

Submission to the Local Government Remuneration Tribunal

(16 March 2021)

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1. Opening

Local Government NSW (“**LGNSW**”) is the peak body for Local Government in NSW representing the interests of all NSW general-purpose councils and associate members including special-purpose county councils, joint organisations, regional organisations of councils, and Norfolk Island Regional Council.

LGNSW is also registered as an industrial organisation of employers under the *Industrial Relations Act 1996* (NSW) and separately under the *Fair Work (Registered Organisations) Act 2009* (Cth).

LGNSW makes this submission pursuant to section 243(2)(b) of the *Local Government Act 1993* (NSW) (“**Act**”).

In its determination of 7 September 2020, the Local Government Remuneration Tribunal (“**Tribunal**”) determined that there will be no increase in mayoral and councillor fees for the 2020/21 financial year.

LGNSW submits that mayors and councillors’ fees should be increased by 2.5% for the 2021/22 financial year. Such increase is warranted to compensate mayors and councillors for their responsibilities and to account for increases in the cost of living over the past two (2) years. Furthermore, with Superannuation Guarantee Contributions (SGC) due to increase by 0.5 percent from 1 July 2021, an increase in mayors and councillors’ fees is needed to avoid making it increasingly unattractive for potential candidates to direct time away from paid employment towards duties as an elected representative.

We thank the Tribunal for the opportunity to provide a written submission in respect of the Tribunal’s 2021 review of the fees payable to mayors and councillors.

2. Executive Summary

This submission concerns the quantum of the increase in fees for councillors and mayors to be determined by the Tribunal. We reiterate our long-held view that the current arrangements for setting councillor and mayoral fees is inadequate. Existing councillor and mayoral fees do not properly compensate them for the significant workload and range of responsibilities of elected representatives, which have continued to expand because of local government reform and legislative change.

LGNSW notes that its advocacy priorities include calling for fair pay and superannuation for mayors and councillors. LGNSW has received member feedback regarding fair rates of pay and non-payment of superannuation to mayors and councillors and submits that the issue is current and of great importance for elected representatives in NSW.

This submission provides a comparison of councillor and mayoral fees with the fees paid to chairpersons and directors of not-for-profit companies and government bodies in addition to the fees paid to councillors and mayors in other states and NSW State MPs.

Pending essential reform in this area, LGNSW argues in support of an increase in fees for councillors and mayors equal to the maximum available increase (2.5%) given the statutory limitations.

It is recommended that the Tribunal apply the maximum 2.5% increase to the minimum and maximum ranges for all categories, consistent with the public sector wages policy.

3. Mayoral and Councillor Fees

The Tribunal is required by legislation to give effect to the NSW State Government's *Public Sector Wages Policy* ("**wages policy**") when determining the maximum and minimum amounts of fees to be paid to mayors and councillors. Presently the Tribunal's capacity to make determinations that would remunerate councillors and mayors adequately and fairly for sustained increases in workload and responsibility is limited by the capped amount of 2.5 percent as per the wages policy.

Mayors and councillors have not been appropriately paid for the significant time involved in undertaking their office duties for some time now.

This part of this submission considers the roles and responsibilities of councillors and will draw a comparison between the fees paid to mayors/councillors and the fees paid to chairpersons/directors of both not-for-profit companies and government bodies. This comparison is appropriate given that ss. 226 and 232 of the Act can be viewed in parallel between the role of mayors/councillors and those of chairpersons/directors of other corporate entities.

A comparison of fees paid to mayors and councillors in Local Government in NSW and Queensland will then demonstrate that despite the duties of elected representatives being comparable across states, NSW's elected representatives are poorly remunerated when compared to their Queensland counterparts.

The roles and responsibilities of mayors and councillors

The Act prescribes the roles and responsibilities of mayors and councillors both collectively as the governing body of a council, and as individual representatives of the governing body.

LGNSW's recent submissions to the Tribunal have noted amendments to section 223 of the Act and other Local Government reforms which have substantially expanded the role, duties, and responsibilities of the governing body. Mayors and councillors have not been properly compensated for these changes and remain poorly compensated for the work that they perform.

