

Submission to the NSW Local Government Remuneration Tribunal

30 January 2017

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Opening

The Local Government and Shires Association of New South Wales, also known as Local Government NSW (“**LGNSW**”), is the peak body for local government in NSW representing the interests of New South Wales general-purpose councils, associate members including special-purpose county councils, the Lord Howe Island Board, Norfolk Island Regional Council, and the NSW Aboriginal Land Council.

LGNSW is 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) (the “**Act**”).

In its determination of 29 March 2016, 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 We thank the Tribunal for the opportunity to provide a written submission in respect of the Tribunal’s 2017 review of fees payable to councillors and mayors.

Executive Summary

This submission is in two parts.

The first part concerns the categorisation of councils. LGNSW argues that whilst the criteria in section 240(1) of the Act are still relevant and appropriate for the purpose of categorising councils, they need to be expanded to include a wider range of factors.

Overall, LGNSW supports the categorisation structure proposed by the Tribunal, however, we suggest that the categories “Major CBD” and “Metropolitan Major” be merged into one category, called “Metropolitan Major”. Such category would apply to metropolitan councils that have a residential population of at least 250,000 and/or metropolitan councils that the Tribunal is satisfied have significant industrial, residential, commercial, tourism, education and/or health activities which set them apart from other metropolitan councils.

LGNSW also proposes the inclusion of an additional category and/or allowance to be titled “Special/Interim”. Such category/allowance would apply on an interim basis to councils which demonstrate that they have “special attributes/circumstances” that are “out of the ordinary”, thus making the council a “special case”. For example, councils currently experiencing unusually high population growth are likely to have resourcing and infrastructure challenges that are out of the ordinary and which require a significantly greater commitment/contribution by the mayor and councillors.

The second part 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 are entirely inappropriate. Existing councillor and mayoral fees do not properly

¹ Report and Determination of the Local Government Remuneration Tribunal, 29 March 2016.

compensate for the significant workload and range of responsibilities of elected members, which have grown over time. The Government recognised this fact in setting salaries for Administrators that are far and above what any mayor or councillor could receive (Interim General Manager salaries have followed the same pattern).

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.

Part 1 – Categorisation

Section 239 of the Act provides that the Tribunal must, at least once every 3 years:

- (a) Determine categories for councils and mayoral offices, and
- (b) Place each council and mayoral office into one of the categories it has determined.

The determination of categories by the Tribunal is for the purpose of enabling the Tribunal to determine the maximum and minimum amounts of fees to be paid to mayors and councillors in each of the categories so determined.

LGNSW understands that the Tribunal has examined the list of existing and new councils and intends to revise the existing categorisation model for the purposes of determining fees.

In 2016 the NSW Government published proclamations under the Act amalgamating a number of council areas and constituting a total of 20 new councils (“**new councils**”). The Tribunal’s 2017 determination will place each of the new councils into a new or existing category.

In correspondence to LGNSW, dated 28 November 2016, the Tribunal proposes that metropolitan and non-metropolitan councils be categories into different groups as follows (the “**Tribunal’s proposed categories**”):

Category	Council	Criteria for inclusion
Principal CBD	Sydney	To be defined
Major CBD	Parramatta	To be defined
Metropolitan Major	To be determined	To be defined
Metropolitan Centre	To be determined	To be defined
Metropolitan	To be determined	To be defined

Category	Council	Criteria for inclusion
Regional City*	Newcastle Wollongong	To be defined
Regional Strategic Centre*	Central Coast Lake Macquarie	To be defined
Regional Rural	To be determined	To be defined
Rural	To be determined	To be defined

- * The proposed categories “Regional City” and “Regional Strategic Centre” did not exist in 2016. “Principal City” is proposed to be replaced with “Principal CBD”, likewise “Major City” with “Major CBD”.

LGNSW notes that the Tribunal does not intend to make any changes to the categorisation of county councils and that they will retain the existing categories of “Water” and “Other”.

Section 240 of the Act

Section 240 of the Act prescribes the criteria to which the Tribunal must have regard when determining the categories for councils and mayoral offices, as follows (the “**s240 criteria**”):

240 How are the categories to be determined?

(1) The Tribunal is to determine categories for councils and mayoral offices according to the following matters:

- 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 Tribunal considers relevant to the provision of efficient and effective local government
- such other matters as may be prescribed by the regulations.

LGNSW sought advice and feedback from our membership as to whether the s240 criteria are appropriate.

