REPORT

and

DETERMINATIONS

Of

THE LOCAL GOVERNMENT REMUNERATION TRIBUNAL

Under

SECTIONS 239 AND 241

of the

LOCAL GOVERNMENT ACT 1993

29 April 1999

Local Government Remuneration Tribunal

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The Hon H F Woods MP
Minister for Local Government,
Minister for Regional Development and
Minister for Rural Affairs
Level 2, 151 Macquarie Street
SYDNEY NSW 2000

Dear Minister

Pursuant to section 244 of the Local Government Act 1993, I wish to advise that the Determinations have been made in accordance with sections 239 and 241 of the Act.

The Determinations and a Report thereon are forwarded for publication in accordance with section 245 of the Act.

Yours faithfully
Local Government Remuneration Tribunal

(The Honourable Charles L Cullen Q.C.)

This is the sixth Report of the Local Government Remuneration Tribunal in its annual task of determining categories of Councils and fixing fees for Councillors and Mayors for the ensuing year.

The history of local government in New South Wales was regarded by the Tribunal as an important factor in assessing the manner of performance of Mayors and Councillors pursuant to the Local Government Act 1993 (the 1993 Act). The interim arrangement established under clause 14 of the Local Government (Savings and Transitional) Regulation of the 1993 Act is discussed at pages 8 and 9 of the 1994 Report.

The collective views at the commencement of the 1993 Act are summarised at page 23 of the 1994 Report. It is to be noted that views were still held strongly that, as in the past, all Councillors (including Mayors) should continue to receive the same fee. They had been treated equally in regard to fees prior to 1993. The Mayor, of course, received an appropriate expense allowance which varied significantly from small, rural Councils to the Sydney City Council.

The submissions as to fees under the 1993 Act varied. Some of the fees claimed have been based on “full-time” service or outside comparisons, without regard to the history and features of local government. As the great majority of Councils are small, rural Councils, it is difficult to perceive the concept of up to 15 full-time salaried Councillors and a Mayor and general manager to administer the needs of such local communities. There is nothing in the 1993 Act or the second reading speech to indicate such a form of local government.

Because of the continued contentions of some Councillors and Mayors as to recompense for their contributions to local government, particularly for out of pocket expenses incurred, it is necessary to repeat the statement made by the Tribunal in its first Report in 1994:

> *"The 1993 Act specifies that the Tribunal is to determine fees. The term 'fees' is not defined in the Act. Section 252, however, specifies that Councils must adopt a policy with regard to the payment of expenses or the provision of facilities to Mayors, deputy Mayors or Councillors in the discharge of their duties. Councils, not the Tribunal, are responsible for establishing the manner by which such facilities are provided and expenses paid. It is not appropriate for the Tribunal to add to fees an element for the failure of Councils to act in accordance with section 252 to cater for complaints that Councillors are out-of-pocket for expenses paid."*

To the contrary, section 252 provides:

> *"The policy may provide for fees payable under this division to be reduced by an amount representing the private benefit to the Mayor or a Councillor of a facility provided by the Council to the Mayor or Councillor."*

The formulation of policies concerning expenses was considered by the Tribunal in the 1995 Report (pages 80-81):

> "*During the course of the present inquiry, Councils were in the process of formulating policies concerning the payment of expenses and the provision of facilities. The extent of previous policies ranged from total absorption of expenses in Councillors fees to payments for an extensive range of claimed expenditures. It was pressed by some Councillors and Mayors that they (and their wives if required to attend) should be re-imbursed for the extra costs, for example, of formal clothing to attend functions, child minding, personal gifts and donations and all other expenses associated in any way directly or indirectly with their position as elected persons. The extent to which Councils are prepared to re-imburse Councillors and Mayors for such incurred expenses is a matter for the exercise of discretion by each Council subject to public scrutiny."*

It is to be noted that the entitlement to expenses and facilities is confined to the discharge

of the functions of civic office.

> *"It is reasonable to expect that the recompense to Councillors for such functions should be equitable in that no Councillor should be disadvantaged compared with other Councillors in performing their civic duties on behalf of the Council."*

Basic to the task of fixing fees, the Tribunal is required to determine categories of Councils (section 240). The manner in which the Tribunal has determined minimum and maximum fees has been described in its Annual Reports. It is a matter for each Council to determine its own fees if it decides to fix fees in excess of the minimum determined by the Tribunal.

It must be borne in mind that:

> *"The annual fee so fixed must be the same for each Councillor."* (Section 243(3)).

In addition, in fixing such fees in excess of the statutory minimum the Council must have regard to the benefits arising from the implementation of its expenses policy.

The fees determined by the Tribunal, both maximum and minimum, have taken into account these provisions. If Councillors are "out-of-pocket" from expenses incurred in "*discharging the functions of civic office*" the issue is a matter for the Council, not the Tribunal.

The Local Government and Shires Associations (the Associations) made a submission adopting the five previous submissions of the Associations and detailing legislative changes since 1997. The former claims made therein have been comprehensively dealt with by the Tribunal in its Reports. As the Associations have not provided any new material to support these claims, except in relation to legislative changes, the Tribunal does not propose to consider them further in this Report.

However, particular attention needs to be given to the comment that *"an equitable base for setting fees for Councillors and Mayors has not been established as yet."* This appears to relate to the rejection by the Tribunal in 1998 of "a global claim for $100,000 for full-time

Mayors and general increases for Councillors and Mayors ranging from 42 per cent to 153 per cent for maximum fees and 20 per cent to 166 per cent for minimum fees". (1998 Report, page 4).

