

Submission to the NSW Local Government Remuneration Tribunal

10 February 2016

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Introduction

The Local Government and Shires Association of New South Wales (**‘the Association’**) makes this submission pursuant to section 243(2)(b) of the *Local Government Act 1993* (NSW) (**‘the Act’**).

In its Determination of 13 April 2015, the Local Government Remuneration Tribunal (**‘the Tribunal’**) deemed it appropriate to award an increase of 2.5% in councillor and mayoral fees, taking into account key economic indicators and initiatives for Local Government reform.¹

Councillor and mayoral fees

The Association’s submission argues in support of an increase in fees equal to the maximum increase available given the statutory limitations. The submission also argues that councillor and mayoral fees still do not properly compensate elected members for the growth in workload and range of responsibilities over time. The current arrangements for setting councillor and mayoral fees are not appropriate in the context of significant change that is underway within Local Government and its impact on the work of elected representatives.

¹ Report and Determination of the Local Government Remuneration Tribunal, 13 April 2015.

Councillor and Mayoral Fees

The Association continues to advocate that councillors and mayors face increasing challenges associated with managing their council workloads, in addition to family responsibilities and paid work. Put simply, the significant time involved has not been appropriately recompensed by councillor and mayoral fees for some time now.

The Tribunal has observed that councillors' and mayors' roles and responsibilities, as outlined in the legislation, have not changed.² However, while the Act is highly prescriptive in parts, its description of councils' functions is generic and flexible, enabling council activities and services to change over time.³ It is widely recognised that NSW elected representatives' roles and responsibilities continue to grow alongside the scope of their council activities.

In its report, *Revitalising Local Government*, the Independent Local Government Review Panel (**'the Review Panel'**) acknowledged that in addition to core functions, councils have taken on a wide range of activities from supporting medical and dental services, funding community safety programs including installing CCTV equipment to diverse grant funded and commercial activities.

The Association's members report that their roles as councillors and mayors have expanded due to the introduction of new forms of strategic and corporate planning; closer engagement with a broader range of community and government stakeholders and the demand for stronger political and community leadership. The most recent development has been the significant and additional workload attributed to councillors' involvement in Local Government reform, alongside the activities already mandated by councils' Operational Plans.

In sum, the Association submits that the work value of councillors and mayors has increased as their roles and those of councils evolve and become more onerous.

In its report, *Fit for the Future Progress Report – Stronger Councils, Stronger Communities* (**'the Progress Report'**), the Government sets out a number of mechanisms that have been developed to strengthen local leadership in NSW councils.⁴ The Progress Report also states that in order to attract and retain quality councillors and mayors to help strengthen local leadership, the Government will review the remuneration of elected members during 2016.⁵

It is imperative that the review of the Act include a clear definition of the roles and responsibilities of contemporary councillors and mayors. It is expected that these roles will be reviewed to align with both the findings of the Review Panel and the requirements of the strengthened integrated planning and reporting framework of a new Act.⁶ It follows that

² Report and Determination of the Local Government Remuneration Tribunal, 24 April 2014, p. 6.

³ Independent Local Government Review Panel, *Revitalising Local Government*, October 2013, p. 21.

⁴ Office of Local Government, *Fit for the Future Progress Report – Stronger Councils, Stronger Communities*, 15 December 2015, p. 11.

⁵ Office of Local Government, *Fit for the Future Progress Report – Stronger Councils, Stronger Communities*, 15 December 2015, p. 11.

⁶ Independent Local Government Review Panel, *Revitalising Local Government*, October 2013, p. 12.

an enhanced role of mayors and deputy mayors must be both recognised and remunerated accordingly. There will be an opportunity to identify the new accountabilities exercised by elected representatives engaged in, for example, Joint Organisations, new Local Government entities and collaborative models of Local Government as and when they are established.

In late 2015, the Office of Local Government called for input on proposals by the NSW Government for Local Government legislative reform and released its paper *Towards New Local Government Legislation Explanatory Paper: proposed Phase 1 amendments* (**‘the Phase 1 Amendments Explanatory Paper’**). The Phase 1 Amendments Explanatory Paper signals an intention by the NSW Government to recognise the broader functions of a council’s governing body by replacing the current prescribed role of the governing body under section 223 of the Act, which is focused only on the board-like functions of the body, and replacing it with the Panel’s more expansive list of functions.⁷ Further, it is proposed that the role of the mayor be described differently and that the mayor have all of the prescribed functions of a councillor as well as a prescribed list of additional new responsibilities.⁸ Such proposed changes are consistent with LGNSW’s long held view that the current Act underrepresents the role, functions and workload of councillors and mayors.

The Association looks forward to contributing to the review of the Act and ensuring that the basis for councillor remuneration is set at levels that are fair, have regard to work value and accountability, compensate for costs expended and lost earnings, and attract a broader and more diverse range of candidates to stand for civic office. Setting a fee structure and review mechanism that satisfies these objectives is consistent with views expressed by both the Review Panel and the Taskforce.⁹

The Association submits that councillors’ remuneration should be derived from a percentage of a Member of Parliament’s salary.

