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# **SUPPLEMENTARY BUSINESS PAPER**

## **GENERAL MEETING**

**Wednesday, 16 May, 2012  
at 6:30 pm**

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Corporate and Community Division  
Date of Meeting: 16/05/2012

## **17 LOCAL GOVERNMENT ASSOCIATION OF NSW AND SHIRES ASSOCIATION OF NSW - PROPOSED AMALGAMATION INTO ONE ASSOCIATION**

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### **EXECUTIVE SUMMARY**

The President of the Local Government Association of NSW (LGA) has advised that the Executive Committees of both the LGA and the Shires Association of NSW (Shires Association) have taken important formal steps for progressing the proposal to establish "One Association" to the next stage i.e. to have the proposal submitted to a secret postal ballot of delegates of the members of each Association.

Council has been requested to supply an up to date list of its seven voting delegates for the proposed ballot. Once Council determines its voting delegates, staff will advise the LGA and provide details of the private mailing address of each Council delegate such that they can be included in the Roll of Voters.

### **PURPOSE/OBJECTIVE**

The purpose of this Report is to table correspondence received from the LGA and recommend that Council determine its seven delegates to vote on the proposal to amalgamate the LGA and the Shires Association.

### **DISCUSSION**

Advice has recently been received from the President of the LGA that the Executive Committees of both the LGA and the Shires Association have taken important formal steps for progressing the proposal to establish "One Association" to the next stage i.e. to have the proposal submitted to a secret postal ballot of delegates of the members of each Association. A copy of the letter from the President and an Update and Status Report from the LGA is attached.

On 17 April 2012, in the case of the Shires Association, and on 20 April 2012 in the case of the LGA, a number of formal resolutions were adopted authorising the two Associations to jointly apply to Fair Work Australia for its approval for the submission of the proposed amalgamation to ballot. As a result of the resolutions being passed by both Executive Committees, the Application was lodged on 20 April 2012 and a hearing before Fair Work Australia is now awaited. Once Fair Work Australia gives its approval, the conduct of the vote will be handed to the Australian Electoral Commission who will independently manage the voting process.

As a consequence of the above, Council has been requested to supply an up to date list of its voting delegates for the proposed ballot. The LGA has asked that this be undertaken as a matter of priority to ensure that the completion of the ballot is not delayed. In accordance with the rules of the LGA, Council is entitled to seven voting delegates as the Shire's population is over 150,000. Once Council determines its voting delegates, staff will advise the LGA and provide details of the private mailing address of each Council delegate such that they can be included in the Roll of Voters.

The LGA has advised that it will continue to provide regular communications as the matter progresses through what is now the critical stages of this important initiative.

**BUDGET**

There are no budgetary implications associated with this Report.

**POLICY**

There are no policy implications associated with this Report.

**CONSULTATION**

There was consultation with the General Manager in the preparation of this Report.

**RESPONSIBLE OFFICER**

The officer responsible for the preparation of this Report is the Executive Manager, Corporate and Community Division – Mr Gary Bensley – who can be contacted on 9847-6605.

**RECOMMENDATION**

THAT

1. Council nominate its seven delegates to participate in the vote to determine if the Local Government Association of NSW and the Shires Association of NSW should be amalgamated into One Association.
2. Staff advise the Local Government Association of NSW of the seven voting delegates, and their private mailing addresses, such that the delegates can be included on the Australian Electoral Commission's Roll of Electors.

GARY BENSLEY  
Executive Manager  
Corporate and Community Division

**Attachments:**

1. Letter from Local Government Association of NSW dated 2 May 2012

File Reference: F2004/07180-02  
Document Number: D01919234

## Local Government Association of NSW

2 May 2012

Mr Scott Phillips  
General Manager  
Hornsby Shire Council  
PO Box 37  
HORNSBY NSW 1630



Dear Mr Phillips,

### ONE ASSOCIATION - URGENT - LIST OF DELEGATES AND ADDRESSES FOR VOTING

Last week the Executive Committees of both Associations each separately took important formal steps for progressing the proposal to establish "One Association" to the next stage, which is to have the proposal submitted to a secret postal ballot of delegates of the members of each Association.

On 17 April 2012, in the case of the Executive Committee of the Shires Association, and on 20 April 2012 in the case of the Executive Committee of the Local Government Association, a number of formal resolutions were adopted authorising the two Associations to jointly apply to Fair Work Australia for its approval for the submission of the proposed amalgamation to ballot.

As a result of the resolutions being passed by both Executive the Application was lodged on Friday afternoon 20 April 2012 and a hearing before Fair Work Australia is now awaited.

If, as is hoped Fair Work Australia gives its approval in the near future, the conduct of the vote will be handed to the Australian Electoral Commission who will independently manage the voting process.

Members will be required to supply an up to date list of their voting delegates for this ballot and this process needs to be undertaken as a matter of priority, to ensue that the completion of the ballot is not delayed.