On this occasion the Tribunal has taken into account the changes in legislation affecting local government and its effects on Councils, as it has done in the past. Particular attention has been given to the impact of such changes on Mayors, Councillors, and the general manager and staff. It could be expected, as in the case of the 1919 Act, that such amendments are likely to continue into the future, and Councils are invited annually by the Tribunal to specify the manner in which such amendments have affected them, as the effects may vary considerably from Council to Council. It is to be remembered that small, rural Councils predominate in New South Wales. Of 177 Councils, 100 are in categories 4 and 5.

As to the submission by the Associations that an "equitable" base had not been determined, it needs to be restated that the base from which the Tribunal proceeded in 1994 was the existing fees and expenses payable at the time of commencement of the 1993 Act. This was an interim measure pending a full investigation because the Tribunal was constituted on 19 February 1994 and was required to Report to the Parliament by 1 May 1994.

As stated in the preface to the Report made on 22 April 1994:

> *"Because of the limited material and time available to formulate the present determination, it necessarily must be regarded as an interim determination which will need to be reviewed after a full investigation."*

The extent of this investigation and the information received is detailed at pages 2 to 7 of the 1995 Report. The information included material from Queensland, New Zealand and California concerning the organisation of local government in those countries. This was additional to other material received by the Tribunal from Canada and the United Kingdom.

The rationale for the categories and the fees determined for each Category is outlined in the 1995 Report. Of the references to the experience of local government outside New South Wales, these were discussed in the Report at pages 67 to 68. The Californian local government system was described in detail at pages 57 to 63 and Attachment 6. As stated in the Report:

> *"The California experience provides useful background in assessing the value of the contribution of elected local government representatives in New South Wales. Particularly is it so because of the influence of community input and the impact of results arising therefrom.*" (p. 62)

Written source material was made available to the Associations because they had sought to rely on New Zealand. The Tribunal's findings on the New Zealand comparisons are dealt with at pages 56 to 57 and 71 of the 1995 Report. This material was useful in assessing the operation of the new 1993 Act in New South Wales where the structure of administration was significantly altered.

In the 1996 Report, the Tribunal stated its review of the 1995 determination and the opportunity was given to Councils and the Associations to press any matters arising from such determination.

The conclusions of the 1996 Report are set out at pages 13 to 14. It can be stated quite clearly that on the material obtained by the Tribunal, both oral and written, the Tribunal confirmed in 1996 the categorisation and fees structure decided in 1995. In its 1996 Report at page 13 the Tribunal said:

> *"The Associations have drawn attention to added responsibilities being*

> *placed upon local government, such as welfare and the environment. These matters have, however, not been dealt with in detail, nor has evidence as yet been gathered for presentation to the Tribunal to support the claims".*

It was made clear that the 1996 inquiry confirmed the fees decided in 1995 on the material presented to the Tribunal. The onus for change was clearly placed upon Councils in regard to categories and the fees payable for each Category. The repeated assertion of the lack of an equity base is contrary to the findings of the Report.

The Tribunal has established and confirmed the basis for categorisation of fees and it is open each year for any Council or county Council to seek variation of the findings based on new material or changes which have occurred since 1996.

Since the categorisation made in 1995, 38 Councils have sought a higher Category classification. Of these, five applications were successful. The great majority of applications were from Category 1 and Category 2 Councils.

In considering the applications, the Tribunal has based its decisions upon the factors outlined in the 1995 Report (pages 21 to 49). These factors were applied in the 1995 determinations and have continued to guide the Tribunal in the present inquiry into changes in Councils' operations that have occurred since 1997.

As required by section 239 of the 1993 Act, the Tribunal is required to determine categories for Councils and Mayoral offices and so categorise each Council and Mayoral office. Only one application has been received for a different Category for the Mayor from that of the Council. In the 1995 Report (page 21) it was stated;

> *"Nothing was put to distinguish the Category of any Council from that of its Mayoral office. It is proposed, therefore, to place each Council and its Mayoral office in the same Category."*

On the material supplied by this particular Council, it appears to the Tribunal that this

application is properly classified as one for increased remuneration for the Mayor and it will be considered in the determination of maximum fees for Category 5 Councils. The Tribunal cannot determine fees for individual Councils, only for categories of Councils.

Apart from the submission from one Council that the minimum fee payable to Councillors and Mayors should be reduced to zero, the Tribunal has received no applications for any adjustment to any of the minimum fees as determined in 1998. Some Councils, however, have expressly indicated that no change in categorisation or fees should be made. The absence of comment by other Councils has been taken by the Tribunal as an indication of acceptance of the current categorisation.

The Associations have drawn attention to progress in discussions between Councils to provide better services to their communities and, indeed, Casino and Richmond River Councils have placed a formal proposal to the Minister for a merger. Information received during the course of this inquiry indicates further that some Councils, such as Deniliquin and Moree Plains, are developing the concept of regional planning and services, albeit with small populations. This type of leadership has brought discernible advantages to the residents of these areas. To encourage this development, the Tribunal proposes to give particular attention to such Councils in categorisation. Despite their size, such Councils are involved in the determination of more far-reaching policies than isolated Councils.

The essential issue is that the 177 Councils in New South Wales are unique organisations with different problems and most using their own means of solving them. The majority of Councillors have a dedicated interest in improving the environment of their area. They spend a considerable amount of their private time in attending to individual problems in addition to their principal task of policy making, planning, and the implementation of such policy and plans. The 1993 Act sought to relieve the burden of the former and give them more time for the latter. This involved either rectification of planning errors of the past and/or creating new horizons. The latter is particularly evident in rural areas and the Tribunal has come to the view that emerging regionalisation, planning, development, and overseeing the implementation of these policies should be supported.

