

Note: This determination has been amended to reflect changes made as a result of the 9 June 2004 Report and Determination on the Categorisation of New and Reconstituted Councils

REPORT

and

DETERMINATIONS

Of

THE LOCAL GOVERNMENT REMUNERATION

TRIBUNAL

Under

SECTIONS 239 AND 241

of the

LOCAL GOVERNMENT ACT 1993

28 April 2004

REPORT:

Background to the Present Review:

Pursuant to Section 241 of the Local Government Act 1993 (the 1993 Act) the Local Government Remuneration Tribunal hereby determines the categories for councils, county councils and mayoral officers and the maximum and minimum amount of fees to be paid during the period 1 July 2004 to 30 June 2005 to mayors and councillors of councils as well as chairpersons and members of county councils.

In the 2003 Report the Tribunal advised that for the 2004 review it planned to examine some Category 1 councils seeking re-categorisation to Category 1A. The Tribunal also indicated that for the 2004 review it intended to complete its review of Councils in Category 3 based on their activities and regional significance that distinguish them from other Category 3 councils.

Since the publication of that Report the Government commenced a structural reform programme for Local Government by announcing a series of regional reviews. These reviews have led to changes in Council boundaries and in some cases new Councils have been created from the merger of smaller council areas.

The reviews also impacted on the time table for elections scheduled for 27 March 2004. Of the 172 Councils that were in place as at 1 July 2003, 138 Councils went to the polls on March 27 2004. The remainder were deferred pending the completion of the reviews for the affected councils.

The impact of these events on the Tribunal's schedule for completing its review as foreshadowed in the 2003 Report has been substantial. Because of the on going regional reviews and their impact on Council boundaries the structure of regional councils in NSW is not clear. The Tribunal, following consultation with its Assessors, decided that the most prudent course of action would be to defer the review of the categorization of Councils until the completion of the regional reviews.

On 29 January 2004 the Tribunal wrote to all Mayors of Local Councils and Chairpersons of County Councils and to the Presidents of the Local Government and Shires Associations (LGSA) advising the reasons for deferring the review of the Categories until the completion of the Government's structural reform process. For these reasons the 2004 review would only review, and consider, submissions dealing with fees.

2004 Review

Those submissions dealing with categorization or recategorisation have not been considered as part of this review. The Tribunal has also received written submissions from 10 Councils dealing with fees generally.

All written submission sought increases in fees and/or recategorisation as a basis for increased fees. Emphasis was placed on the need to provide an attractive rate to secure better Councillors and Mayors and the pressure on elected persons to provide full-time service on council duties.

The Mayors of Baulkham Hills, Gosford and Sutherland Councils wrote to the Tribunal requesting a review of the Tribunal's decision not to continue with the review of their categorisation. The Tribunal met with the representatives from these Councils. The meeting proved very useful for the Tribunal. The results of that meeting are contained in the Conclusions to this Report.

The submission from the LGSA sought substantial increases in maximum fees. To support their submission the LGSA provided details of Councillor fees in Queensland, Victoria and Tasmania. In all cases it was put by the LGSA that population is the prime consideration in the categorisation or fee setting of Councillors.

The Tribunal met with the President of the Shires Association and the Deputy President of the Local Government Association. That meeting was not constructive and did not progress the substantive arguments contained in the submission.

Interstate Comparisons

To deal with the interstate comparisons first it should be noted that, in respect of fee setting, the NSW Act requires the Tribunal to have regard to a range of factors of which population is one and while the Tribunal has given greater weight to population, particularly to one Council the other factors cannot be ignored.

Under the Queensland Local Government Act Councillors can set their own fees. The Tribunal is unaware as to the rationale that led to this approach being enshrined in legislation. It is not a matter for the Tribunal to comment on the pros and cons of other jurisdictions. The Tribunal does note, however, that such an approach can lead to disparities in fee setting.

The following examples, taken from the list of fees provided by the LGSA, illustrate this point. In two Councils with a population of less than 1000 one pays its Mayor over \$41,000 pa, the other \$15,000. Another Council, with a population of just under 50,000 residents, pays its Mayor \$102,000 whereas a Council with more than twice that population size pays its Mayor \$94,000.

The Victorian and Tasmanian examples provided by the LGSA suggest that the NSW fees are comparable.

Fee Levels

Since the establishment of the Tribunal in 1993 there have been arguments put to the Tribunal that the fees for Councillors and Mayors are too low; these low fees will not attract the right type of candidate to Local Government; and they do not reflect the workload of Councillors and Mayors who are increasingly burdened with higher workloads and responsibilities.