The view of some of LGNSW's membership is that whilst the s240 criteria are still relevant and appropriate for the purpose of classifying councils, the criteria need to be expanded to include a wider range of factors.

Key considerations (in addition to those already prescribed in the s240 criteria) might include:

- ***The level of disadvantage an area suffers***

The level of disadvantage a community suffers can be measured in part by factors such as the socio-economic indexes for areas ("**SEIFA**"). LGNSW proposes that the level of disadvantage suffered by an area (measured against set criteria) should be a relevant criterion for classifying councils into the Tribunal's proposed categories. Areas with a high level of disadvantage are likely to have unique challenges (e.g. social and economic) that require a greater contribution by the councillors and mayor. Such additional contribution should be recognised by the Tribunal.

- ***The annual growth rate of the area (relative to base population)***

Australian demographic statistics that focus on the average annual growth rate of an area (measured as relative to the base population) should be a relevant criterion for classifying councils into the Tribunal's proposed categories. Although "the size of areas" and "the population of areas and distribution of the population" are already listed in s. 240 of the Act as relevant considerations, these existing criteria do not consider annual growth.

- ***The expenditure of the area***

A collective measure of overall economic production should be considered as a relevant criterion for classifying councils into the Tribunal's proposed categories. Section 240 of the Act already recognises "the nature and volume of business dealt with by each council", but the expenditure of an area is far more diverse than only the business dealt with by a council. The performance of an area's economy as a whole should be considered.

The proposed categorisation model

LGNSW consulted with members as to whether the Tribunal's proposed categories are appropriate and invited suggestions for alternate category titles. Having considered the feedback and concerns of members, this part of the submission sets out what LGNSW proposes the categories should be.

(i) Categories for metropolitan councils

The Tribunal's proposed categories for metropolitan categories are all pre-existing categories, save and except for the Tribunal's proposal to replace "Principal City" with "Principal CBD" and "Major City" with "Major CBD".

In its 1995 determination², the Tribunal observed that Sydney City Council (now City of Sydney) (**CoS**) occupies a unique position in local government in New South Wales as CoS is the State's prime commercial, recreational and ceremonial centre. LGNSW does not

² Report and Determination of the Local Government Remuneration Tribunal, 1 May 1995 at pp. 38.

propose to vary the composition of the “Principal CBD” category as the significant features and functions of the CoS (which are detailed in length at pp. 38-9 of the 1995 Determination) distinguish CoS from other councils in the State and it should be categorised as such.

In its 2009 determination³, the Tribunal stated that councils in the “Major City” category (now the “Major CBD” category) are defined as being metropolitan in nature with major industrial areas, major residential, commercial and tourism activities and significant education and health care facilities. In 2016 this category included Newcastle City Council, Wollongong Council and Parramatta City Council (now City of Parramatta) (“**CoP**”). However, in 2017, the Tribunal has proposed to re-categorise both Newcastle City Council and Wollongong Council as Regional Cities.

LGNSW does not propose to vary the “Major CBD” category. We agree that CoP provides a broad range of regional services across the Sydney Metropolitan area with a significant transport hub and hospital and educational facilities, and is appropriately categorised. CoP is also an alternative CBD for metropolitan Sydney with a number of large public and private sector organisations relocating their head offices to this location.

In its 2012 determination⁴, the Tribunal confirmed that the “Metropolitan Major” category was created in 2001 in recognition of Blacktown’s significant population (264,799 in 2001). This category is comprised of councils with a resident population of at least 250,000.

The “Metropolitan Centre” category was intended for councils typically defined as large multi-purpose organisations which serve the interests of a wide number of residents (but fewer than the former category).

Both the “Metropolitan Major” and “Metropolitan Centre” categories have large populations, support significant infrastructure and retail facilities, and may host major recreational, health and educational facilities.

Given that population appears to be the key distinguishing factor between the “Major CBD” and “Metropolitan Major” categories, LGNSW proposes merging them into one category, called “Metropolitan Major”. The “Metropolitan Major” would apply to metropolitan councils that have a residential population of at least 250,000 and/or metropolitan councils that have significant industrial, residential, commercial, tourism, education and/or health activities which set them apart from other metropolitan councils.