In previous submissions to the Tribunal in 2009 and 2010, the former Local Government Association of New South Wales and Shires Association of New South Wales (the “former Associations”) argued that it is appropriate to draw comparisons between the role and remuneration of mayors and Members of Parliament (MPs) and for the fees payable to councillors and mayors to be set as a percentage of the fee paid to Members of Parliament. We reiterate the former Associations’ submissions. A comparator with MPs is valid because as with MPs, councillors and mayors:

- undertake activities in representing the interests of their constituents;
- attend State, Commonwealth and Local Government functions;
- participate in the activities of recognised political parties, including participation in national, State and regional conferences, branch meetings, electorate council meetings, executive meetings and committee meetings;

⁷ Towards New Local Government Legislation Explanatory Paper: proposed Phase 1 amendments, December 2015, p. 5

⁸ Towards New Local Government Legislation Explanatory Paper: proposed Phase 1 amendments, December 2015, p. 7

⁹ Independent Local Government Review Panel, April 2013, *Future Directions for NSW Local Government: Twenty Essential Steps*, p.28; Local Government Acts Taskforce, April 2013, *A New Local Government Act for NSW – Discussion Paper*, p. 76.

- are elected by their communities;
- are accessible to their communities; and
- receive petitions, complaints and the like.

Every councillor handles a range of demands and responsibilities which afford these offices similarities to the offices of Members of Parliament. As such, the Association considers remuneration parity between councillors and their MP counterparts as appropriate.

The Association submit that there is clearly a nexus between the roles and responsibilities of councillors and MPs, and as such it is reasonable to request that mayoral and councillor remuneration be calculated at a percentage of MP salaries.

As a service provider, the Association can also demonstrate that elected representatives' participation in professional development and training has undergone significant growth. Since the beginning of 2015, 271 elected members attended the Association's Learning Solutions certificate courses, bootcamps, roundtables and the like and the demand for such training remains strong. It should be noted that the Association is not the only supplier of training for elected representatives and councils also very often arrange relevant training themselves.

This commitment to training should not be regarded lightly. At their current level of remuneration, and given that many councillors are involved in other paid work, finding additional time for training can be difficult.

At the present time, the Tribunal's capacity to make a determination that would remunerate councillors and mayors adequately and fairly for sustained increases in workload and responsibility is limited to the capped amount of 2.5%.

The Association will continue to lobby for an equitable remuneration structure that ensures Local Government attracts appropriately qualified people with the time and dedication that councils and their communities need at this critical juncture.

The Western Australian Experience

The challenges affecting Local Government are not confined to New South Wales. For example, the determinations of the Western Australia Salaries and Allowances Tribunal (WASAT) have considered the same issues that arise in New South Wales about the minimum annual fees for Local Government elected council members.

The first WASAT determination in relation to councillor fees was released on 19 June 2013. Until that determination, councillors could claim a maximum annual sitting fee of \$7,000.¹⁰ The 2013 determination concluded that the responsibilities of councillors had changed over the previous ten years¹¹ and included increased responsibilities in relation to financial matters including strategic level budget planning and approval of significant

¹⁰ Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, p. 57.

¹¹ Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, p. 27.

infrastructure projects.¹² WASAT also concluded that CPI did not take into account additional responsibilities that had been shouldered by council members since 2005.¹³

The 2013 WASAT determination introduced a band system,¹⁴ which operates in a similar manner to the categories system in New South Wales. The maximum sitting fee for the lowest band increased by over 28% to \$9,000. More noteworthy is the increase to the maximum sitting fee for the highest band which increased by over 400% to \$30,000.¹⁵ The subsequent WASAT determination released on 18 June 2014 also found that the work value of councillors was continuing to increase as a result of growing responsibility, and as a result increased all fees by 3%.¹⁶

It is instructive that Western Australia councillor remuneration is based on the consideration of factors that directly relate to the Local Government sector and in the absence of policy limitations.

The Association submits that the Western Australia band system is a useful example for future consideration as a comparator model. The principles applied recognise that the task of leading Local Government is becoming more complex and will continue to do so with significant Local Government reform.

Cost of Living

The Association notes that the Parliamentary, Local Council, and Public Sector Executives Legislation Amendment Act 2011 has limited remuneration increases for local councillors to no more than 2.5% per annum. The Tribunal, therefore, is limited in its capacity to award an increase in councillor fees by the Government's wages policy.

The June 2013 – June 2014 increase in the CPI was 3.0% when the Tribunal determined that councillor fees would increase by the maximum allowable of 2.5%. The increase in the CPI for the year September 2015 was 1.5%.

The implication of the restriction imposed on the Tribunal's determination is that elected members are already coming off low fees and cannot even be compensated for cost of living pressures at the very least. Given the above, the Association submits that an increase of 2.5% in councillor's fees is necessary.

¹² Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, p. 24.

¹³ Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, p. 64.

¹⁴ Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, p. 80.

¹⁵ Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, Part 2.4.

¹⁶ Determination of the WA Salaries & Allowances Tribunal on Local Government Elect Council Members, 18 June 2014, p. 8.

Conclusion

This submission has sought to highlight the areas of change and reform that the Local Government sector is facing and will have to contend with in the years to come and questions whether the factors listed in Section 240 of the Act will continue to be effective measures of categorisation in light of that change.

The Association continues to assert that a strong case exists for the Tribunal to increase the fees paid to councillors and mayors, based on cost of living pressures. Further, in addition to the ongoing increase in workload and responsibilities, councillors and mayors are now tasked with implementing the Government's reform process. These factors form a strong argument for recognition by awarding a fee increase of no less than the maximum of 2.5%.

The anticipated changes flowing from Local Government reform and legislative review warrant and provide the opportunity to introduce a remuneration structure that properly reflects the diverse and evolving roles of elected representatives in the NSW Local Government of the future. The Association is keen to commence this exercise as soon as possible.

We thank the Tribunal for receiving our submission and look forward to meeting with the Tribunal to discuss these matters further on 10 February 2016.

Yours sincerely,



Cr Keith Rhoades ASFM

President

Local Government and Shires Association NSW