An assessment of the factor of regionalisation requires detailed attention to the operation of

each Council. It is a question of balancing all the material provided by Councils and to ascertain what conflicting views there are of adjoining Councils as to the significance and extent of claims of regionalisation. It is clear that if claims of regional significance are established, that must have an impact on adjoining Councils. At this stage, the Tribunal has found little support for some Councils asserting regional significance from adjoining Council areas. The claim of regionalisation, however, highlights the need for serious consideration to be given to amalgamation of Councils.

The Tribunal deals with each Council on its own merits and can only assess the value of the performance of each Council on the material supplied by Councils. The Tribunal has now gathered a detailed knowledge of most of the Councils and has acted in accordance with this knowledge.

It is useful to examine Councils according to Category as determined by the Tribunal with reference to population and area, two of the statutory parameters required to be considered by the Tribunal. It is not possible to generalise in any meaningful way because there are exceptions in every Category if confined to these two measures. It is required to determine categories of Councils for whom minimum and maximum fees must be fixed. Fixing such fees necessarily requires consideration of all Councils. There are no statutory guidelines for such fixation. Accordingly, the Tribunal has resorted generally to the wage and salary fixation principle of performance, particularly in regard to changes in efficiency and productivity. This procedure was discussed in the 1995 Report.

Section 239 provides that a Tribunal has to place each Mayoral office into a separate Category. It is difficult to separate the Mayor from the Council as a corporate body but, as to effectiveness, some Mayors are outstanding compared to others as to time, effort and effectiveness. A claim was made by one Council to recategorise its Mayor because of his performance. But this is consistent with fixing a fee for individual performance and it is difficult to relate this to a Category. Therefore, applying section 240 to Mayoral offices, none of the statutory factors are distinguishable between the Council or Mayoral office, except such matters as the Tribunal considers relevant.

The Tribunal finds it difficult to construct a Category scheme based on performance.

Therefore, it is a matter to which the Tribunal considers in fixing fees for the maximum in each Category.

It is interesting to observe that some Councils, despite the changes which occurred pursuant to the 1993 Act, still assert the voluntary nature of their contribution to local government and claim that their input is based on their contribution for the benefit of the community and not payment. As to others, payment is the driving interest in their participation. Such Councillors particularise every hour they connect with Council activities. This aspect has some relevance because of the claims made that higher fees would attract more suitable candidates.

CATEGORIES

At the outset it should be observed that Categories by themselves have no particular status but are merely a means of distinguishing groups of Councils in accordance with prescribed statutory features. In defining Categories there is always a difficult cutoff point for the next Category in the hierarchy of Councils.

To offset this problem, the Tribunal has adopted the principle of overlapping fees to overcome inequities which could arise from such division.

Councils seeking Category S2

The S2 Councils have relied on the submissions, both written and oral, since 1994 and have kept the Tribunal informed as to changes effected in their areas. The rationale for their categorisation as S2 is given at page (41-42) of the 1995 Report. Extensive detail of the changes which have occurred since 1996 at Parramatta, Penrith, South Sydney, Sutherland and Wyong were provided to the Tribunal. After consideration of this material and the submissions, the Tribunal is satisfied that, despite the significant developments effected in each of those Councils, the status of Newcastle and Wollongong in regard to both Council and Mayoral offices is distinguishable from Category 1 Councils and that this distinction is likely to continue for the foreseeable future.

However, it draws attention to the considerable problems which some large Councils have

had to contend with in the last few years.

Councils seeking Category 1

Councils seeking Category 1 are Blue Mountains, Canterbury, Hawkesbury, Hornsby, Hurstville, Randwick, Shoalhaven and Tweed.

Blue Mountains

The Blue Mountains application relied on the primary characteristics of the local government area. A population of 75,000 is scattered on 97 kilometres of ridge line in 28 towns and townships. It was stated that:

"The population has the scatter that might be expected of a rural local government area but it has the urban expectations of city dwellers."

Emphasis was placed on the special characteristics of the terrain, the problems arising from the early "paper" subdivision of the area, and the conflict between tourist and residential interests. Therefore balance was claimed to be achieved between the considerations of development, tourism, the environment and residential amenity in the area.

The Council submitted that the area does not fit easily into any system of categorisation because of the scatter of its townships and the nature of the environment. With this comment, the Tribunal agrees. Its categorisation as Category 2 was based on the rapid urbanised growth of the lower mountain towns with the development of an affinity with Penrith. However, because of the greater emphasis now on the non-urban qualities of the area, it appears to the Tribunal that a more appropriate Category for Blue Mountains would be Category 3. As stated in the 1995 Report (at page 28) the characteristics of Category 3 Councils are set out.

> *"Typically a regional town centre provides a range of government and non government services. These often include two or more hospitals including a*

> *regional public hospital providing specialist services. Community health facilities are also available in many regional townships in addition to a range of counselling services and youth and other community programs. Some towns feature a Department of Social Security office, the CES and a local office of the Department of Housing. The Councils usually provide a library service which in many cases is a regional library with branches in outlying towns."*

Further as stated in the Report (at page 28),

> *"Category 3 Councils have many characteristics which are similar to suburban Councils. This is largely due to the urban nature of the large town centres."*

This change in Category does not involve any alteration to fees by such change.

Canterbury

Canterbury is again seeking recategorisation to Category 1. The significant matters relied on are:

1. Council's initiatives in the community protection area;
2. high population density;
3. high multicultural diversity;
4. implementation of a language aid program, development of a comprehensive multicultural policy;
5. servicing of a wide range of community needs;
6. Councillors' membership of numerous community committees;
7. other major issues such as aircraft noise, cultural diversity and a multicultural focus; welfare and disability access responsibilities, environmental obligations, road safety traffic management and the M5 motor way; youth issues, families with young children, the disabled and aged services.