In our experience, special duties are most appropriately recognised by payment of an allowance or special category. Accordingly, LGNSW also proposes the inclusion of an additional category and/or allowance to be titled “Special/Interim”. Such category/allowance would apply on an interim basis to councils that have “special attributes/circumstances” that are “out of the ordinary”, thus making the council a “special case”. The Tribunal would determine the payment of the allowance, and the amount to be paid as an allowance, on a case-by-case basis. For example, councils currently experiencing significant change and unusually high population growth (as determined by Australian demographic statistics) are likely to have resourcing and infrastructure challenges that are out of the ordinary and which require a significantly greater commitment/contribution by the mayor and councillors. Councils that would potentially qualify for the “Special/Interim” category/allowance are likely to include

³ Report and Determination of the Local Government Remuneration Tribunal, 29 April 2009 at pp. 21.

⁴ Report and Determination of the Local Government Remuneration Tribunal, 27 April 2012 at pp. 12.

“peri-urban” councils that border metropolitan Sydney (e.g. The Hills). Such category might also be appropriate for councils that are currently experiencing significant change due to a recent council amalgamation.

LGNSW supports the retention of the “Metropolitan” category. This category should apply to metropolitan councils that do not fall within any of the other categories for metropolitan councils. The scale or diversity of operations for the “Metropolitan” category is likely to be less than for councils classified as “Metropolitan Centres”. Councils within the “Metropolitan” category may have some of the characteristics of councils that are categorised as “Metropolitan Centres” (such as high population densities). The primary activities of councils on the “Metropolitan” category is likely to include matters such as waste and environmental services, approval of building and development applications and strategic planning, child care, and community development.

(ii) Categories for non-metropolitan councils

LGNSW supports the introduction of the Tribunal’s proposed new “Regional City” category. We propose that councils within this category should be those regional councils that have major industrial, residential, commercial, education, health care and/or tourism activities.

LGNSW supports the inclusion of both Newcastle City Council and Wollongong City Council in the “Regional City” category (detailed further below).

Newcastle City Council should be categorised as a “Regional City” as it provides regional services to residents across the Hunter and the Mid North Coast. The Newcastle Port Corporation, which is one of the world’s largest coal export ports, is located within the Council area. Newcastle Airport, which offers flights to Sydney, Melbourne, Brisbane Canberra and the Gold Coast, is also located within the Council area. Ventures such as these, which have a broader State and national focus, impact upon the operations of this Council.

Similarly, Wollongong Council provides regional services to the residents of the South Coast region, which is an area of significant growth. Wollongong Council also contains the steel works and the Port Kembla Port Corporation. Traditionally a commodities goods port, the port is currently undergoing major expansion that is gradually seeing general and bulk cargoes, containers and vehicle handling become more important.

LGNSW supports the introduction of the Tribunal’s proposed new “Regional Strategic Centres” category.

Councils within the “Regional Strategic Centres” category may be differentiated from councils in the “Regional Rural” and “Rural” categories on the basis of their significant regional focus. Councils which are classified within the new “Regional Strategic Centre” category should be large multi-purpose organisations which serve the interests of a wide number of residents. These councils will have large populations, support significant infrastructure and retail facilities (such as a Westfield or Stockland shopping mall), and may host major recreational, health, educational, and sporting facilities (including for example, regional sports/athletics fields, a hospital and/or a university). Central Coast Council and Lake Macquarie City Council both meet this criterion; noting that whilst these councils do not host universities, they do host campuses for Australian universities.

LGNSW supports the retention of the “Regional Rural” and “Rural” categories.

In its 1995 Determination⁵, the Tribunal stated that councils in the “Regional Rural” category are important centres of trade, work and recreation for thousands of people in and outside the local government area which these towns serve. These councils are not necessarily defined by a large rural landscape dominated by agriculture but are essentially urban environments which often have a viable tertiary sector functioning beside a traditional farming sector. Regional council areas often consist of a major town or city which itself is surrounded by several other smaller towns or villages. LGNSW does not propose to vary the composition of the existing “Rural Regional” and “Rural” categories.

Appropriate classification of “new councils”

LGNSW sought feedback and comment from members as to whether they have a view on the appropriate classification of their council (particularly in the case of new councils).

The following classifications for individual councils were specifically proposed by members:

- Newcastle – Regional City; and
- Should Maitland and Dungog be amalgamated – Regional Strategic Centre

⁵ Report and Determination of the Local Government Remuneration Tribunal, 1 May 1995 at pp. 27-8.

Part 2 – Councillor and Mayoral Fees

The Tribunal is required 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 a determination 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.

The significant time involved for councillors and mayors in managing council workloads (alongside their family responsibilities in addition to their paid work duties) has not been appropriately recompensed for some time now.

