alteration, amendment or rescission shall be made to this Constitution unless by resolution of a Conference adopted by a majority of the voting delegates and members of the Board in attendance at any such Conference.
- (b) The Board may make such amendments to the Rules of the Association as it deems fit, on the recommendation of the Fair Work Commission or the advice of the Association's legal advisors, for the following purposes:
- (i) to ensure that the Rules comply with the Act or any other law; or
  - (ii) to ensure that the Rules remain consistent with the Rules of the industrial organisation of the same name registered under the *Industrial Relations Act 1996* (NSW),
- and any such amendments shall be taken to be validly made if adopted by resolution at a duly convened meeting of the Board.
- (c) The Board may make such amendments to Schedule A of the Rules as it deems necessary to remove the names of councils and county councils that have been dissolved and to include the names of new councils and county councils that have been established as a result of the amalgamation of councils/county councils and/or the alteration of council/county council boundaries and any such amendments shall be taken to be validly made if adopted by resolution at a duly convened meeting of the Board.

### NOTIFICATION OF DISPUTES

74. Any industrial disputes may be notified to the appropriate court or tribunal under the Act in writing by the Chief Executive, or any Office Bearer authorised to do so by a resolution of the Board.

### DISSOLUTION

75. In the event that the Association is dissolved or wound up:
- (a) a member shall not be required to contribute to the payment of the debts and liabilities of the Association or the costs, charges and expenses of the dissolution or winding up in an amount which is more than 10% of the member's annual subscription for the financial year in which the dissolution or winding up takes place; and



- (b) any surplus funds remaining after the dissolution or winding up shall be paid to the members of the Association in the proportion which each member's subscription for the year in which the dissolution or winding up occurred bears to the total amount of subscriptions collected for that year.

**CALCULATION DATE FOR ELECTION OF OFFICES IN 2017 – SPECIAL RULE**

- 76. (a) This Rule shall apply notwithstanding any other provisions of these Rules, but shall only apply to the annual conference of the Association for 2017 and the elections for offices in the Association at that conference (“the 2017 elections”), and shall cease to apply upon the conclusion of the annual conference for 2017.
- (b) The calculation date for the purpose of calculating the voting entitlement of each member of the Association at the 2017 annual conference and in the 2017 elections shall be 9 October 2017, unless the Board determines by 30 April 2017 that all of the councils then in existence in the State of New South Wales had become financial members of the Association as at 1 March 2017, in which case the calculation date for the 2017 elections shall be 1 March 2017.
- (c) Any decision by the Board pursuant to sub-rule (b) of this Rule shall be communicated in writing to all members not later than seven (7) days after such decision is made.
- (d) To avoid doubt, the reference to “councils” in sub-rule (b) of this Rule includes any council that is subject to administration under the *Local Government Act 1993* (NSW) but does not include either the ALC or any county council.

**SCHEDULE A**

**METROPOLITAN/URBAN COUNCILS AND COUNTY COUNCILS**

See Definition in Rule 3

Metropolitan/Urban councils

Bayside; Blacktown; Burwood; Camden; Campbelltown; Canada Bay; Canterbury-Bankstown; City of Parramatta; City of Sydney; Cumberland; Fairfield; Georges River; Hawkesbury City; Hornsby; Hunters Hill; Inner West; Ku-ring-gai; Lane Cove; Liverpool; Mosman; Northern Beaches; North Sydney; Penrith; Randwick; Ryde; Strathfield; Sutherland Shire; The Hills Shire; Waverley; Willoughby; and Woollahra.

NOTE: The Sydney/Newcastle region of the ALC is treated under the Rules as being a Metropolitan/Urban Council – see Rule 23, Step 2, paragraph (c).