The Tribunal has addressed each of these matters in the past but it seems necessary to make some additional comment on this occasion.

Under the 1919 Act, Members of Council (Aldermen and Mayors) received \$60 per meeting up to a maximum annual amount of \$3,000. Mayors also received an allowance to meet the

expenses of office. This amount was voted by individual Councils.

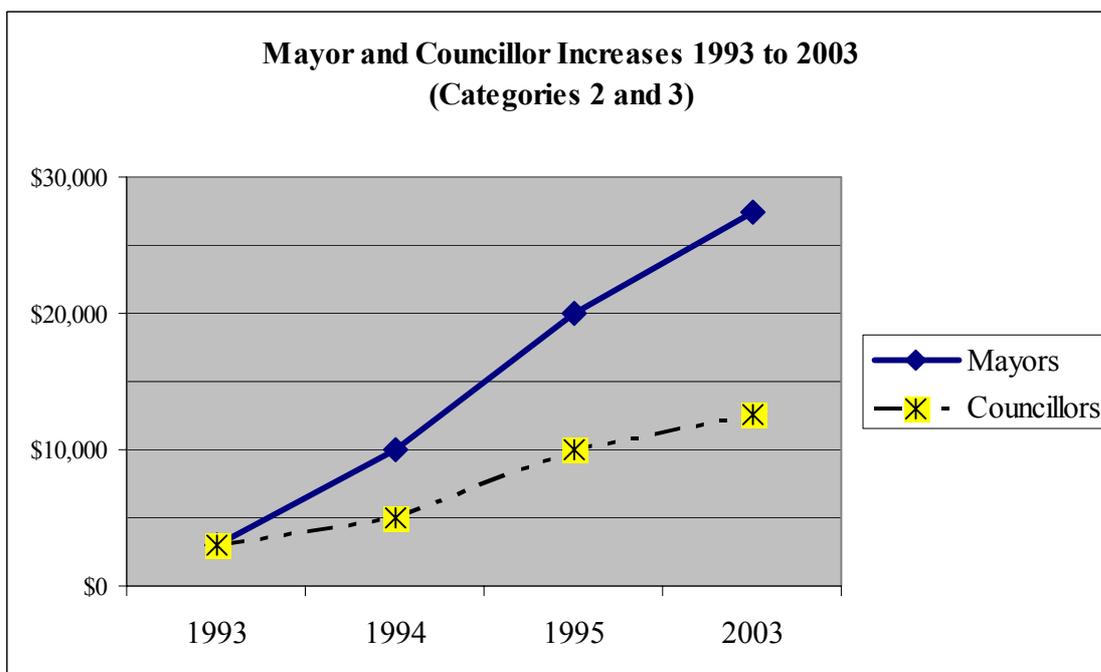
The 1993 Act repealed the 1919 Act. It established the Local Government Remuneration Tribunal and required the Tribunal to determine categories of Councils using prescribed criteria, to place each Council into a category and to set the minimum and maximum fees for each category.

In 1994 the Tribunal issued an interim determination and provided an annual fee for Councillors and Mayors of \$5,000 per annum ie an increase of 67 percent over the maximum provided by the 1919 Act.

In its first full review of Categories and fee levels conducted in 1995 the Tribunal provided further significant increases in fees for Councillors and Mayors - increasing even further the interim fee levels of 1994. For Category 2 Councils and Category 3 Councils the increases for Mayors and Councillors were 300% and 100% respectively over the 1994 determination.