Councillors comprise the governing body of a council in the same way that a board of directors is the governing body of a corporation.

As the governing body of a council, mayors and councillors must work together as a cohesive team to meet the needs of their communities. In order to meet community expectations, councillors must understand the characteristics and diverse needs of their community.

In relation to the individual role of a councillor, the Act prescribes the following:

- to be an active and contributing representative of the governing body
- to participate in the development of the Integrated Planning and Reporting framework
- to represent the collective interests of residents, ratepayers and the local community to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

Given the multi-faceted nature of the roles, mayors and councillors are required to possess a wide range of skills and knowledge to achieve results for their community. Additionally, councillors are required to familiarise themselves with over 120 Acts to successfully perform their duties. The current remuneration is grossly inadequate in compensating for the skills and knowledge councillors and mayors bring to their roles, and in the time taken to perform their duties.

Councillor Work Value Review

In December 2018, Mastertek Pty Ltd was engaged by LGNSW to conduct an independent review of the current remuneration paid to elected councillors and mayors.¹

One of the key findings of the review was that the increasing complexity of the role had, and LGNSW argues continues to have, a direct correlation to the time requirements of the role. Councillors spend an average of 45.6 hours per week fulfilling their duties as a councillor. As a result of the increasing time commitments, it is only those individuals with appropriate personal financial circumstances who are able to stand for office without reasonable recompense.

The latest profile of councillors in NSW prepared by the Office of Local Government found that councillors were largely retired, semi-retired or independently wealthy. LGNSW submits that the candidate pool is limited to such candidates as the remuneration paid to councillors does not accommodate for the cost of living in NSW. An increase in the fees paid to elected representatives will attract a more diverse range of candidates, broaden the skill pool of potential future councillors, and lead to better community representation.

Professional Development Requirements

Amendments to the Act by the *Local Government Amendment (Governance and Planning) Act 2016* in 2016 and the introduction of Part 8A of the *Local Government (General) Regulation 2005* in 2018 saw the nature of the role of councillors expanded and they are now required to make all reasonable efforts to acquire and maintain the skills necessary to perform their roles. In December 2018, the Office of Local Government (“**OLG**”) published the ‘*Councillor Induction and Professional Development Guidelines*’ (“**Guidelines**”). The Guidelines aim to assist councils to develop and deliver induction and ongoing professional development activities for their mayors and councillors in compliance with the regulations. Mayors and councillors have not been properly compensated for the additional time, expense and forgone income from paid employment, that is often required to meet these new requirements.

Unlike NSW State MPs and chairpersons/directors of not-for-profit and government bodies, elected Local Government representatives must participate in their council’s professional development program which contains the following elements:

- pre-election candidate sessions;
- mandatory induction program; and
- professional development program

Both newly elected and returning councillors are required to participate in a mandatory induction program for each council term. Consistent with a council’s professional development program, the mayor and each councillor are subject to an ongoing professional development plan.

¹ Councillor Value Review, published by Mastertek Pty Ltd, 2018.

Mayors and councillors must make all reasonable efforts to participate in their ongoing professional development program.

When determining the maximum and minimum amounts of fees to be paid to mayors and councillors, the induction and other professional development requirements ought to be considered by the Tribunal.

Other Factors (councillors as community leaders)

Over the past year, NSW communities and local economies have experienced uncertain times. In 2019–20, the bushfire season commenced early, and drought affected 95 percent of the state. Following the drought, in early 2020, several regions of NSW experienced significant flooding. In mid-March 2020, travel and work arrangements in NSW were constrained because of a series of border closures and health orders. LGNSW members have reported that over this period, expectations of councillors and mayors markedly increased, and they have been required to be more accessible and to undertake their work using new technologies and practices that suit their local needs.

As the level of government closest to the people, councillors and mayors have been expected to lead their communities through the above social, environmental and economic events, and will further be expected to play a leading role during the upcoming recovery phases as well as advocate for their interests with State and Federal governments and other agencies for sustained periods of time.