Metropolitan/Urban County councils

Hawkesbury River

End of Schedule A

**SCHEDULE B**

**RULES FOR CONDUCT OF ELECTIONS IF EXEMPTION IS APPROVED BY FAIR WORK  
COMMISSION/ INDUSTRIAL REGISTRAR**

General

1. The Board shall appoint a Returning Officer not being the holder of any other office in and not being an employee of the Association, and who shall not be a candidate at the election. [NB: under Act the Returning Officer for such elections will be an officer of either the Australian Electoral Commission or the State Electoral Commission, as the case may be, unless exemption is obtained under such legislation.]
2. The Returning Officer shall notify the Chief Executive that he or she is required to deliver a list of ordinary members entitled to vote in the election of members of the Board.
3. The Roll of Voters is to be determined by the Association in accordance with the requirements of Rule 37 and must be closed seven (7) days prior to the date upon which the Returning Officer calls nominations for an election pursuant to these Rules.
4. The Board may determine the form of any nomination form(s) subject to the requirements of the Act.
5.
  - (a) The Returning Officer shall cause an election notice inviting nominations for the office of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) and Board members to be published in the Association's official journal and sent to each Ordinary member council by post at least seven (7) weeks prior to the first business day of the Annual Conference in an election year. Such notice shall prescribe the time and date prescribed by these Rules for the closing of nominations.
  - (b) Nominations must be lodged with the Returning Officer, which may be done by electronic means, before the time and date specified for receipt of nominations.
6. The persons proposing and seconding a nomination for the offices of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) and Board members must be elected members of any Council, as defined in Rule 2, which is an ordinary member of the Association. Nominations shall be signed by the proposer and seconder, and consented to in writing by the candidate.
7. A candidate may nominate for more than one office or position that is subject to an election however, election to the offices of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) shall automatically exclude the candidate so elected from election to any other office or position on the Board.

## SCHEDULE B

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8. Nominations for the offices of President, Treasurer, Vice President (Rural/Regional), Vice President (Metropolitan/Urban) and Board members must reach the Returning Officer at least four (4) weeks prior to the first business day of the Annual Conference in the relevant year.
9. If the Returning Officer should receive a nomination that is defective, the Returning Officer shall not immediately reject the nomination but shall instead give the candidate concerned written notice of the defect and where practicable at least seven (7) days to remedy the defect.
10. A nomination for election may be withdrawn by a candidate, provided that notice of withdrawal in writing is received by the Returning Officer no later than seven (7) days before the holding of the ballot.
11. Details of nominations that have been accepted shall be placed before constituent councils before the Annual Conference.
12. Material (e.g. pamphlets, brochures, notices) which is intended or likely to affect voting in an election may not be distributed unless it contains the name and address of the person who authorised it and the name of the relevant political party.
13.
  - (a) In the event that for any office or position to be filled the number of nominations does not exceed the number of persons to be elected then the persons nominated shall be elected to those positions.
  - (b) Where the nominations received are insufficient to fill all vacancies, the Board at its first meeting after the Annual Conference at which it was elected shall determine whether the number and type of vacancies are such as to require that the vacancies be filled and if it so determines, request the Returning Officer to conduct a further election by way of a secret postal ballot of members to fill such vacancies. Such secret ballot shall be conducted in accordance with the requirements of these Rules for the conduct of elections, so far as they can apply to a secret ballot.

### Conduct of Elections at the Annual Conference

14.
  - (a) In the event of the Returning Officer receiving nominations in excess of the number of positions to be filled in any election for the offices of President, Treasurer, Vice President (Rural/Regional), or Vice President (Metropolitan/Urban), the election shall be conducted at the Annual Conference by way of a secret ballot using the standard preferential system of voting. Voters must mark a preference for all candidates.

Where two or more candidates have an equal number of votes, the candidate who is successful or is to remain in the count at an exclusion shall be the candidate first drawn by lot.

(b) In the event of the Returning Officer receiving nominations in excess of the number of positions to be filled in any election for the offices of other directors the election shall be conducted at the Annual Conference using the proportional system of voting, as described below.

Voters must mark a preference for all candidates.

To be elected, except as provided in the last paragraph of this Rule, a candidate needs to gain a certain proportion (or quota) of the formal votes. The quota is calculated by dividing the total number of formal first preference votes in the count by one more than the number of officers to be elected; and adding one to the result, disregarding any remainder.