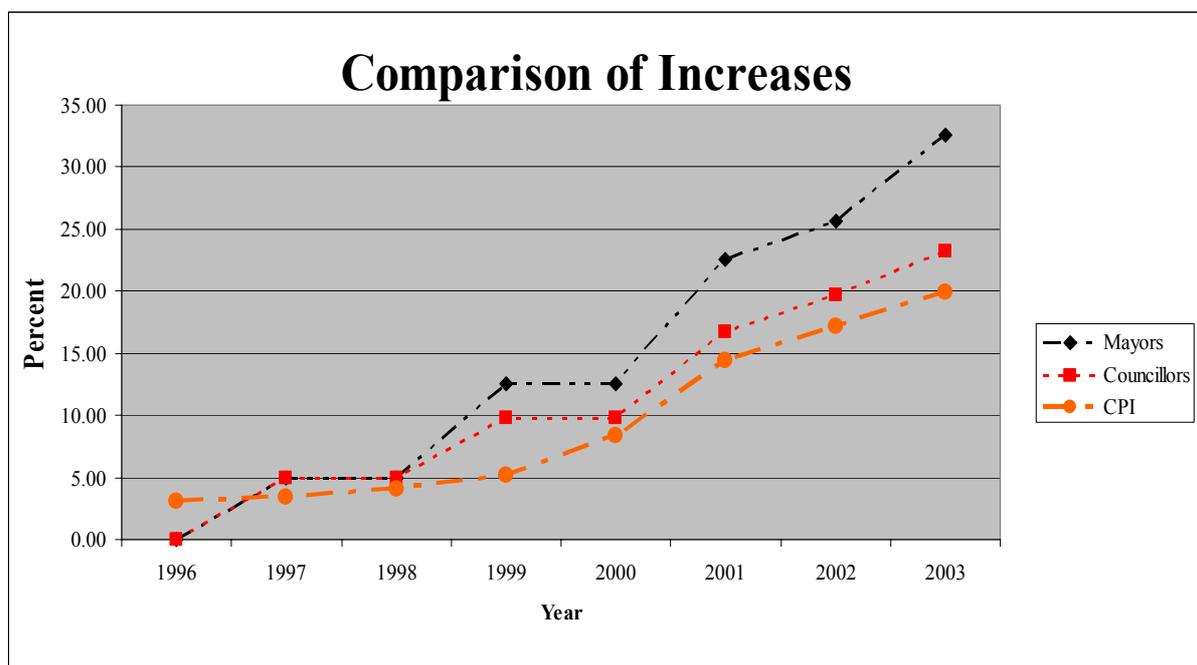
The levels of increase received by Councillors and Mayors for the decade 1993 - 2003 is shown in Table 1.

Table 1



Since 1995, Mayors and Councillors in these Categories have received increases totaling 32.60 percent and 26.25 percent respectively. This does not take into account increases arising from recategorisation. The increases determined by the Tribunal for Councillors and Mayors and the increase in the Consumer Price Index for the same period are shown in Table 2.

Table 2: (Increases refer to Mayors and Councillors for Category 2 and Category 3 Councils)



A repeated claim made to the Tribunal is that if the fees are not increased significantly then the best possible candidates will not stand for election. Statements such as these are impossible to validate. How does one know if the best possible candidate is representing the Community? What criteria are used to assess who in the community is the best possible candidate. Where is the empirical proof that money is the only motivating factor in standing for local elections? Proponents of the of the money arguments do not provide answers to such questions other than to revert to clichés about paying peanuts and getting monkeys.

If the fees set for Councillors are so low as is claimed then one obvious manifestation of this would be a decrease in the number of candidates standing for Local Government elections.

The advice of the Acting Electoral Commissioner was recently sought on the number of candidates who stood at the recent Local Government elections and how the numbers compared with previous elections. The advice is summarised hereunder (the number of candidates has been rounded to the nearest hundred).

	No of Council Elections	No of Candidates
1995 Election	172	4,000
1999 Election	153	4,500
2003 Election	138	5,000

When the 1999 election figures are compared with the 2003 figures it will be noted that despite 20 percent fewer council elections in 2003 there were 25 percent more candidates. There was also a significantly higher number of choices for the voters to decide who would represent them on Local Government Councils.

The best way the community has of assessing the quality of the candidates is to have a large number competing for the votes of the electorate. Each candidate presents his/her position on local issues for the community's consideration prior to polling day and each candidate's vision for the community can be weighed against the competing views of other candidates.

This is the essence of our democratic system and arguments about the quality of candidates being determined solely by monetary value discredits those candidates who see Local Government first and foremost as a community service.

Arguments have also been put to the Tribunal about significant increases in workloads of Councillors and Mayors and that this should be recognized.

These arguments are also not new. It is a matter of record that changes in the role of elected persons resulting from the 1993 Act do appear to have been addressed, particularly the introduction of the executive role of the General Manager and its impact on the day-to-day management of the Council.

Conclusions

For the reasons stated above the Tribunal has concentrated on fees for this review.

The Tribunal has noted, however, that the last fundamental review of Categories occurred ten years ago and that it is now time to revisit the Categories to determine whether they should be retained or whether the changes are warranted.