This part of LGNSW’s submission will draw a comparison between the fees paid to mayors and councillors with the fees paid to administrators of recently amalgamated councils. This comparison is appropriate given that at the time of writing this submission administrators at new councils are performing the role of the elected council in the absence of an elected council.

This submission will also draw a comparison between the fees paid to mayors and councillors with the fees paid to chairpersons and directors of both not-for-profit companies and government bodies. This comparison is appropriate given that the recent legislative changes to the role of both the mayor and councillors (ss. 226 and 232 of the Act) has the effect of creating a nexus between the role of mayors/councillors and those of chairpersons/directors of other corporate entities.

Finally, an examination of the abovementioned legislative changes will demonstrate that the roles of mayors and councillors are significantly broader than when the Tribunal made its 2016 determination. The result is that the maximum remuneration which the Tribunal can award does not fairly compensate for the additional duties, workload and responsibilities of elected members. A step change is required.

Fees paid to administrators of recently amalgamated councils

The table below detailing the indicative remuneration paid to administrators of recently amalgamated councils was presented as part of the General Purpose Standing Committee No.6⁶ hearings on budget estimates.

New Council	Administrator	Remuneration band (per annum)
Inner West	Richard Pearson	\$280,000 - \$320,000
Cumberland	Viv May	\$280,000 - \$320,000
City of Parramatta	Amanda Chadwick	\$280,000 - \$320,000
Canterbury–Bankstown	Richard Colley	\$280,000 - \$320,000
Central Coast	Ian Reynolds	\$280,000 - \$320,000
Georges River	John Rayner	\$280,000 - \$320,000
Armidale Regional	Ian Tiley	\$180,000 - \$220,000
Snowy Monaro Regional	Dean Lynch	\$180,000 - \$220,000
Hilltops	Wendy Tuckerman	\$180,000 - \$220,000
Edward River	Ashley Hall	\$100,000 - \$150,000
Gundagai	Christine Ferguson	\$100,000 - \$150,000
Western Plains Regional	Michael Kniepp	\$180,000 - \$220,000
Snowy Valleys	Paul Sullivan	\$100,000 - \$150,000

⁶ General Purpose Standing Committee No. 6, 2016-17 Budget Estimates – Local Government Portfolio, 2 September 2016.

New Council	Administrator	Remuneration band (per annum)
Northern Beaches	Dick Persson	\$280,000 - \$320,000
Federation	Mike Eden	\$100,000 - \$150,000
Murrumbidgee	Austin Evans	\$100,000 - \$150,000
Mid-Coast	John Turner	\$180,000 - \$220,000
Queanbeyan-Palerang Regional	Tim Overall	\$180,000 - \$220,000
Murray River	David Shaw	\$100,000 - \$150,000
Bayside Council	Greg Wright	\$280,000 - \$320,000

Depending on whether they are categorised in bands 1, 2 or 3, administrators of recently amalgamated councils are being remunerated an indicative minimum of \$100,000-\$150,000 and an indicative maximum of \$280,000-\$320,000.

The fees paid to administrators of amalgamated councils can be contrasted with the fees paid to the mayor and elected councillors of councils that, to date, have not been subject to amalgamation.

For instance, Strathfield Council's 2015-16 Annual Report⁷ states that councillors are paid \$18,390 per annum and the mayor is paid an additional fee of \$40,090. This elected Council is composed of a mayor and six other councillors, with \$168,796 per annum being expended on fees. This expenditure is still \$150,000 less than the \$320,000 indicative maximum remuneration that can be paid to an administrator at a recently amalgamated metropolitan council including the neighbouring Inner West Council.

Lane Cove Council's 2015-16 Annual Report⁸ provides identical councillor and mayoral fees to those paid to elected members at Strathfield Council. This elected Council is composed of a mayor and eight other councillors and expends \$205,600 per annum on councillor and mayoral fees. This expenditure is still \$115,000 less than the \$320,000 indicative maximum remuneration paid to an administrator at a recently amalgamated metropolitan council.

Weddin Council's annual fee for councillors for the 2016-17 financial year is \$11,290 with the mayor being paid an additional \$24,630.⁹ This elected Council is composed of a mayor and eight other councillors, with \$126,240 per annum being expended on councillor and mayoral fees. This expenditure is still \$23,000 less than the \$150,000 indicative maximum remuneration paid to an administrator at a recently amalgamated non-metropolitan council.