The ballot papers are sorted according to the first preference on each paper.

If a candidate receives more first preference votes than the quota, they are immediately elected and, unless all vacancies have been filled, their surplus votes are passed on to the continuing candidates listed on the ballot paper; based on the voter's next available order of preference.

The transfer value of the surplus votes is calculated by dividing the elected candidate's total of surplus votes by the total number of the candidate's votes, and is applied to each of the ballot papers of the elected candidate. The result is taken to the fourth decimal point.

The number of votes to be transferred, disregarding any fraction, shall be added to the continuing candidate(s)' votes.

If any of those candidates who received the surplus votes now have more than the quota they are elected. Their surplus votes are transferred to the candidate listed as the next preference on all of the ballot papers. This is done by dividing the surplus votes by the total number of ballot papers the candidate has received (first preferences plus transferred ballot papers). This process continues until there are no more candidates with enough votes to be elected.

Where, on the counting of the first preference or on any transfer, more than one candidate has a surplus, the largest surplus shall be dealt with first.

Where two or more surpluses are equal, the surplus of the candidate who was the highest on the poll at the count or transfer at which they last had an unequal number of votes shall be dealt with first, and, if they have had an equal number of votes at all preceding counts or transfers, the Returning Officer shall decide by lot which candidate's surplus shall be dealt with first.

To fill any remaining places not filled by the above process, the candidate with the smallest number of votes is excluded and votes for this candidate are transferred to the remaining continuing candidates. This is done at the value at which the votes were received by the candidate to be excluded. When the transfer of these preferences gives a candidate a quota, that candidate is elected.

Where at any time it becomes necessary to exclude a candidate, and two or more candidates have the same number of votes and are lowest on the poll, then whichever of such candidates was lowest on the poll at the last count or transfer at which they had an unequal number of votes shall be first excluded, and if such candidates have had an equal number of votes at all preceding counts or transfers the Returning Officer shall decide by lot which candidate's votes shall be distributed.

Where the contest for the last seat is close, it is common for the final two continuing candidates to both have less than a quota. In this case, the continuing candidate with the highest number of votes is elected.

15.
  - (a) Where an election is required at the Annual Conference, the voters in such an election shall be the Delegates who are by virtue of Rule 37 of the Association's Rules entitled to vote in such election.
  - (b) The Returning Officer shall issue the ballot paper(s) to the voters, such ballot paper(s) to include:
    - (i) the Returning Officer's initials;
    - (ii) the name of each candidate for the office/position to be filled, including the candidates declared current registered political party membership;
    - (iii) such other information as the Returning Officer deems appropriate.
16. If a delegate of a member or a member of the Board cannot for any reason be present at the Conference to vote in any election (hereafter referred to as "the absentee"), the absentee may by notice in writing signed by the absentee and delivered to the Returning Officer before 5pm on the business day immediately prior to the first business day of the Conference appoint another delegate from the same member to exercise the absentee's right to vote in the election.
17. Where required, the ballots shall be conducted in the following manner, to the extent practicable:
  - (a) the ballot for the office of President shall be conducted first;
  - (b) after the completion of the ballot for President, the ballot for the office of Treasurer shall be conducted next;

## SCHEDULE B

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- (c) the ballots for the offices of Vice President (Rural/Regional) and Vice President (Metropolitan/Urban) shall be undertaken after the ballot for the office of Treasurer;
- (d) the ballots for Board members shall be conducted after all previous elections are completed.

Every person concerned in the ballot shall ensure as far as practicable that no irregularity occurs in the ballot.

