

The Hon. Senator Claire Moore
Chairperson, Community Affairs – Legislation Committee
Australian Senate
Parliament House
Canberra ACT 2600
Australia

11 May 2010

Dear Senator Moore,

The Australian Local Government Women's Association (NSW) is pleased to provide the following submission in relation to the Inquiry by the Community Affairs (Legislation Committee) into the *Exposure Draft of the Paid Parental Leave Scheme Bill 2010*.

The Australian Local Government Women's Association (NSW) has a strong interest in increasing the participation of women in local government and has been running a strong campaign to increase paid parental leave provisions within the NSW Government.

More broadly, ALGWA's aims and objectives include:

- To assist in furthering women's knowledge and understanding of the function of local government
- To protect and enhance the interests and rights of women in local government.
- To take action in relation to any subject or activity of particular interest to women affecting local governing bodies and/or local government legislation.
- To act in an advisory capacity to intending women candidates for local government elections.
- To encourage women into professional careers in local government.

If you require any additional information on ALGWA NSW's submission please contact Councillor Nicole Campbell, ALGWA NSW Chair, PPL Sub-Committee on 0402 132 669 or email: nicolebc@tpg.com.au

Thank you for the opportunity to provide this submission to the Inquiry. I trust that this information will assist Committee members in their deliberations.

Yours sincerely

**Cr Karen McKeown
President
Australian Local Government Women's Association (NSW)**

ALGWA NSW – SUBMISSION TO INQUIRY INTO THE EXPOSURE DRAFT OF THE PAID PARENTAL LEAVE SCHEME BILL 2010

1.0 Introduction - About ALGWA

The Australian Local Government Women's Association was established in 1951 and is comprised of six State Branches and a Network in the Northern Territory. State Branches are federated through a common National Constitution with the National Board.

ALGWA's aims and objectives include:

- To assist in furthering women's knowledge and understanding of the function of local government
- To protect and enhance the interests and rights of women in local government.
- To take action in relation to any subject or activity of particular interest to women affecting local governing bodies and/or local government legislation.
- To act in an advisory capacity to intending women candidates for local government elections.
- To encourage women into professional careers in local government.

2.0 ALGWA NSW's Paid Parental Leave – “Support Mums at Work”

Since 2008 the Australian Local Government Women's Association (NSW) has been running a strong campaign within the NSW Local Government Sector for the adoption of 18 weeks paid maternity leave and 2 weeks paid paternity leave for all Local Government employees. Our “*Support Mums at Work*” campaign has already resulted in a number of NSW Local Government Authorities resolving to significantly increase their paid parental leave provisions for staff.

In addition, ALGWA NSW's campaign has resulted in:

- Unanimous vote at the 2008 Local Government Association conference (Broken Hill) for the adoption of the 18 weeks paid maternity & 2 weeks paid paternity leave as a minimum entitlement for all local government employees.
- Reaffirmation of this historic decision at the 2009 Local Government Association conference (Tamworth) with the decision being recognised in the formal policy record of the LGA conference.

ALGWA NSW's campaign adopted the same timeframes for maternity and paternity leave as those contained in the draft Productivity Commission's Report *Paid Parental Leave: Support for Parents with Newborns*. ALGWA NSW advocates for paid parental leave to be at full wage replacement and

include superannuation and any other existing employee entitlements for the duration of the parental leave period.

Given the Productivity Commission's report provided the framework for our campaign, ALGWA NSW has taken a keen interest in the subsequent development of the Australian Government's proposed Paid Parental Leave legislation, which also draws on many of the recommendations arising from the final report from the Productivity Commission.

ALGWA NSW is also aware of the recently released Coalition's Policy Position on Paid Parental Leave (*"The Coalition's Direct Action Plan on Paid Parental Leave, March 2010"*) and the longstanding commitment by the Australian Greens to support "fully fund paid parental leave" (refer: *Australian Green's Policy D5-Women*). ALGWA NSW further notes the additional commitment by the NSW State Division of the Australian Greens which supports the "*provision of parental leave on full pay and entitlements for a period of up to twelve months*"

ALGWA NSW notes that the Community Affairs Legislation Committee comprises representatives from the Australian Labor Party; Liberal/National Coalition and the Australian Greens.

ALGWA NSW recognises that each of these political parties has indicated their support for paid parental leave – and ALGWA NSW commends all parties for their commitment to paid parental leave. The table below summarises the policy position for the three political parties as understood by ALGWA NSW:

Table 1: Summary of PPL policy position by political parties

Party	Timeframe of PPL scheme	Inclusion of Superannuation	Inclusion of Paternity Leave	Other comments
ALP	18 weeks	No	No	Means tested – cutoff is \$150,000 for primary carer Payment for eligible claimants is Minimum Federal Wage (MFW)
Liberal	26 weeks	Yes	Yes	Not means tested Full wage replacement (up to \$150,000) or MFW – whichever is greater
Greens	52 weeks*	Yes*	Yes*	* policy position from the NSW Branch of Australian Greens