Because of the regional reviews currently under way it is not appropriate to review all categories at this time. It is understood that the larger metropolitan councils (Category 1 and above) are unlikely to be affected by the reviews. The Tribunal has, therefore, decided that for the next review it will undertake a comprehensive review of Categories 1, 1A and Special Category 2.

Because of the comprehensive nature of the review and the information to be provided by the affected Councils the Tribunal intends writing to these Councils following the completion of this review. The Tribunal will seek comment on the changes that have occurred since 1995, the impact such changes have had on the duties and responsibilities of the elected representatives and any other matters considered relevant.

From what has been stated above the Tribunal can see no compelling case for providing a substantial increase in the fees for Councillors and Mayors. No valid argument has been put forward that the fee levels were inappropriate for 2003-04.

In respect of the current review the Tribunal has had regard to the latest economic indicators. These show that the Consumer Price Index has increased by 2.4 percent and the Wage Cost Index has increased by 3.6 percent. After taking into account the views of the Assessors, the Tribunal determines that fees for Councillors, Mayors and Chairpersons be increased in all Categories by 3.0 percent effective from 1 July 2004.

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen QC)

Dated: 28 April 2004

(determination amended 9 June 2004 by Special Determination)

**DETERMINATION OF CATEGORIES OF COUNCILS AND COUNTY COUNCILS
FOR 2004/2005**

Category S1 (1 Council)	Sydney
Category S2 (3 Councils)	Newcastle Parramatta Wollongong
Category S3	County Councils
Category S4 (engaged in significant commercial activities)	County Councils

Category 1A (2 Councils)

Blacktown
Penrith

Category 1. (16 Councils)

Bankstown	Liverpool
Baulkham Hills	North Sydney
Campbelltown	Randwick
Fairfield	Ryde
Gosford	Sutherland
Hornsby	Warringah
Hurstville	Willoughby
Lake Macquarie	Wyong

Category 2. (21 Councils)

Ashfield	Lane Cove
Auburn	Leichhardt
Botany	Manly
Burwood	Marrickville
Camden	Mosman
Canada Bay	Pittwater
Canterbury	Rockdale
Holroyd	Strathfield
Hunters Hill	Waverley
Kogarah	Woollahra
Ku ring Gai	

Category 3. (32 Councils)

Albury City	Greater Taree
Armidale Dumaresq	Griffith
Ballina	Hastings
Bathurst Regional	Hawkesbury
Bega Valley	Kempsey
Blue Mountains	Lismore
Broken Hill	Maitland
Byron	Orange
Cessnock	Pt Stephens
Clarence Valley	Shellharbour
Coffs Harbour	Shoalhaven
Dubbo	Tamworth Regional
Eurobodalla	Tweed Heads
Gt Lakes	Wagga Wagga
Greater Argyle	Wingecarribee
Greater Queanbeyan	Wollondilly

Category 4. (32 Councils)

Bellingen	Murray
Cabonne	Muswellbrook
City of Lithgow	Nambucca
Cobar	Narrabri
Cooma-Monaro	Narrandera
Cootamundra	Parkes
Cowra	Richmond Valley
Deniliquin	Singleton
Forbes	Snowy River
Gilgandra	Tumut
Glen Innes	Walgett
Gunnedah	Wellington
Inverell	Wentworth
Kiama	Yass Valley
Leeton	Young
Mid-Western Regional	
Moree Plains	

DETERMINATION OF ANNUAL REMUNERATION FEES FOR COUNCILLORS AND MAYORS

Pursuant to s.241 of the Local Government Act 1993, the annual fees to be paid in each of the categories determined under s.234 to Councillors, Mayors, members and chairpersons of County Councils during the period 1 July 2004 to 30 June 2005 are determined as follows:

	Councillor/Member Annual Fee		Mayor/Chairperson Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Category 5	5,875	6,460	6,240	10,615
Category 4	5,875	7,750	6,240	16,920
Category 3	5,875	12,925	12,490	28,215
Category 2	5,875	12,925	12,490	28,215
Category 1	8,810	16,450	18,730	43,705
Category 1A	11,745	19,385	24,970	56,505
S4	1,175	6,460	2,500	10,615
S3	1,175	3,875	2,500	7,055
S2	11,745	19,385	24,970	56,505
S1	17,625	25,850	107,840	141,900

*This fee must be paid in addition to the fee paid to the Mayor/Chairperson as a Councillor/Member (s.249(2)).

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen Q.C.)

Dated: 28 April 2004

(amended 9 June 2004)