### Scrutineers

- 18. Each candidate at any election shall have the right, if he or she so desires, to appoint before the closing of the ballot a scrutineer to represent him or her in the ballot, and shall give notice of any such appointment of a scrutineer in writing to the Returning Officer. The Association may appoint an employee of the Association to scrutineer for it at any election by giving notice in writing of such appointment to the Returning Officer.
- 19. Every scrutineer shall, so far as is possible having regard to the time of their appointment, have the following rights and duties:
  - (a) to be present with the Returning Officer when the ballot papers are being handed out to voters and to watch the interests of the person whom they represent; and
  - (b) to be present with the Returning Officer when the ballot papers are opened and when the votes are counted and to watch the interests of the person whom they represent, but no election shall be vitiated by reason of the fact that a scrutineer did not exercise any or all of their rights or duties if they had a reasonable opportunity to do so.
- 20. Scrutineers shall have the right to question the inclusion or exclusion of any ballot paper but the decision of the Returning Officer shall, subject to the Act, be final.
- 21. Scrutineers may not remove, mark, alter or deface any ballot paper or other documents used in the ballot.

End of Schedule B

\*\*\*END OF RULES\*\*

# ANNUAL CONFERENCE 2018 FEEDBACK SURVEY

**1. Which best describes your role:**

Mayor    Councillor    General Manager    Sponsor/supporter    Other: \_\_\_\_\_

**2. What area are you from?**

Metropolitan area    Regional/rural area

**3. Is this the first LGNSW Annual Conference you have attended?**

Yes    No   If no, how many have you attended? \_\_\_\_\_

**4. The LGNSW Annual Conference is designed to be the pre-eminent policy making event for NSW local government. How effective do you think the Conference was in achieving that objective?**

Extremely effective	Effective	Somewhat effective	Neutral	Somewhat ineffective	Ineffective	Not at all effective
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**5. The LGNSW Annual Conference provides opportunities for people in the sector to meet and share information. How effective was the Conference for this purpose?**

Extremely effective	Effective	Somewhat effective	Neutral	Somewhat ineffective	Ineffective	Not at all effective
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**6. What are the main benefits of attending the Conference**

Meeting others in similar roles    Voting: LGNSW Board Elections    Gaining a broader perspective on local government issues

Policy making    Sharing information and ideas

**7. Did you download the Conference App?**

No    Yes   Comments: \_\_\_\_\_

**8. Rate the following sessions:**

	Excellent	Very Good	Good	Average	Below Average	Poor	Did not attend
AR Bluett Award winners w'shop	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Elected members, legal responsibilities w'shop	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Elected members, capabilities w'shop	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Hon. Gladys Berejiklian MP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Hon. Gabrielle Upton MP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ALGWA Breakfast	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator the Hon. Bridget McKenzie	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr Stephen Jones MP	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr David O'Loughlin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Smart Places facilitated session	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Hon. Peter Primrose MLC	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Craig Reucassel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Steven Bradbury OAM	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



**9. Which of the following do you think is important to have at the Conference?**

- Discussion of Conference motions       Keynote speakers       Ministerial addresses  
 Trade exhibition       Gala dinner

Other: \_\_\_\_\_

**10. The Gala dinner was held in the middle of the Conference this year. Should the same occur next year?**

- Yes       No       Don't mind

Comments: \_\_\_\_\_

**11. Rate the following aspects of the Conference:**

	Excellent	Very Good	Good	Average	Below Average	Poor	Did not attend
Conference organisation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Conference venue	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social program (welcome reception and Gala dinner)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trade exhibition	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Meals/catering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ease of booking/registering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Comments: \_\_\_\_\_

**12. What did you like most about the Conference?**

\_\_\_\_\_  
\_\_\_\_\_

**13. Overall, how satisfied were you with this year's Conference?**

- Extremely satisfied      Very satisfied      Satisfied      Somewhat satisfied      Not at all satisfied

**14. Did you visit the trade exhibition?**

- Yes       No      If no, why? \_\_\_\_\_

**15. Are there particular products/services you would like to see at next year's trade exhibition?**

\_\_\_\_\_

**16. Did you visit the LGNSW booth at the Conference?**

- No       Yes      If yes, why? \_\_\_\_\_

**17. Please suggest any speakers, topics or changes to improve next year's Conference**

\_\_\_\_\_  
\_\_\_\_\_

**18. General comments and feedback**

\_\_\_\_\_  
\_\_\_\_\_

**Thank you for completing our survey. Please hand to a staff member/leave at LGNSW booth**