3.0 ALGWA comments on proposed PPL legislation

ALGWA NSW has reviewed the Exposure Draft for the proposed legislation as well as the Explanatory Memorandum. ALGWA NSW's response to the Exposure Draft is detailed in the following sections and suggested legislative amendments are highlighted in bold text at the end of each section:

- 3.1 Period of Paid Parental Leave
- 3.2 Inclusion of Paid Paternity Leave
- 3.3 Inclusion of superannuation contributions and other employee entitlements
- 3.4 Interface of Government's Paid Parental Leave with existing industrial agreements
- 3.5 Reduced introduction of employer based PPL arrangements

3.1 Period of Paid Parental Leave

ALGWA NSW notes that the Productivity Commission's PPL model uses a period of 18 weeks paid maternity leave. This is still less than the International Labour Organisation's (ILO) recommendation of 26 weeks paid maternity leave. However ALGWA NSW considers 18 weeks paid maternity leave is a good first step in commencing the proposed PPL scheme.

ALGWA NSW's suggested amendments:

- **ALGWA NSW considers that the minimum period of paid maternity leave should be 18 weeks with the capacity to have this taken at ½ pay over 36 weeks.**
- **ALGWA NSW considers that the pending PPL legislation should be amended to enable the PPL payment to be taken at ½ pay over 36 weeks.**
- **ALGWA NSW considers that a longer term goal for paid maternity leave should be 26 weeks with capacity for this to be taken at ½ pay over 52 weeks. ALGWA NSW recommends that this be implemented as part of the programmed review of the PPL scheme.**

3.2 Inclusion of a Paid Paternity Leave component

ALGWA NSW is disappointed that the pending PPL legislation does not include a paid paternity leave component despite the Productivity Commission's recommendation that two weeks paid paternity leave be included as part of the PPL scheme given its relatively low cost to government and the Productivity Commission's view that the inclusion of a paid paternity leave component would have negligible additional costs on businesses.

The omission of the paid paternity leave component from the pending PPL legislation suggests that the Australian Government does not recognise the importance of facilitating greater involvement by fathers in the first few months of their child's life. There is a large body of research that highlights the importance of having the father involved at the early stages of a child's life. Much of this information was referenced in the Productivity Commission's report – and also in many of the public submissions provided in the development of the PPL scheme. ALGWA NSW urges the Australian Government to revisit this information and accelerate the inclusion of a paid paternity leave component.

ALGWA NSW notes that the Global Financial Crisis (GFC) was cited by the Australian Government as a reason for deferring consideration of the Productivity Commission's recommended two week paid paternity leave component until the programmed review of the PPL scheme.

However given the Australian Government's consistent and strong public messages on the resilience of the Australian economy in the face of the GFC, it would appear that the anticipated impact of the GFC is no longer a credible reason for deferring the inclusion of a modest paid paternity leave component from the PPL legislation.

ALGWA NSW's "Support Mums at Work" campaign includes two weeks paid paternity leave, which can be taken as ½ pay over four weeks.

ALGWA NSW's suggested amendments:

- ALGWA NSW recommends the PPL legislation be amended to include a minimum two weeks paid paternity leave with capacity to take this leave at ½ pay over four weeks.**

3.3 Inclusion of superannuation and other employee contributions

The Productivity Commission's research and many of the accompanying submissions highlighted the significant shortfall in women's superannuation balances compared with men, due in large part to the time that a woman is out of the workforce associated with pregnancy and child-caring responsibilities. The continuation of an employee's superannuation

contributions over the period of the PPL leave is a small cost to Government and ALGWA NSW considers that it should be included in the PPL legislation.

ALGWA NSW notes that one of the Henry Tax Review recommendations adopted by the Australian Government was that employer superannuation contributions be increased from 9% to 12% (phased in from 2013 to 2019-20). It seems inconsistent that the Australian Government has endorsed the importance of increased employer superannuation contributions and yet has not included Government superannuation contributions as part of its PPL scheme. This decision will leave women further and further behind in terms of their financial wellbeing at the end of their working life and should be rectified as a priority.

ALGWA NSW's suggested amendments:

- ALGWA NSW recommends that the pending PPL legislation be amended to include payment of superannuation contributions and other employee entitlements by the Government for the duration of the PPL period.**

3.4 Interface of Government's Paid Parental Leave with existing industrial agreements

ALGWA NSW has concerns over the potential confusion with the pending PPL scheme and its interface with existing industrial agreements that already include paid parental leave provisions.

ALGWA NSW notes that the payments under the pending PPL scheme will replace a participant's access to existing Government social welfare payments - the Baby Bonus and Family Tax Benefit B. These existing social welfare payments are means-tested and therefore are potentially not available to all employees. Participation in the Government's proposed PPL scheme is optional and access to the PPL scheme is subject to means testing of the taxable income of the primary carer.