### WHAT COUNCILS NEED TO DO NOW

All Councils need to supply the following to the Association by 31 May 2012:

1. The full name of their voting delegate/s; and
2. The private mailing address of their delegate/s.

The Association's staff will be following up with all members about this important information over the next few weeks, and to assist with any enquiries you may have.

In addition, your Association will be providing you with regular communications as this matter progresses through what is now the critical stages of this important initiative.

To assist you with this matter I enclose a report which I urge you to provide to your next available Council meeting.

If you have any enquiries at this stage please contact Peter Coulton at the Associations on 9242 4030.

Yours Sincerely,

Cr Keith Rhoades AFSM  
President

RECEIVED

- 7 MAY 2012

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ATTACHMENT 1 - ITEM 17

**One Association – Update & Status Report****May 2012****Summary**

This report provides Council with an update regarding the progress towards One Association, outlines next steps and outlines what Council needs to do next. A number of Frequently Asked Questions are also provided with answers to assist Council with their discussions surrounding this very important matter.

**Report****Status as at end April 2012**

On the 17 April 2012 the Shires Executive and on 20 April 2012 the Local Government Association Executive passed the formal resolutions required to progress the One Association matter to go to a vote of the members' delegates.

The Shires Association Executive unanimously resolved in favour of the resolutions. The Local Government Association Executive adopted the resolutions by a majority of 21 to 3.

The formal documentation has been lodged with Fair Work Australia. Shortly Fair Work Australia will engage the Australian Electoral Commission to undertake the secret postal ballot of members' delegates.

It is important to note that there are actually two separate secret postal ballots; one will be a ballot of LGA member's delegates, and the other will be a ballot of SA members' delegates. Both ballots need to achieve a majority of "yes" votes to enable the formation of One Association.

It is anticipated that the ballots will occur before the September 2012 Local Government general elections but exact timing will depend on Fair Work Australia.

**What Councils need to do**

All Councils need to supply the following to the Association by 31 May 2012:

1. The full name of their voting delegate/s, and,
2. The private mailing address of the delegate/s

This is very important as the Association is required to prepare the Roll of Voters for the Australian Electoral Commission.

**Frequently Asked Questions**

Q: *Why is the ballot being held before the September elections?*

A: This process has been ongoing for many years. Current Councillors should be aware of the progress of the matter. If the ballot is held over until after the 2012 general elections new councillors will not be aware of the history or the process and would not be in a position to make an informed decision.

Q: *When would One Association take affect?*

A: Assuming that the majority of delegates vote "yes" forming One Association would not take place until after 1 March 2013, but no later than 2 June 2013. Even after a positive vote there is significant work to be done in conjunction with Fair Work Australia as well as making provision for the numerous administrative changes which would have to take place, such as transferring assets and transitioning staff. The transition however needs to take effect before 2 June 2013 otherwise the Shires Association would need to hold fresh Executive elections.

Q: *Why is the ballot a secret postal ballot?*

A: Because it is a requirement under the Fair Work (Registered Organisations) Act. The Associations have no choice in this decision.

Q: *Has there been enough consultation?*

A: The issue of One Association has been discussed over many years. In more recent times it has been discussed:

- At the 2003 LGA Conference
- At the 2004 SA Conference
- At the 2004 LGA Conference
- As part of the 2005 Woods/Wearne report titled "Options for One Local Government Association in NSW"
- At the 2005 SA Conference
- At the 2005 LGA Conference
- At the 2006 SA Conference
- At the 2006 LGA Conference
- At the 2007 SA Conference
- At the 2007 LGA Conference
- At the 2008 SA Conference
- At the 2008 LGA Conference
- At the 2009 SA Conference
- At the 2009 LGA Conference
- At the One Association Convention held in August 2010
- At the 2010 LGA Conference
- In February 2011 the Associations sent all Councils a draft Constitution requesting feedback and comments
- In February 2011 the SA held a Special Conference to discuss the Principles set out at the 2010 Convention
- At the 2011 SA Conference
- In November 2011 the Associations sent all Councils a further draft Constitution requesting feedback and comments

In addition there have been numerous presentations made to all Shires Divisional meetings at various times, and to various LGA ROC meetings and in other forums.

Q: *Why is there no "No" Case?*

A: There are two reasons, firstly the Fair Work (Registered Organisations) Act does not require a "No" case to be prepared because it presumes a process towards an amalgamation would not have started in the first place unless it had been directed by members – which is the case in this instance. The issue of One Association has arrived

at the stage of a ballot after repeated Conference resolutions calling for a single Association. It is not in the interests of the Association to prepare a case which cuts across the wishes and resolutions of the majority of our members.

Q: *How many voting delegates does my Council have for the secret postal ballot?*

A: The numbers are calculated under the current rules of each Association, so for:

- Shires Association members, each has one voting delegate, and for
- Local Government Association Members it depends on the member's population, and is calculated in accordance with the following scale:

Group No.	Population	Delegates
1	Less than 10,000	1
2	10,000 - 20,000	2
3	20,000 - 50,000	3
4	50,000 - 100,000	4
5	100,000 - 150,000	5
6	Over 150,000	7
7	County councils	2
8	Aboriginal Land Council	27

(To independently determine a Council's population see the latest release of Australian Bureau of Statistics publication 3218.0)

Q: *Can Associate members vote?*

A: No, only ordinary members can vote in the secret ballot. The Fair Work (Registered Organisations) Act treats this ballot the same as if it was a ballot for the election of members of the Executive.