The above comparison shows a huge disparity in the fees paid to elected members of councils compared to administrators of recently amalgamated councils. This divergence is particularly concerning. Administrators of new councils are performing the role of the elected council, in the absence of an elected council, and yet appear to be receiving considerably higher remuneration than the entire elected cohort of comparable councils (one administrator gets a great deal more than mayors and all councillors together). The difference between what administrators and individual mayors receive is vast.

The fees paid to elected members should at least match the fees paid to the administrators of new councils. The combined contribution of a mayor and councillors, which includes time spent attending to council business, is likely to far exceed that of a single administrator and they are doing the same job without the benefit of all the extra support the State Government is providing to its chosen administrators.

⁷ Strathfield Council, Annual Report 2015-16.

⁸ Lane Cove Council, Annual Report 2015-16.

⁹ Weddin Shire Council, Policy for Fees, Expenses and Facilities for Councillors 2016-17.

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

This part of LGNSW's submission makes reference to the 2016 Australian Board Remuneration Survey ("the Board Members Survey")¹⁰ (a copy of which is attached to this Submission and marked "Attachment 1"). The Board Members Survey is based on remuneration data covering 835 boards, including government bodies and not-for-profit bodies.

This submission will use the remuneration paid to directors of boards and board chairman (or 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 nexus exists between directors of boards and councillors, and chairpersons of boards and mayors, given the recent legislative changes to the role of both the mayor and councillors (detailed further below).

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 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.

Comparison 1 –

City of Canada Bay ('CCB') and a comparable Government body* (based on total revenue)

Position	Total Revenue of Organisation/Council	Average Remuneration	Maximum Remuneration
Chairman – Government Body	\$80-120M	\$64,000	-
Mayor – City of Canada Bay	\$99.9M	-	\$59,930
<i>Difference in the average remuneration paid to the Chairman of a Government body and the Mayor of CCB: \$4,070</i>			
Director – Government Body	\$80-120M	\$37,567	-
Councillor – City of Canada Bay	\$99.9M	-	\$18,840
<i>Difference in the average remuneration paid to a Director of a Government body and a Councillor of CCB: \$18,727</i>			

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

The total revenue of CCB is \$99.9 million,¹¹ compared to \$80-\$120 million for a government body. Yet the chairperson of a government body of comparable revenue to CCB will earn on average \$4,070 more p.a. than the mayor of CCB. Similarly, a director of the government body will earn on average \$18,727 p.a. more than a councillor of CCB.

¹⁰ Australian Board Remuneration Survey Report, published by McGuirk Management Consultants Pty Ltd., 2016.

¹¹ Office of Local Government, Time Series Data, 2014-15.

Comparison 2 –

Mosman Council and a comparable government body* (based on TFTE)

Position	Total No. Full-time Employees	Average Remuneration	Maximum Remuneration
Chairman- Government Body	151-200	\$61,333	-
Mayor – Mosman Council	174	-	\$59,930
Difference in the average remuneration paid to the Chairman of a Government body and the Mayor of Mosman Council: \$1,403			
Director- Government Body	151-200	\$34,623	-
Councillor - Mosman Council	174	-	\$18,840
Difference in the average remuneration paid to a Director of a Government body and a Councillor of Mosman Council: \$15,783			

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

The TFTE at Mosman Council are 174,¹² compared to 151-200 for a government body. Yet the chairman of a government body with a comparable number of TFTE to Mosman Council will earn on average \$1,403 p.a. more than the mayor of Mosman Council. Similarly, a director of a government body will earn on average \$15,783 p.a. more than a councillor of Mosman Council.

Comparison 3 –

Murrumbidgee 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	\$5-\$10M	\$39,176	-
Mayor - Murrumbidgee Council	\$9.1M	-	\$35,920
Difference in the average remuneration paid to the Chairman of a not-for-profit body and the Mayor of Murrumbidgee Council: \$3,256			
Director - Not for Profit	\$5-\$10M	\$13,067	-
Councillor – Murrumbidgee Council	\$9.1M	-	\$11,290
Difference in the average remuneration paid to a Director of a not-for-profit body and a Councillor of Murrumbidgee Council: \$1,777			

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

The total revenue of Murrumbidgee Shire Council (which was amalgamated with Jerilderie Shire Council on 12 May 2016 and became Murrumbidgee Council) was \$9.1 million in 2014/15,¹³ compared to \$5-\$10 million for a not-for-profit organisation. Yet the chairperson of a not-for-profit organisation of comparable revenue to Murrumbidgee Shire Council received on average \$3,256 more p.a. than the Mayor of Murrumbidgee Shire Council. Similarly, a director of the not-for-profit organisation received on average \$1,777 p.a. more than a councillor of Murrumbidgee Shire Council.