Councillors and mayors are leaders who are expected to make themselves available at all hours to meet with constituents, and especially so when major events impact on their communities.

LGNSW submits that councillors and mayors should be properly remunerated for the work they have done, and the work they will continue to do, throughout this difficult time.

Fees paid to chairpersons and directors of not-for-profit and government bodies

This part of LGNSW's submission refers to the 2020 Australian Board Remuneration Survey ("**Board Members Survey**")² a copy of which is attached and marked "**Attachment 1**". The Board Members Survey is based on remuneration data covering 884 Boards, inclusive of government bodies and not-for-profit bodies.

This submission will use the remuneration paid to directors of boards and board chairpersons of both government bodies and not-for-profit bodies as comparators against the remuneration paid to mayors and councillors in NSW Local Government. LGNSW submits that a parallel exists between directors of boards and councillors, and chairpersons of boards and mayors, given the role of both the mayor and councillors as provided for in ss. 226 and 232 of the Act. By virtue of the Act, the governing body is a statutory corporation.

Four councils have been selected for comparison in this submission. The councils vary in size, location and categorisation. The remuneration of the mayor and councillors at each council has been assessed against the average remuneration paid to the chairpersons and directors of a comparable government or not-for-profit organisation. Comparability is assessed on two dimensions: total revenue and total number of full-time employees ("**TFTE**") of the organisation/council.

² Australian Board Remuneration Survey Report, published by McGuirk Management Consultants Pty Ltd., 2020.

City of Canada Bay Council and a comparable Government body* (based on TFTE)

Position	Total No. Full-time Employees	Average Remuneration	Maximum Remuneration
Chairman- Government Body	301-400	\$ 96,892	-
Mayor – City of Canada Bay Council	336 ³	-	\$65,414
Difference in the average remuneration paid to the Chairman of a Government body and the Mayor of City of Canada Bay Council: <u>\$31,478</u>			
Director- Government Body	301-400	\$46,155	-
Councillor – City of Canada Bay Council	336	-	\$22,264
Difference in the average remuneration paid to a Director of a Government body and a Councillor of City of Canada Bay Council: <u>\$23,891</u>			

*All figures extracted from Tables 5.17 and 5.19 of Attachment 1

Waverley Council and a comparable Government body* (based on total revenue)

Position	Total Revenue of Organisation/Council	Average Remuneration	Maximum Remuneration
Chairman – Government Body	\$120-160M	\$112,424	-
Mayor – Waverley Council	\$140.4M ⁴	-	\$84,529
Difference in the average remuneration paid to the Chairman of a Government body and the Mayor of Waverley Council: <u>\$27,895</u>			
Director – Government Body	\$120-160M	\$49,414	-
Councillor – Waverley Council	\$140.4M	-	\$19,790
Difference in the average remuneration paid to a Director of a Government body and a Councillor of Waverley Council: <u>\$27,825</u>			

*All figures extracted from Tables 5.17 and 5.19 of Attachment 1

Uralla Shire Council and a comparable not-for-profit body* (based on total revenue)

Position	Total Revenue of Organisation/Council	Average Remuneration	Maximum Remuneration
Chairman - Not for Profit	\$20M-\$40M	\$48,291	-
Mayor - Uralla Shire Council	\$21.8M ⁵	-	\$42,295
Difference in the average remuneration paid to the Chairman of a not-for-profit body and the Mayor of Uralla Shire Council: <u>\$5,996</u>			
Director - Not for Profit	\$10-\$20M	\$21,206	-
Councillor – Uralla Shire Council	\$21.8M	-	\$11,124
Difference in the average remuneration paid to a Director of a not-for-profit body and a Councillor of Uralla Shire Council: <u>\$10,082</u>			

* All figures extracted from Tables 5.14 and 5.16 of Attachment 1

³ Office of Local Government, Time Series Data, 2018-19.

⁴ Office of Local Government, Time Series Data, 2018-19.

⁵ Office of Local Government, Time Series Data, 2018-19.