Details were supplied to support these issues. The Tribunal commends the Council for its efforts in dealing with a diverse cultural area. However, while it is of particular importance

to the Council, this diversity is not uncommon in many of the suburban Councils and not necessarily those of Category 1 Councils. While problems arising therefrom may be more intense than in other areas, the case presented by the Council goes to the question of fees rather than recategorisation. The claim will be considered therefore in determining the fees for Category 2 Councils.

Hawkesbury

Hawkesbury has again drawn attention to its area of 2,763 square kilometres and population of 60,000 spread over a number of towns, villages and rural locations. It was submitted that the size and socioeconomic diversity of the area involves complex decision-making. In addition, as an undivided local government area, Councillors are required to travel considerable distances. The Council also operates its own sewerage schemes as well as providing community and cultural services in the more isolated areas of the Council.

Other services provided include a large rural fire service, vehicular ferries, extensive flood mitigation and bridge systems and catering for tourists throughout the year.

The Council area incorporates 60 per cent of its land mass as national parks, the Blue Mountains escarpment, the alluvial flood plans predominantly utilised for agricultural and horticultural purposes in towns and villages.

The Council has made out a case that its present Category is not appropriate. The Tribunal has placed it in Category 3 in similar fashion to that of the Blue Mountains.

Hornsby

Hornsby submitted that the Council contains a diverse terrain and the land use ranges from consideration of large retail developments to eco-tourism within environmentally sensitive land on the Hawkesbury River devoid of any urban services with significant competing demands. The combined significant development pressures of a major subregional centre plus the environment attributes of sensitive areas were claimed to distinguish it from, for example, Blue Mountains and Hawkesbury.

There are 42 suburbs within the shire and 37 commercial and retail centres with a total population of 145,868 which is growing at the rate of 1.13 per cent per annum.

As a regional employment mode, Hornsby attracts 25,000 persons per day to work in the commercial/retail centres of the Hornsby CBD and supporting district centres.

The metropolitan strategy for Sydney region prepared by the Department of Urban Affairs and Planning identifies Hornsby as a sub-regional centre which has been promoted as the focus of commercial business uses, recreation and community facilities within the northwestern region of Sydney. Details of the concentration of major facilities in the Hornsby CBD were given in detail. It was stated that this will continue to be the focus of jobs, services, recreation, community activities, higher density housing and transport interchange for this part of Sydney.

The Tribunal has categorised the adjoining Council of Baulkham Hills as Category 1. There are common problems on the boundary of these two Councils particularly in regard to the developing townships. The development of the Hornsby central business district in the view of the Tribunal has placed Hornsby in circumstances similar to those experienced by other Category 1 Councils. It is therefore proposed to categorise Hornsby as Category 1.

Hurstville

Hurstville was stated to cover an area of 24.69 square kilometres embracing 13 suburbs in the southern metropolitan region of Sydney. It has a population of 68,000 people. There is a diverse range of housing including high-rise residential, medium and low density housing. The total value of development and building applications dealt with in 1996/1997 was 170 million dollars comprised of residential, offices, entertainment, recreational, shops, factories and educational buildings. The Council has 26,000 rateable properties, 2,250 kilometres of road, 17 community buildings and 155 parks and reserves.

The Hurstville Westfield shopping facility averages 60,000 visitors per day. More than 23,000 passengers use Hurstville Railway Station daily. Hurstville attracts various sporting and activities including hosting the Council Youth Games, the use of Hurstville Oval for international and state cricket matches, the Commonwealth Bank Cycling Classic, the Hurstville Aquatic Leisure Centre and the Hurstville Golf Course.

Details were given of the function of the Council in the metropolitan planning context and the change in residential construction and commercial and retail development and the importance of rail and bus services to southern Sydney and the Council's operating structure and provision of services.

Consideration of this submission indicates that it properly falls within the parameters of Category 2 for which a fee structure has been determined. The claim in this case, therefore, goes to the level of the maximum fee rather than reclassification. Accordingly, the details of the operations of this Council and its growth will be taken into account in determining the Category 2 fees.

Randwick

Randwick Council has outlined with particularity the unique problems arising in this old established Council. Nearly 15 per cent of land is used for purposes that have wide significance. This land involves part of the port of Botany with its container and handling facilities, the University of New South Wales and three major hospitals. It contains a large complex of prisons, Randwick Racecourse, major colleges of technology and further education, significant defence installations, major tourist destinations including five beaches, and ancillary health services. It contains a high concentration of significant recreation and sporting facilities. The Council is a highly urbanised environment with a mix of residential, business, industrial, recreational and special land uses. All are subject to a wide variety of environmental pressures. Recent trends in urban development have led to the proportion of multi-unit dwellings in Randwick to reach 70 per cent (as at 1996). The majority of increased dwellings (some 96 per cent) is in the form of multi-unit dwellings.

The Council has provided a detailed account of the measures adopted following the Report of the Independent Commission Against Corruption in February 1995 which drew attention to the absence and/or failure of policies, systems and processes consistent with public transparency and accountability.

The newly elected Council in 1995 had the task of reforming the organisation. The Mayor outlined in detail the measures that were undertaken and the new policy provisions that are being implemented in relation to the complex of development authorities with which it is concerned. In addition, it was stated that Councillors have had to take a more active role in determining policies and resource allocation including specific involvement in budget briefings and reviews in addition to approval of the Management Plan and Budget.

The problems in 1995 were a factor in determining Randwick as Category 2. The Tribunal has decided to defer its decision until next year to confirm the effectiveness of the implementation of these measures and to indicate to the incoming Council in 1999 the value of conducting a complex organisation in accordance with proper policy decisions that are both transparent and accountable.