Q: *How does voting work under One Association:*

A: One of the key principles to come from the One Association Convention held in August 2010 was to enshrine the concept that the overall voting numbers of the rural/regional area would be the same as the overall voting numbers of the Metropolitan/Urban areas. This was covered as Principles 4 and 5, and was, with the other Principles ratified by subsequent Conferences of both Associations. These Principles say:

- 4 *"For the purpose of voting for the Board of Directors, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote."*
- 5 *"For the purpose of voting on motions at Conference, each region will have an equal number of votes, which will be distributed proportionally on a basis to be determined among those ordinary member councils who fall within that region, with all ordinary member councils receiving at least one vote."*

The voting arrangements satisfy the overarching requirements of equality among the regions. What this means in effect is that councils in the same region with similar populations will have the same number of votes, but this will not always be the case for similar sized councils in different regions. The reason for this is the difference in council numbers between the regions, the Rural/Regional Region has 114 general purpose Councils, 10 County Councils and 8 Regional Aboriginal Lands Councils. The Metropolitan/Urban Region has 38 general purpose Councils, 2 County Councils and 1 Regional Aboriginal Lands Council. Due to the larger number of Councils in the Rural/Regional Region additional votes needed to be allocated to the Councils in the Metropolitan/Urban Region to balance the overall voting numbers.



Q: *But is this "fair"*

A: The One Association rules have been developed to ensure equity across the membership in a number of ways. Importantly, the One Association rules provide that only Rural/Regional voting delegates are able to vote for the 10 Rural/Regional Board members and the Rural/Regional Vice President in the same way that only Metropolitan/Urban voting delegates are able to vote for the 10 Metropolitan/Urban Board members and the Metropolitan/Urban Vice President. It makes no difference if a Metropolitan/Urban Council with the same population has a different number of voting delegates to a Rural/Regional Council with a similar population as they won't be voting for the same candidates in the same elections.

For the positions of President and Treasurer both regions have the same number of votes in total. This will allow for these positions be popularly elected overall – however, the rules also ensures that the position of President must alternate between the Metropolitan/Urban and Rural/Regional areas. This further enhances the equity.

Similarly with Conference motions, both Regions have the same overall numbers. This provides for Association policy to be made which has the sanction of the majority of members, and ensures that no Region can dominate the other.

Q: *What about the Assets of my current Association?*

A: The assets of both Associations will be merged together on the amalgamation date. Neither Association will be financial detrimentally affected in any consequential way by this merger. To illustrate this we need to use the last full year's financial statements, 2010/2011 which showed the total equity of each Association as follows:

	Total Equity (\$)	% Equity	Subscriptions \$	% Subscriptions
LGA	19,015,275	66.19	2,876,208	65.77
SA	9,713,269	33.81	1,496,629	34.23
<b>Total Combined</b>	<b>28,728,544</b>	<b>100.00</b>	<b>4,372,837</b>	<b>100.00</b>

The Associations' Rules (and the rules for the new One Association) provide that if the Association is dissolved any surplus funds are paid to the members in the proportion which each member's subscription for the year bears to the total amount of subscriptions for that year.

What this means is that had the Associations dissolved at the end of the 2010/11 financial year the members of each Association would have received in total the complete equity of their Association, that is, for the LGA members 100% X \$19,015,275 and for the SA 100% X \$9,713,269.

If the Associations had merged and immediately dissolved at the end of the 2010/11 financial year:

LGA members would have received: 65.77% of \$28,728,544 = \$18,894,763  
 SA members would have received: 34.23% of \$28,728,544 = \$9,833,781

The overall affect would be:

	No Merge \$	Merge \$	Difference \$
LGA	19,015,275	18,894,763	(120,512)
SA	9,713,269	9,833,781	120,512
<b>Total Combined</b>	<b>28,728,544</b>	<b>28,728,544</b>	<b>0</b>

For this example, at this point in time, the LGA members combined would be "worse off" by \$120,512 on dissolution, and SA members combined would be "better off" by the same amount. On an individual Council basis Association's calculations have shown the "worse off" Councils range in dollar terms from (\$43.05) to (\$2,202.46) while the "better off" Councils range in dollar terms from \$165.47 to \$2,457.64. As the combined difference represents less than half a percent of overall total equity ( $\$120,512/\$28,728,544 \times 100 = .419\%$ ) it is not considered significant.

**Recommendation:**

That Councillor/s ~~XXXXX~~ be nominated as Councils voting delegates to take part in the forthcoming secret postal ballot to deal with the matter of One Association, and that their names and personal postal addresses be forwarded to the Associations to form the Roll of Voters.