Snowy Monaro Regional Council and a comparable not-for-profit body* (based on TFTE)

Position	Total No. Full-time Employees	Average Remuneration	Maximum Remuneration
Chairman- Not for Profit	301-400	\$71,679	-
Mayor – Snowy Monaro Regional Council	360 ⁶	-	\$63,119
<i>Difference in the average remuneration paid to the Chairman of a not-for-profit body and the Mayor of Snowy Monaro Regional Council: \$8,560</i>			
Director- Not for Profit	301-400	\$34,158	-
Councillor – Snowy Monaro Regional Council	360	-	\$19,790
<i>Difference in the average remuneration paid to a Director of a not-for-profit body and a Councillor of Snowy Monaro Regional Council: \$14,368</i>			

* All figures extracted from Tables 5.14 and 5.16 of Attachment 1

The above comparisons highlight the fact that current arrangements for setting councillor and mayoral fees do not properly compensate elected representatives for the increased workload and responsibilities over time. It is totally unacceptable that in some cases, councillors receive \$27,895 per year less than their counterparts at government bodies.

As the NSW local government sector has embraced the corporate framework, this should afford councillors comparable remuneration to company directors, providing greater recognition of the increased demands placed upon them. It should also be noted that chairpersons and directors of not-for-profit organisations often do not have the same legal and civic responsibilities of elected representatives as prescribed under the Act.

Fees paid to mayors and councillors in NSW and Queensland

Queensland's eight (8) tiered categorisation structure is formulated on the basis of similar legislative criteria to that set out in s. 240 of the Act. Section 242 of the *Local Government Regulation 2012* (Qld) provides that in establishing categories, the QLD Local Government Remuneration Commission must have regard to factors such as the size, population, demographics and geographical terrain of Local Government areas. The categories for councils in NSW align well with Queensland's categories.

This part of the submission will compare the remuneration of elected representatives in Local Government in the states of NSW and Queensland. This comparison is appropriate given the parallel between the roles of elected representatives across States (for example, s. 232 of the Act and s. 12 of the *Local Government Act 2009* (Qld)).

Similar to the earlier analysis, four councils were selected for comparison. These councils vary in size, location and categorisation. The remuneration of the mayor and councillors at each council has been assessed against the remuneration paid to the mayor and the councillors at comparable councils in Queensland. Comparability is assessed on two dimensions: total revenue and total number of full-time employees ("TFTE") of the council in each state.

City of Canada Bay Council (NSW) and Cassowary Regional Council (Queensland) (based on TFTE)

⁶ Office of Local Government, Time Series Data, 2018-19.

Position	Total No. Full-time Employees (301-400)	Maximum Remuneration
Mayor – Cassowary Regional Council	321 ⁷	\$127,898
Mayor – City of Canada Bay Council	336	\$65,414
Councillor – Cassowary Coast Regional Council	321	\$67,945
Councillor – City of Canada Bay Council	336	\$22,264
<i>Difference in the maximum remuneration paid to the Mayor of Cassowary Coast Regional Council and the Mayor of City of Canada Bay Council: <u>\$52,625</u></i>		
<i>Difference in maximum remuneration paid to Councillors of Cassowary Coast Regional Council and Councillors of City of Canada Council: <u>\$45,681</u></i>		

Waverley Council (NSW) and Central Highlands Regional Council (Queensland) (based on total revenue)

Position	Total Revenue of Council (\$120-160M)	Maximum Remuneration
Mayor – Central Highlands Regional Council	\$138.2M ⁸	\$143,124
Mayor – Waverley Council	\$140.4M	\$84,529
Councillor – Central Highlands Regional Council	\$138.2M	\$76,034
Councillor – Waverley Council	\$140.4M	\$19,790
<i>Difference in the maximum remuneration paid to the Mayor of Central Highlands Regional Council and the Mayor of Waverley Council: <u>\$58,595</u></i>		
<i>Difference in the maximum remuneration paid to Councillors of Central Highlands Regional Council and Councillors of Waverley Council is: <u>\$54,445</u></i>		

Uralla Shire Council (NSW) and Paroo Shire Council (Queensland) (based on total revenue)