Shoalhaven

The Council submitted that its size, diversity, population, and other 'city like' attributes distinguished it from other Category 3 Councils *"…whose focus are primarily rural in nature..."* and that it was similar to Category 1 Councils.

The City was described as constituting 4,660 square kilometres with a very high level of State Forest and National parks coupled with a significant area of lakes and waterways covering 71 percent of the Council's area.

There are 49 towns and villages with a total population of 84,000 increasing at a rate of 2.12 percent. Nowra, with a population of 25,000, acts as a regional centre. Its national and international significance was stated to arise from the presence of numerous aviation based industries and the Council's action in seeking to attract visiting Olympic teams to stay and train in Shoalhaven. Numerous other national and international sporting events have been held there in recent times.

The rationale for classification as Category 1 is detailed in the 1995 Report (pp.34-38).

Having carefully examined all the material (briefly summarised above) submitted by the Council the Tribunal is unable to agree that the Council fits within the parameters of Category 1.

However, the submissions made on behalf of the Council will be taken into account in determining the maximum fees for Category 3 Councils.

Tweed

Tweed has drawn attention to the continued growth pressure on the shire and the outlay of physical and social infrastructure required. The Council contended:

> *"That due to the increasing growth pressure on Tweed Shire and the extraordinary*

growth rate and in-migration with the need to offer our elected representatives more remuneration for their civic and ceremonial duties, it is recommended that Tweed Shire Council be reclassified from Category 3 to Category 1."

The Council notes that it is the second largest Council in Category 3. In every Category there must necessarily be a range in size and activity. But the Council has not addressed its comparison with Category 1 Councils. The Tribunal has considered the application and while it agrees with the Council that it is one of the most progressive Category 3 Councils, it does not have the characteristics of a Category 1 Council at this stage. Accordingly, Tweed Shire will continue to be contained within Category 3 but the material provided will be considered in assessing the fees for the Category as a whole.

Councils seeking Category 3

Deniliquin

The Council contends that it has assumed the status as a major centre for the region providing important facilities and services for commerce, trade, employment and recreation for the town and a substantial portion of the surrounding, predominantly rural municipalities of Murray, Conargo, Windouran, Wakool, Hay and Jerilderie. It acts as a major central point for both the surrounding farming sector and the small towns and villages within the region.

Much of the economy of the region is agriculturally based with extensive facilities developed by the Ricegrowers Co-operative Ltd. This facility has assumed national significance in regard to export earnings.

The Council provides major regional ambulance services, public hospitals, specialist services and community health facilities. It is an important regional centre for State Government departments and has assumed an important role in the provision of library services through the Central Murray Regional Library Service. The Council is also pursuing tourist promotion as a key strategy to further diversify the local economy.

The population in the region is relatively small compared with Category 3 Councils, although the Council provides a regional focus which constitutes the core of Category 3. Without detracting from the role played by the Council, the extent of its responsibilities is inevitably reduced by the level to which surrounding Councils provide or claim to provide services within the region. This is clearly an issue with all those Councils which claim to provide a regional focus without themselves being of a significant size and particularly where the urban area is the site for multiple council headquarters as is the case with Deniliquin. Accordingly, at this stage, the Tribunal does not propose to alter its Category.

Moree Plains

This Council claimed that it was considered the "hub" of a vast regional area. The Council was particularly concerned with the development of resource sharing and sought recognition as a regional centre.

In principle the concepts and policies may appear to be as Category 3 albeit at a lower and less developed level. In addition, the Council is fortunate to have a Mayor who is enthusiastically encouraging the growth of regionalisation in his area by offering to participate in the supply of services to Councils other than his own large area.

The Council caters for a large rural area with a growing total population of 16,000. The town of Moree provides a wide range of facilities for the area including TAFE, three high schools, three hospitals, swimming pools, artesian water bores, a cinema, supermarket and provides and manages four water and two sewerage services. However, at this stage, the Council does not comply with the requirements of Category 3.

Kiama

The Tribunal has again examined the application by Kiama Council for a change in its status as Category 4 to Category 3. Its present classification was effected in 1995 after an extensive inquiry into the operations of all Councils.

The Council relies substantially upon population growth of the area, tourism during holiday

periods, the operation of a complete retirement complex and the provision of a wide range of community services including community nursing, community transport, community options, respite services, cultural development support for neighbourhood centres, youth facilities and officers and a full range of traditional local government services.

The basis of classification as Category 3 has been discussed in previous Reports and in the case of Deniliquin in this Report. Examination of the material provided by Kiama does not indicate new activities or change since that time but, in any case, such activities and their development has been a feature of Category 4 Councils.

The Council relies substantially upon the classification in accordance with the Australian Classification of Local Governments. The Tribunal, however, is not bound by such classification as it is required to categorise Councils in accordance with the provisions of the 1993 Act. The reasons for the Tribunal's classification has been dealt with in earlier Reports.

The Tribunal does not consider that a case has been made out concerning changes at Kiama to warrant any alteration in its present Category 4 status.

Councils seeking Category 4

Yass

The Council's case was based principally upon matters relating to the ACT subregion. Complex planning and strategic regional issues arise from the Council's proximity to Canberra and its position as the major transport hub of southern New South Wales. Because of its proximity to Canberra, it is represented on the ACT subregion Regional Leaders Forum by the Mayor to develop strategies for the advancement of the ACT subregion on such matters as environment, transport, tourism, health and catchment management.

The Council is situated in an environmentally sensitive area in which it provides water and sewerage services, a bureau of fire service with a budget of $1.1m, waste management and

recycling and the provision of community and library services. Yass has been nominated as a regional town in the ACT in subregion planning strategy (1995).