¹² Office of Local Government, Time Series Data, 2014-15.

¹³ Office of Local Government, Time Series Data, 2014-15.

Comparison 4 –

Broken Hill City 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	151-200	\$78,417	-
Mayor – Broken Hill Council	161	-	\$59,930
<i>Difference in the average remuneration paid to the Chairman of a not-for-profit body and the Mayor of Broken Hill Council: \$18,487</i>			
Director- Not for Profit	151-200	\$47,020	-
Councillor – Broken Hill Council	161	-	\$18,840
<i>Difference in the average remuneration paid to a Director of a not-for-profit body and a Councillor of Broken Hill Council: \$28,180</i>			

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

The TFTE at Broken Hill City Council are 161,¹⁴ compared to 151-200 for a not-for-profit organisation. Yet the chairperson of a not-for-profit organisation with a comparable number of TFTE to Broken Hill City Council receives on average \$18,487 p.a. more than the mayor of Broken Hill City Council. Similarly, a director of a not-for-profit organisation receives on average \$28,180 p.a. more than a councillor of Broken Hill City Council.

The current arrangements for setting councillor and mayoral fees do not properly compensate elected members for the growth in workload and range of responsibilities over time. As the above comparison demonstrates, in some cases councillors receive on average \$28,180 per year less than their counterparts at not-for-profit organisations. It is somewhat disconcerting that the gap in remuneration between councillors and directors of not-for-profit organisations is, in many cases, larger than the total remuneration received by councillors annually. Furthermore, chairmen and directors do not have the legal and civic responsibilities of elected members.

Legislative changes – the impact on the roles of mayors and councillors

Since the Tribunal made its 2016 determination, the Act has been amended and the role of the governing body (under s. 223 of the Act) has been significantly expanded. The stated role of the governing body far exceeds that of directing and controlling the affairs of the council, as was the case when the Tribunal made its 2016 Determination. The Act now provides that the role of the governing body includes, but is not limited to, ensuring the financial sustainability and performance of the council, and ensuring that the council acts honestly, efficiently and appropriately.

Further, the roles of the mayor and councillors (under ss. 226 and 232 of the Act) are now more broadly defined, with councillors also having professional development requirements under s. 232(g) of the Act (an additional requirement that does not apply to chairpersons and directors of not-for-profit boards). Such changes are consistent with LGNSW's long held view that the Act, prior to amendment, underrepresented the role, functions and workload of councillors and mayors. Importantly, unlike the narrow definition ascribed to the duties of mayors and councillors when the Tribunal made its 2016 determination, the more broadly

¹⁴ Office of Local Government, Time Series Data, 2014-15.

defined roles of mayors and councillors now more closely reflect the duties of corporate chairpersons and directors.

LGNSW submits that the enhanced role of mayors and councillors should be both recognised and remunerated accordingly.

The fees paid to mayors and councillors should also be sufficient to attract and retain appropriately qualified people with the time and dedication that councils and their communities expect.

At present, 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 by the capped amount of 2.5%. The factors set out herein form a strong argument for recognition by awarding a fee increase of no less than the maximum of 2.5%, and for proper reform in this area.

Conclusion

This submission has sought to highlight that whilst the s240 criteria are still relevant and appropriate for the purpose of categorising councils, they need to be expanded to include a wider range of factors.

LGNSW supports the Tribunal's proposed introduction of two new categories for categorising councils, titled "Regional City" and "Regional Strategic Centre". Further, the categories "Metropolitan Major" and "Metropolitan Centre" should be merged into one category, and an additional new category and/or allowance titled "Special/Interim" should be created to apply on an interim basis to councils that have "special attributes/circumstances" that are "out of the ordinary", thus making the council a "special case".

The Tribunal must increase the fees paid to mayors and councillors by no less than the maximum of 2.5%. Councillors and mayors have already fallen behind, with the current fee structure failing to recognise the work of elected representatives, and often inadequate to attract and retain people with the necessary skills and experience to perform the role.

We thank the Tribunal for receiving our submission and look forward to meeting with the Tribunal to discuss these matters further on 16 February 2017.

Yours sincerely,



Cr Keith Rhoades ASFM
President
Local Government and Shires Association NSW