Position	Total Revenue of Council (\$20-40M)	Maximum Remuneration
Mayor – Paroo Shire Council	\$21.4M ⁹	\$86,104
Mayor - Uralla Shire Council	\$21.8M	\$42,295
Councillor – Paroo Shire Council	\$21.4M	\$33,004
Councillor – Uralla Shire Council	\$21.8M	\$11,124
<i>Difference in the maximum remuneration paid to the Mayor of Paroo Shire Council and the Mayor of Uralla Shire Council: <u>\$43,809</u></i>		
<i>Difference in the maximum remuneration paid to Councillors of Paroo Shire Council and Councillors of Uralla Shire Council is: <u>\$21,880</u></i>		

Snowy Monaro Regional Council (NSW) and Maranoa Regional Council (Queensland) (based on TFTE)

⁷ Department of Local Government, Racing and Multicultural Affairs, Queensland Local Government Comparative Data, 2018-19.

⁸ Central Highlands Regional Council, Annual Report, 2018-19.

⁹ Paroo Shire council, Annual Report, 2018-19.

Position	Total No. Full-time Employees (301-400)	Maximum Remuneration
Mayor – Maranoa Regional Council	331 ¹⁰	\$133,196
Mayor – Snowy Monaro Regional Council	360	\$63,119
Councillor – Maranoa Regional Council	331	\$70,759
Councillor – Snowy Monaro Council	360	\$19,790
<i>Difference in the maximum remuneration paid to the Mayor of Maranoa Regional Council and the Mayor of Snowy Monaro Regional Council: <u>\$70,077</u></i>		
<i>Difference in the maximum remuneration paid to Councillors of Maranoa Regional Council and Councillors of Snowy Monaro Regional Council: <u>\$50,969</u></i>		

The gap in remuneration between elected representatives in NSW and Queensland is significant, as highlighted by the above comparisons. This can be attributed to the QLD Local Government Remuneration Commission's commitment to bringing the remuneration of elected representatives in Local Government into line with that of State MPs.

In some cases, NSW mayors receive \$70,077 per year less than their counterparts in local government in Queensland. When looking at the fees paid to councillors, there is a significant gap in remuneration between councillors in NSW and Queensland. In most cases this gap is larger than the total remuneration received by NSW councillors annually. LGNSW submits that this inequity is not acceptable.

Fees paid to mayors and councillors and the salaries of State MPs

LGNSW maintains that it is appropriate to draw comparisons between the remuneration of mayors and State MPs. We reiterate our previous submissions and provide the following reasons as to why a comparator with MPs is valid:

Both mayors and State MPs:

- undertake activities representing the interests of their constituents;
- attend State, Commonwealth and Local Government functions;
- participate in the activities of recognised political parties, including national, State and regional conferences, branch meetings, electorate council meetings, executive meetings and committee meetings;
- are elected by their communities; and
- are accessible by the public to receive petitions, complaints and the like.

It is due to the identified similarities between mayors/councillors and State MPs, that mayoral/councillor remuneration is insufficient when measured against their skill, competence and training.

The base salary for State MPs is \$169,192.¹¹ State MPs also receive an electoral allowance composed of a base allowance, additional allowance, recognised office holder allowance (excluding independents), an independents allowance and compulsory superannuation contributions.

¹⁰ Department of Local Government, Racing and Multicultural Affairs, Queensland Local Government Comparative Data, 2018-19.

¹¹ Parliamentary Remuneration Tribunal, Annual Report and Determination, 07 July 2020.