> *"Key policy issues will be to designate Yass as a district centre for the northern part of the region and encourage accelerated growth to support a diverse range of local services."*

The Tribunal considers that the developments which are occurring in Yass warrant its review. Its activities respond closer to Category 4 Councils than Category 5 in which it was previously placed. Accordingly, Yass will be added to Category 4.

Murray

The Murray Shire is a developing community adjacent to the Murray River and large Victorian communities with a significant impact from tourism and environmental issues. The Council has experienced a consistent growth rate of 2.1% pa. The town of Moama, in particular has grown by 3.4% due to the tourism attributes associated with the use of the Murray River and large recreational facilities. Infrastructure to cater for the development of local industry, business and residential areas has been required including the expansion of water, sewerage and garbage functions. Environmental factors which arise from the sensitive nature of the Murray valley and floodplain area require particular attention.

The Council's jurisdiction in town planning matters extends to the high water mark on the southern side of the Murray River. Thereby, the Council is the consent authority for all developments on or adjacent to the river such as moorings, pontoons, bank stabilisation and drainage works. The twin towns of Moama and Echuca on the Victorian side of the river are basically one community with a total population of 13,000 increasing to 20,000 during peak periods. The consultation process between the towns is extensive involving issues such as moorings, pontoons, bank stabilisation and drainage work involving a number of government departments and river interest groups. The Tribunal considers that the Council has satisfied the requirements to be included in Category 4.

County Councils

Currently County Councils have been categorised as S3. The annual fee for Councillors/members ranged from a minimum of $1000 to a maximum of $3150. The additional fee for Mayor/Chairperson ranged from a minimum of $2000 to a maximum of $5250. Because of the range of activities of such Councils a significant discretion was vested in them to fix appropriate fees.

The present S3 Category and fee structure was determined when the great majority of county Councils were established for noxious weed and flood mitigation control.

It was submitted by some County Councils in the course of the current inquiry that a more definitive categorisation should be adopted. Many rural Councils in both categories 4 and 5, in addition to larger Councils, conduct their own water and sewerage systems. However, the joint approach by county Councils in planning and installing large systems require additional time and energy of those Councillors who are prepared to accept these responsibilities.

On 1 July 1997, MidCoast Water, for example, became responsible for the water supply functions previously provided by North Power Energy and the Great Lakes Council as well as the sewerage functions to the Greater Taree City and Great Lakes Councils. It services 74,000 permanent residents through 31 reservoirs, 14 treatment plants, 148 pumping stations and 1820km of pipelines, with a staff of 91. Operating expenditure in 1997/98 was $25,084,000.

The Lower Clarence County Council's role and functions have significantly increased over the past few years after the County area was expanded to include Coffs Harbour City Council and Nymboida Shire Council. A population of 90,000 is now serviced by the County Council. The constituent Councils of the County Council are now Grafton City Council, Coffs Harbour City Council, Copmanhurst Shire Council, Nymboida Shire Council, Ulmarra Shire Council, and Maclean Shire Council with two elected members from each Council. The regional water supply project is stated to be one of the largest water supply infrastructure projects in N.S.W.

The State Government's reform agenda on water issues is stated to have raised the level of

Council interaction with a range of government agencies and regulatory authorities.

As with rural Councils, the County Councils meet monthly with additional meetings as required particularly to enable interaction with the community as to water quality and quantity. There have been no significant changes in the operation of the noxious weeds eradication County Councils.

In the 1995 Report (pp 43-49) the basis for Category S3 was outlined. The fees determined for the Category took into account that the activities ranged from weed eradication to the conduct of an abattoir allowing for the exercise of a wide discretion to the Councils in the setting of their own fees based on their detailed knowledge of the operations of the Councils. The Tribunal is satisfied that this discretion has been exercised properly.

However, the substantial developments which have occurred from the operations of MidCoast Water and Lower Clarence County Councils require re-assessment of the category to apply to these two Councils. It is proposed therefore to distinguish such Councils by determining a separate Category S4 to include those Councils involved in water and/or sewerage functions.

FEES

Submissions re fees

In addition to the submissions made concerning fees discussed in the section dealing with recategorisation, there were other submissions to the Tribunal. The Associations tendered information concerning changes since 1 May 1997. These were concerned largely with amendments to legislation resulting in changes in the local government area. However, the problem with assessing the impact of such amendments to legislation is the impact of such changes on each Council. An analysis of the various legislative changes indicates that the changes derived therein affect Councils in different ways.

The impact on Council staff and Councillors and Mayors tends to vary from Act to Act. The changes do have an impact on Councils as a whole and it cannot be denied that

Councillors and Mayors could be expected, where necessary, to have the legislation brought to their attention if it involved some decision-making on their part.

One Council submitted that the minimum fee should be zero. Other Councils submitted that no increase be granted. Another supported the use of CPI to adjust the existing fees. Others supported an increase in the fee of the Mayor or, alternatively, sought a different Category for the Mayor.

One Council sought a fee to be fixed for the deputy Mayor despite section 249(5) of the 1993 Act which states:

> *"A Council may pay the deputy Mayor (if there is one) a fee determined by the Council for such time as the deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor's annual fee."*

The Tribunal made a recommendation to the Minister in the 1996 Report (page 13) in regard to this matter.

One Council placed information before the Tribunal with details of the time devoted to matters concerning the Council to support the claim that the nature of Councillors' duties *"...makes the position of Councillor an almost full-time occupation."* It sought recompense for "opportunity cost" and gave details of the impact on the occupations of Councillors. The Term “full time” has often been used in submissions to the Tribunal but never defined. In general, it appears to be a reference to the total number of hours Councillors and Mayors can relate to Council affairs at any one time.

