

Submission to the NSW Local Government Remuneration Tribunal

18 March 2015

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Introduction

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

In its Determination of 24 April 2014, 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

The Association's 2015 submission will address:

Categorisation of councils.

While the Tribunal is required to consider councils' categories in 2015, the Association recognises that there are practical reasons for not conducting a wholesale review of the sector prior to the conclusion of the *Fit for the Future* proposal and approval period. Consequently, the Association will not on this occasion, provide its detailed analysis of the trends in the factors set out in Section 240 of the Act that give rise in to altering councils' categories. The Association will suggest that consideration be given to a new category of council being Peri-Urban councils.

Councillor and mayoral fees.

The Association's submission will argue in support of an increase in fees equal to the maximum increase available given the statutory limitations. The submission will also argue 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 of councillor and mayoral fees are not appropriate in the context of impending and significant change within Local Government and its expected impact on the work of elected representatives.

Categorisation of Councils

Under Section 239 of the Act, the Tribunal is required to assess council categories at least once every three years taking in consideration the factors set out in Section 240 of the Act as follows:

- *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;*

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

- *the regional, national and international significance of the Council;*
- *such matters as the Remuneration Tribunal considers relevant to the provision of efficient and effective Local Government; and*
- *such other matters as may be prescribed by the regulations.*

The *Fit for the Future* reforms encourage councils to review their current scale of operations and consider the benefits of voluntarily merging with their neighbours. While ever the current mechanism is retained, it is reasonable to assume that the Tribunal will conduct a classification exercise once the makeup of new councils in New South Wales has been settled and legislation amended accordingly. It is expected that the outcomes of *Fit for the Future* may include changes in the size of many council areas in New South Wales. It is certain that new factors for evaluating councils' operations and characteristics will also fall out of the process.

The Association notes that the Tribunal has invited councils to make submissions on how *Fit for the Future* councils should be categorised. It is the Association's preliminary view that any new set of factors for describing council categories should be capable of being applied to all councils rather than segregating councils based on their *Fit for the Future* status.

The Tribunal has observed in past determinations that matters surrounding plans or assumptions as to the future development of council areas are not relevant considerations for the purpose of determining council categories.²

The Association expects that this thinking will now be revisited. The very essence of *Fit for the Future* proposals and IPR is that councils will be adopting and implementing change and improvements over the medium, if not longer term. Across the board, the NSW Local Government sector will undergo transition, so in addition to reviewing the factors already prescribed by the Act, there will be a need to develop contemporary factors that recognise progressive change at the council level. Such factors may include: recognition of those councils who are achieving their *Fit for the Future* milestones and improvements over timeframes as planned and the extent to which councils are introducing and/or leading collaborative regional arrangements. The Association looks forward to engaging in the development of new factors for the categorising councils when the opportunity arises.

Peri-urban councils

The Association submits that a new category of "Peri-Urban" should be created to contain those councils that occupy a landscape on a major city fringe that is neither fully urban nor completely rural.

Peri-Urban areas on Sydney's fringes are part of a solution of managing population growth through providing major land releases and offering alternative lifestyle, tourism, agricultural and other economic pursuits whilst retaining local town and village character.

² Report and Determination of the Local Government Remuneration Tribunal, 27 April 2012, p 10.

The concept of Peri-Urban councils is relevant to at least two councils, as the Review Panel noted in its recommendations that both Wollondilly and Hawkesbury River councils occupy a specialised role on the Peri-Urban fringe.³ Further, the Association notes that the merge option did not apply for these councils and therefore they will more than likely continue to exist as entities after the *Fit For the Future* reform process has concluded. There are a number of other councils that would potentially suit a categorisation of Peri-Urban rather than Metropolitan or Regional Rural.

³ 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.105-6.

Councillor and Mayoral Fees

The Association continues to advocate that councillors and mayors face increasing challenges associated with managing their council workloads (including training), 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.⁴ However, there is a persuasive argument that 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.⁵ It is widely recognised that NSW elected representatives' roles and responsibilities have continued 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 activities such as supporting medical and dental services, funding community safety programs including installing CCTV and 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 trend has been the significant and additional workload attributed to councillors' involvement in responding to *Fit for the Future*; the introduction of Joint Organisation pilots alongside the activities already mandated by councils' Operational Plans.

The Association submits that the Review Panel's reports and related research confirms that the work value of councillors and mayors has increased as their roles and those of councils evolve and become more onerous.

As a service provider, the Association can demonstrate that elected representatives' participation in professional development and training has undergone significant growth. Since the beginning of 2014, 524 elected members attended the Association's LGNSW Learning Solutions certificate courses, bootcamps, roundtables and the like. While the demand for such training remains strong, a common theme from participant feedback is that at the current level of remuneration and given that many councillors are involved in other paid work, allocating additional time for training can be difficult to sustain.

It should be noted that the Association is not the only supplier of training for elected representatives and further, councils very often arrange relevant training themselves.

It is recognised that at the present time, the Tribunal's capacity to make a determination that would ameliorate councillors and mayors for sustained increases in workload and responsibility is limited to the capped amount of a 2.5% increase to fees.

⁴ Report and Determination of the Local Government Remuneration Tribunal, 24 April 2014 p. 6.

⁵ ILGRP *Revitalising Local Government* p. 21.

With regard to the future then, 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 IPR framework of a new Act.⁶ It follows that an enhanced and full time role for mayors and deputy mayors will 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.

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.⁷

The Association will continue to lobby for an equitable remuneration structure that ensures that 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 when making its consideration 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 \$7,000.⁸ The 2013 determination concluded that the responsibilities of councillors had changed over the previous ten years⁹ and included increased responsibilities in relation to financial responsibilities including strategic level budget planning and approval of significant infrastructure projects.¹⁰ WASAT also concluded that CPI did not take into account additional responsibilities that had been shouldered by council members since 2005.¹¹

⁶ *Ibid*, p.12.

⁷ 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.

⁸ Determination of the Western Australia Salaries and Allowances Tribunal on Local Government Elect Council Members, 19 June 2013, para 57.

⁹ *Ibid*. para 27.

¹⁰ *Ibid*. para 24.

¹¹ *Ibid*. para 64.

The 2013 WASAT determination introduced a band system,¹² which operates in a similar manner to the categories system in New South Wales. The maximum sitting fee increase for the lowest band increased by over 28% to \$9,000, whilst the highest band maximum annual fee for councillors was set at \$30,000, an increase of over 400%.¹³ 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%.¹⁴

It is instructive that West Australian 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 recent Western Australian 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 being imminent.

Cost of Living

The Association notes that the *Parliamentary, Local Council, and Public Sector Executives Legislation Amendment Act 2011* sets remuneration increases for local councillors to no more than 2.5% per annum. The Tribunal's 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 by the December 2014 quarter is already 2.2%. The implication of the restriction imposed on the Tribunal's determination is that elected members are already coming off low fees and cannot 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 *Ibid.* para 80.

¹³ *Ibid.* part 2.4.

¹⁴ Determination of the Western Australia Salaries and 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 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 there is a strong argument for the Tribunal to increase the fees paid to councillors and mayors, based on cost of living pressures. There should also be recognition of the ongoing growth in councillors' and mayors' workload and responsibilities which will include being tasked with implementing the *Fit for the Future* reform process over the coming 12 months. These factors provide a fair and reasonable basis for the Tribunal to award a fee increase of no less than 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 23 March 2015.

Yours sincerely,



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President
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