In total, the minimum remuneration for an MP (base salary plus electoral allowance) is \$241,722. The following table highlights the difference between the minimum remuneration for State MPs (\$241,722) with the maximum remuneration of mayors across all NSW councils:

Council Category	Maximum Mayoral Remuneration	Difference between State MP Minimum Remuneration and Maximum Mayoral Remuneration
Principal CBD	\$222,510	\$19,212
Major CBD	\$110,310	\$131,412
Metropolitan Large	\$86,600	\$155,122
Metropolitan Medium	\$68,530	\$173,192
Metropolitan Small	\$44,230	\$197,492
Regional City	\$99,800	\$141,922
Regional Strategic Area	\$86,600	\$155,122
Regional Rural	\$44,250	\$197,472
Rural	\$26,530	\$215,192
County Council- Water	\$16,660	\$225,062
County Council- Other	\$11,060	\$230,662

LGNSW submits that there is a clear nexus between the roles and responsibilities of elected representatives in Local Government and NSW State MPs, and as such, it is reasonable to expect that the remuneration of these elected representatives be better aligned. At its best, maximum mayoral remunerations fall \$19,212 short of the minimum remuneration of NSW State MPs and, at its worst, it falls \$230,662 short. These figures would be considerably more disparate where councillor remuneration is considered.

Superannuation

With respect to the issue of non-payment of superannuation for elected representatives, LGNSW notes the Tribunal's previous observation that it does not have jurisdiction with respect to this matter. Loss of superannuation is a significant issue for those councillors who forgo income and/or employment to participate in local government and creates a barrier to participation in local government for both existing and prospective councillors.

The Tribunal is advised that LGNSW has undertaken several initiatives in support of this matter. In 2019, LGNSW wrote to the Premier of New South Wales and the NSW Minister for Local Government.

On 1 July 2021, compulsory Superannuation Guarantee Contributions ("**SGC**") under the *Superannuation Guarantee (Administration) Act 1992* (Cth) will increase from 9.5% to 10%.

In the absence of compulsory superannuation contributions for mayors and councillors, future increases in SGC make it increasingly unattractive for potential candidates to direct time away from paid employment towards duties as an elected representative.

LGNSW reiterates its invitation to the Tribunal to make a recommendation to the NSW State Government for councillor remuneration to include a payment for compulsory superannuation contributions equivalent to the SGC.

Economic indicators

Relevant economic indicators show that the Australian economy has fared better than expected during the COVID-19 pandemic, with the economy and wages continuing to grow, and the cost of living continuing to increase.

In making its 2021 Determination, the Tribunal should have regard to the following:

- **Consumer Price Index (CPI)**

- For the *year* to December 2020 the CPI, which measures changes in the cost of living, increased by 0.9% (weighted average of the eight capital cities).
- For the *two years* to December 2020 the CPI increased by 2.7% (weighted average of the eight capital cities).
- **Wage Price Index (WPI)**
 - For the *year* to December 2020 the WPI for Australia increased by 1.4 per cent (1.6 per cent increase in public sector).
 - For the *two years* to December 2020 the WPI for Australia increased by 3.8 per cent (3.8 per cent increase in public sector).
- **National Minimum Wage Determinations**
 - On 26 June 2020, a Full Bench of the Fair Work Commission increased the National Minimum Wage and rates of pay under federal modern awards by 1.75 per cent in its Annual Wage Review 2019–20 decision.¹²

The above economic indicators show that despite the current social and economic circumstances, the cost of living and price of labour has increased over the past year.

Given that there was no increase in mayoral and councillor fees for the 2020/21 financial year, LGNSW submits that the Tribunal should consider relevant economic data over the past two years, and at the very least, award an increase in fees that ensures that the remuneration paid to mayors and councillors keeps pace with increases in the cost of living.

4. Conclusion

LGNSW acknowledges the submissions made by individual councils with respect their feedback and proposed allocation under the Tribunal’s categorisation model.

The Tribunal must increase the fees paid to mayors and councillors by no less than the maximum of 2.5%. The fees for mayors and councillors remain well behind, with the current fee structure failing to recognise the work of elected representatives and is inadequate to attract and retain individuals with the necessary skills and experience to perform the role.

We thank the Tribunal for receiving our submission and look forward to meeting with you to discuss these matters further.

For further information please contact Saishna Kishore, Assistant Industrial Officer at saishna.kishore@lqnsw.org.au or alternatively (02) 9242 4141.

¹² Annual Wage Review 2019–20 [2020] FWCFB 3500 19 June 2020.