The Tribunal stated in the 1998 Report that while it was not prepared to alter the fees in 1998, it would review the situation again in 1999 based on all changes since 1 May 1997. As indicated earlier, the Tribunal has had regard to all the submissions and material submitted by individual Councils since May 1997 and the submission of the Associations.

The material and submissions have indicated a growing increase in work load upon Mayors,

particularly in regard to delegated powers. This is occurring in a period when legislative changes have continued in major aspects of Councils' operations, particularly in regard to planning and development controls.

As indicated above the Associations have detailed the legislative changes affected since 1996. While these changes impact on the operation of Councils, generally their impact varies from Council to Council and between staff and Councillors. They highlight the changes which continue to affect the day to day operations of Councils. As to the effect of such changes on individual Councillors, it was observed in the Report on Investigation into Randwick Council, February 1995 by the ICAC in relation to the processing of development and building applications, that:

> *"Councillors have some role to play in exercising that monitoring however their role should not be overstated. Many are lay persons with little technical knowledge who rely on the expertise of Council officers to provide them with impartial advice on what are sometimes highly complex matters. And more direct control is needed. It should be noted that under the LGA 1993 the new position of General Manager is placed in more direct control over the staff of the Council. It properly and adroitly exercised, that control should enable more effective supervision of Council officers in positions of power" (p4)*

Nevertheless, many Councillors have obtained over the years an increasing knowledge and understanding of a Councillor's role in the general management of local affairs and keep informed of relevant changes affected by the legislature. In fact, this has been a continuing process, not only since 1993 but since the operation of the 1919 Act. This accumulated knowledge and expertise varies widely from Councillor to Councillor. However, it is a requirement of the 1993 Act that the annual fee fixed by the Tribunal must be the same for each Councillor (section 248(3)).

The wide range of occupations of Councillors indicates generally the spread of knowledge and expertise of residents in the local government area. Discussions by the Tribunal

concerning the role of the General Manager with Councils indicated a very wide difference in approach. In most cases, however, Councils were operating effectively pursuant to the provisions of the 1993 Act.

Despite the obvious advantages of more direct control of staff by the General Manager, the Tribunal is satisfied that a case has been made out of an increasing burden being placed on Mayors, in relation to policy formation, planning and environment. The representative role of Mayors has also expanded particularly in relation to contentious public issues.

The impact of change on each Council was hard to identify particularly because the number of Councillors varies from 7 to 15. No basis has been established to justify the need for such variation even if tested on the basis of population and/or area. It is necessary, therefore to quantify the fee bearing in mind the range of numbers of Councillors, their abilities and the time and effort they are prepared to devote to Council's affairs. Ultimately it must be measured by the task performed by the average Councillor.

The only submissions made in relation to minimum fees were to reduce such fees to zero. This view is in accord with those Councillors and Mayors who regard their local government contribution as a voluntary service. The Tribunal respects this view which has been sustained since the 1995 Determination. However, it does not resile from its decision made at that time that a basic fee was justified at least for the majority of Councillors and Mayors. It is not proposing to alter the minimum fees on this occasion. This Determination is therefore concerned only with claims for increases in maximum fees.

It needs to be understood that, because of the fees structure, no increases in fees arise directly from this Determination. It is a matter for each Council to examine its own performance and then decide whether an increase is warranted within the parameters of any newly determined minima and maxima.

The maximum fees on this occasion were determined after an investigation of changes which were demonstrated to have occurred in local government since May 1997 affecting Councils and the performance of Councils during that period. Extensive material as

detailed earlier in this Report was provided by Councils in addition to written and oral submissions.

The Tribunal wishes to acknowledge the assistance of the many Councils which provided detailed information and freely expressed their views concerning the problems facing local government with which they have to deal. It is only with this knowledge that the Tribunal can act in accordance with the provisions of the 1993 Act.

The Tribunal considers that a case has been made out for an increase in maximum fees for both Councillors and Mayors, particularly the latter.

These fees have been determined within an economic background of relatively stable prices and average weekly earnings. The key element of such earnings is performance. The concentration on efficiency and productivity in recent times has imposed on wage and salary earners standards of performance which they can reasonably expect to be applied to the quantum of fees paid to Councillors and Mayors from public funds.

The process of the statutory fixation of minimum and maximum fees by the Tribunal since its establishment in 1994 has resulted in an annual review of the performance of Councils. Individual cases for variation of the statutory maximum fees determined by the Tribunal are prepared by Councils and presented to the Tribunal either orally or in written form. Such a procedure requires a Council to review its own performance by self-examination and submit its case through the Tribunal to Parliament. There is, of course, a considerable degree of discretion granted by the Act to Councils to determine their fees within the limits of the minimum and maximum fees determined by the Tribunal. The procedure for the exercise of such discretion is prescribed by the Act.

Other matters

An interesting feature of the operation of the Tribunal to set fees for Councillors and

Mayors has been the growing positive interest of Mayors, in particular, of self measurement.

The Tribunal has obtained particular benefit from discussions with Mayors and Councillors throughout New South Wales in regard to the most effective and fair manner of determining both categories and fees. It is obvious that with 177 Councils and 20 County Councils a large amount of detail has to be discussed. It has been necessary in presenting the annual Reports to contain details in a concise and non repetitious form. The Tribunal has acted accordingly.