There is a suggestion that upon their expiry, existing industrial agreements could potentially be amended to encompass the Government's pending PPL scheme. However ALGWA NSW considers there are difficulties associated with this proposal because the proposed PPL scheme is means-tested, and so therefore some employees may choose to remain outside the PPL scheme and instead continue to receive the Baby Bonus and Family Tax Benefit B. Other employees, by virtue of their remuneration levels, may simply not be eligible to participate in the PPL scheme.

Therefore it is difficult to see how the Government's proposed PPL scheme could be included in industrial agreements – as industrial agreements are not uniquely tailored to accommodate the specific taxable incomes of individuals,

nor do they provide scope for individual ‘opt-in’ arrangements, which is what participation in the Government’s PPL scheme is.

ALGWA NSW notes that jurisdictional arrangements must also be considered. For instance, in the case of the NSW Local Government sector, the industrial arrangements have been retained under the NSW Industrial Relations Act rather than legislation administered by the Commonwealth – and therefore it is unclear as to how a Commonwealth Government social welfare framework which is individually means-tested could be incorporated into a State based industrial agreement.

ALGWA NSW has strong concerns over the language being used to describe how the Government’s PPL scheme might interface with existing employer PPL arrangements.

Language like “double-dipping”, is increasingly being used by some commentators in a derisive context – suggesting that a participant in the Government’s PPL scheme who is also legitimately entitled to other PPL arrangements with his/her employer is being ‘greedy’ – and somehow manipulating the system to be ‘paid twice’.

This is why ALGWA NSW wants it to be very clear that the Government’s PPL scheme is a consolidation of existing social welfare payments – not a pseudo-Award entitlement. There is a need to ensure that material promoting the Government’s PPL scheme makes the distinction between the social welfare payment and separate employee entitlements clear – it appears that the water has become muddied over nomenclature and this needs to be resolved.

Suggested ALGWA NSW amendments:

- **ALGWA NSW recommends that the PPL legislation clearly defines the Government’s PPL scheme as a consolidated social welfare payment, which is totally separate to any PPL element of an industrial Award negotiation.**
- **ALGWA NSW recommends that the baseline Government’s PPL scheme not be able to be incorporated into a proposed Industrial Agreement – it is to remain a separate arrangement between Government and the individual participant.**
- **ALGWA NSW supports in principle the concept of ‘top-up’ payments by employers being included in Industrial Agreements – i.e.: employers agreeing to additional payments equivalent to the difference between the Federal Minimum Wage (FMW) and the full salary – however further detail is required as to how this option can be implemented equitably in a workforce where some employees may not choose to participate in the Government’s PPL scheme – or not be eligible.**

- **ALGWA NSW considers there should be no capacity for ‘Top-Down’ payments to occur – i.e.: employers reducing existing PPL schemes to be commensurate with the minimum benefit of the Government’s PPL scheme, causing a financial detriment to their workforce.**
- **ALGWA NSW recommends that the language be clarified in publication materials relating to the Government’s PPL scheme and the eligibility of some participants to access existing employer based PPL schemes – the term ‘double-dipping’ should not be used to describe this situation – the participant is rightfully eligible to access both PPL sources, and should not be presented as avaricious or duplicitous.**

3.5 Reduced introduction of employer based PPL arrangements

Whilst the Government’s PPL scheme is very welcome, ALGWA NSW considers that its scope should be seen as a minimum baseline for PPL provisions in the workplace rather than an upper benchmark.

ALGWA NSW is concerned that many employers with existing paid parental leave arrangements will seek to dismantle these schemes over time – or organisations planning to introduce PPL arrangements may instead ‘hold off’.

This potential adverse impact was noted by the Productivity Commission in scoping the PPL proposal and ALGWA NSW considers it is an issue that should be closely monitored as part of the programmed PPL review.

ALGWA NSW would be concerned to see employers with existing PPL systems that currently offer full wage replacement and include superannuation contributions subsequently reduced to reflect payment of the Minimum Federal Wage (MFW) and removal of employee entitlements.

The Productivity Commission suggests that employers with existing PPL arrangements will not change their operations as they have taken a business decision to define their operation as being an ‘employer of choice’. ALGWA NSW notes that with the introduction of the Government’s PPL scheme this point of business differentiation will be reduced – and may no longer be sufficient to encourage businesses to continue maintaining their independent PPL arrangements.

ALGWA NSW commends all organisations that have independently established PPL arrangements for their workforce. ALGWA NSW considers that the Government should give recognition to those entities that continue to operate their existing PPL schemes outside the Government’s proposed PPL scheme. ALGWA NSW notes the Australian Government’s desire to continue to pursue taxation reform and suggests that this is an area worthy of further consideration.

Suggested ALGWA NSW amendment:

- **ALGWA NSW recommends that business incentives be provided (via taxation relief) to those entities that implement (or continue existing) PPL arrangements independent of the Government's proposed PPL scheme**
- **ALGWA NSW recommends that the programmed review of the PPL scheme gives close attention to the impact of the scheme on those organisations with existing PPL arrangements in place**