The Tribunal, at the commencement of its operations conducted open hearings in addition to receiving submissions. At all times the proposed conduct of the inquiry was publicised and submissions invited. For example, during the 1998 Inquiry, Category 1 and Category S2 Councils attended the Tribunal to detail changes in the features of their operations by oral submissions to the Tribunal and supplemented by written submissions. Many Councils still adopt this course. The Tribunal has always extended invitations to Mayors and Councillors to attend the Tribunal's office to put their views forward.

One of the most important features of this process has been the necessity for Councils, who seek a change, to evaluate themselves and make out a case for increased remuneration. The submissions have been of great assistance to the Tribunal and should be publicised to the communities by Councils to allay any public disquiet and media misunderstanding as to the basis for any increase in fees based on Councils' decisions.

The Tribunal is not impressed with the submissions that it should take into account the fact that the total cost of fees for Councillors and Mayors represents only a small proportion of Councils' expenditure. Any public funds of whatever quantum must be fully accountable. Accordingly, any fees paid to Councils and Mayors must be based on proper grounds.

The problem of categorisation and setting minimum and maximum fees has been raised again by the leading Councils in Category 1. The Tribunal is required by the 1993 Act to fix a minimum and maximum for each category. It has no power to determine where a particular council should be placed between these parameters. It is open to any council to

resolve to adopt the maximum fee regardless of its comparability with other Councils in its Category. It is not possible to fix a separate fee for a Council whose performance or circumstances may warrant individual consideration. Some councils have indicated a preference for the Tribunal to directly fix fees for each Council.

In the present inquiry it was not deemed practicable to impose a separate Category between Category 1 and Category S2 to cater for the leading Category 1 Councils such as Parramatta. The question which arises is whether the Tribunal should be granted express power to determine fees for individual Councils in excess of the maximum of the Categories where the occasion arises or whether a different fee structure be devised to cater more effectively for variations between Councils in the same Category. This is a matter for Parliament.

The categories and fees determined by the Tribunal for 1999/2000 are set out in the appendix.

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen Q.C.)

Dated:

DETERMINATION OF CATEGORIES OF COUNCILS AND COUNTY COUNCILS FOR 1999/2000

Category S1 (1 Council)	Sydney
Category S2 (2 Councils)	Newcastle
Category S3	County Councils
Category S4	County Councils (Water and Sewerage Supply only)

Category 1. (17 Councils)

Bankstown
Baulkham Hills
Blacktown
Campbelltown
Fairfield
Gosford
Hornsby
Lake Macquarie
Liverpool
North Sydney
Parramatta
Penrith
South Sydney
Sutherland
Warringah
Willoughby
Wyong

Category 2. (24 Councils)

Ashfield
Auburn
Botany
Burwood
Canterbury
Concord
Drummoyne
Holroyd
Hunters Hill
Hurstville
Kogarah
Ku ring Gai
Lane Cove
Leichhardt
Manly
Marrickville
Mosman
Pittwater
Randwick
Rockdale
Ryde
Strathfield
Waverley
Woollahra

Category 3. (33 Councils)

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

Category 4. (35 Councils)

Bellingen
Cabonne
Casino
Cobar
Cooma-Monaro
Cootamundra
Cowra
Deniliquin
Dumaresq
Forbes
Glen Innes
Greater Lithgow
Gunnedah
Inverell
Kiama
Leeton
Maclean
Moree Plains
Mudgee
Murray
Muswellbrook
Nambucca
Narrabri
Narrandera
Parkes
Parry
Richmond River
Singleton
Snowy River
Tumut
Walgett
Wellington
Wentworth
Yass
Young

Category 5. (65 Councils)

Balranald	Evans	Oberon
Barraba	Gilgandra	Quirindi
Berrigen	Gloucester	Rylstone
Bingara	Gundagai	Scone
Bland	Gunning	Severn
Blayney	Guyra	Tallaganda
Bogan	Harden	Temora
Bombala	Hay	Tenterfield
Boorowa	Holbrook	Tumbarumba
Bourke	Hume	Ulmarra
Brewarrina	Jerilderie	Uralla
Carrathool	Junee	Urana
Central Darling	Kyogle	Wakool
Conargo	Lachlan	Walcha
Coolah	Lockhart	Warren
Coolamon	Manilla	Weddin
Coonabarabran	Merriwa	Windouran
Coonamble	Mulwaree	Yallaroi
Copmanhurst	Murrumbidgee	Yarralumla
Corowa	Murrurundi	
Crookwell	Narromine	
Culcairn	Nundle	
Dungog	Nymboida	

TOTAL GENERAL PURPOSE COUNCILS 177

Category S3 (14 Councils)

Castlereagh – Macquarie	Mid Western
Central Murray	New England
Central Northern	North West Weeds
Clarence River	Richmond River
Cudgegong	Southern Slopes
Far North Coast	Upper Hunter
Hawkesbury River	Upper Macquarie

Category S4 (6 Councils)

Central Tablelands	MidCoast
Goldenfields Water	Riverina Water
Lower Clarence	Rous

TOTAL COUNTY COUNCILS 20

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen Q.C.)

Dated:

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 1999 to 30 June 2000 are determined as follows:

	Councillor/Member Annual Fee			**Mayor/Chairperson Additional Fee***		
	Minimum		Maximum	Minimum		Maximum
Category 5	5,000	-	5,500	5,000	-	8,500
Category 4	5,000	-	6,600	5,000	-	13,550
Category 3	5,000	-	11.000	10,000	-	22,600
Category 2	5,000	-	11,000	10,000	-	22,600
Category 1	7,500	-	14,000	15,000	-	35,000
S4	1,000	-	5,000	2,000	-	7,000
S3	1,000	-	3,300	2,000	-	5,650
S2	10,000	-	16,500	20,000	-	45,250
S1	15,000	-	22,000	50,000	-	84,750

*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: