

REPORT

and

DETERMINATIONS

Of

THE LOCAL GOVERNMENT REMUNERATION

TRIBUNAL

Under

SECTIONS 239 AND 241

of the

LOCAL GOVERNMENT ACT 1993

27 April 2000

This is the seventh Annual Report of the Local Government Remuneration Tribunal in its task of determining, pursuant to the Local Government Act 1993, appropriate categories for Councils, County Councils (other than electricity authorities) and mayoral offices and determining fees for each category. Fees are required to be fixed annually in accordance with statutory prescribed matters (Section 240) and categories at least once every three years. (Section 239)

From previous inquiries made pursuant to the Act it became apparent that changes which were occurring in Local Government were necessarily of a slow character. Annual examination of Councils' activities makes it difficult to identify and evaluate such changes in such a short term. Particularly is this so in regard to joint activities of Councils and the benefits derived from the emergence of regionalisation.

In order to explore this interest and participation of Councils in regard to the promotion of joint activities generally, and more particularly in regard to regionalisation, the Tribunal in its circular (Appendix 1) to Mayors on 24 November 1999 raised this issue for consideration.

The submissions made by Councils with one exception, were supportive of the value of co-operation between Councils. However, these submissions indicate that there is insufficient evidence to support the conclusion that it is of such a nature generally to support any change in the present categorisation or fee structures. There is however individual evidence of the economic and social value in some areas of co-operation involving the combination of resources and control.

The plans of Councils such as Deniliquin and Moree Plains to provide services to adjoining small rural councils, has high lighted the advantages to all residents. These issues are matters for consideration by Councils, even those which for a century or so have effectively catered for local needs. These needs, however, have significantly changed as has the capacity of local councils to deal with such changes.

In deciding the fees of individual councils, it must be borne in mind that the Tribunal needs to have regard to the fact that there are 175 widely varying councils in New South Wales and that the principles applied in determining each Council's category and fees must be equitable to all Councils.

The rationale of the Local Government Act, 1919, was equality in the performance of the functions of Councillors and Mayors. Throughout the period of operation of the 1919 Act all members were equally recompensed for services rendered. Any variation which existed was confined to recompense for expenses incurred in the performance of statutory duties.

The discussions with Council representatives this year occurred in the background of the uncompleted 1999 Local Government elections. There are still 22 Councils whose elections have been deferred. Of those elected in 1999 from 4552 candidates for 153 Councils, 439 were elected for the first time. Because of the unusual circumstances and particular matters raised by some Councils, it is necessary to re-state some of the factors involved in determinations by the Tribunal.

The 1993 Act laid the basis for the assessment of Councils pursuant to the matters detailed in Section 240 of the Act. Councils are granted the power to determine their own fees within the parameters of the minima and maxima determined by the Tribunal. Only if this discretion is not exercised are the minimum fees applicable even if a Council opposes such payment.

No specific submissions were received this year in relation to minimum fees. It is proposed to postpone reviewing minimum fees until all Councils have had the opportunity to make their views known to the Tribunal. Submissions to the Tribunal on minimum fees will be called for the 2001 review.

The determination of fees for the position of Mayor has presented some difficulty in that some are elected directly by residents for a term of four years although the substantial majority are elected by Councillors for twelve months. The latter may, of course, be re-elected for an additional term or terms. However, the 1993 Act does not provide for any distinction in fees payable to the mayor because of the manner of

election. There cannot be extracted from the Act any intention for the Tribunal to deal differently with those elected directly by the residents nor does the Act require that they perform mayoral functions differently, in regard to responsibilities, times of attendance and activities generally. Perhaps because of the knowledge arising from continuity of office, some directly elected mayors forego their full time employment and devote more of their time to Local Government. However, this is a personal choice and not a statutory requirement. The Tribunal is bound to follow the structure of the Act and has determined fees on the basis that the position of mayor is not part of a career structure but instead attracts the payment of an additional fee for services (see, for example, Section 251).

Claims are still being made for the categorisation of mayors differently from the Councils. The criteria for the determination of categories for Councils and Mayors are the same (Section 240(1)) It would seem that the basis for distinction would necessarily have to arise from the provision “*such matters as the Remuneration Tribunal considers relevant to the provision of efficient and effective Local Government*” The latter provision, of course, must be read in association with the other matters stated in the Section.

The Council is the governing body which determines the extent of the role of the mayor by appropriate delegation in addition to the statutory powers of the Mayor (Section 226). The Mayor has no separate existence from the Council in the exercise of the governance of the Council. The Mayor is bound by resolutions of the Council as are other Councillors. Nothing has been put to the Tribunal to identify the basis for a different category for the Council and the Mayor.

The 1999 Report of the Tribunal took into account the pending 1999 Council elections and adjusted the fee structure for changes which had been effected by Councils since 1997. The Tribunal noted the changes which had occurred in the case of Mayors, particularly in Category 1 Councils. Adjustments were made to the fee structure to address the anomaly which had arisen in the relativity between Category S2 and Category 1 Councils. The Tribunal bore in mind the beginning of a new Council period in 1999 and made the necessary adjustments to the fee and category structure to make known to candidates the terms of assuming Council office. It is to

be noted that the elections attracted a 35% increase in the number of candidates compared with the previous elections.

The Associations, in their submissions, outlined the assistance given to candidates and newly elected Councillors to gain the skills and knowledge required for the role of Councillor. It is only to be expected in the first year of office, whether as Councillor or Mayor, there would be involved a significant learning experience for the performance of statutory duties. The impact of new councils will only be properly ascertainable after their first year of office. As noted in the 1999 report, the fees are still being determined within a relatively stable economic background. It is the Tribunal's assessment that the impact of the 1993 Act in relation to the good governance of Councils is becoming more noticeable in regard to many Councils. It will be of interest to see whether this conforms with the incoming Councils.

As stated earlier, the 1999 Review foreshadowed the 1999 Council elections. The fee structure was adjusted for changes which had affected Councils since 1997. In the opinion of the Tribunal it is inappropriate, on the information so far obtained, to attempt to assess increased responsibilities for all Councils in their first year in office in the particular circumstances of 2000. The general case submitted by the Associations was of gradual change based essentially on new legislation claimed to add extra statutory responsibilities to Councils, Councillors and Mayors. This submission was raised in previous enquires. While there is evidence of changes in some Councils, it cannot be concluded that at this time there is a general case to warrant an increase in the fees for all Councils in each category. All these matters will be addressed in the 2001 Review including all the evidence of change since May 1999, already provided by councils in this inquiry.

COUNCIL SUBMISSIONS

In addition to the general case submitted by the Associations, the Tribunal received 36 written submission from Councils and three from County Councils.

The most significant changes sought were re-categorisation. In some cases, claims made in 1999 or earlier were repeated but supplemented by additional material. Most attention was directed to the relativity between Category 1 Councils and Category S2 Councils. In the 1999 Report, the Tribunal said:

“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 variation between Councils in the same Category. This is a matter for Parliament.”

Blacktown responded to this statement by suggesting that, if the status of Category 1 Councils could not be equated with Newcastle and Wollongong, then a separate category could be created between Category 1 and Category S2 on the basis of population. The Council suggested a cut-off resident population of 200,000. The Council, of course, conceded that at this point in time, Blacktown and Sutherland were the only Councils in New South Wales which would qualify for this distinguishing feature.

Other Sydney Councils in Category 1 and Category 2 have also relied on population as the major factor in their claims for re-categorisation or increased fees. This was based largely on the extra demands claimed to be placed upon Councillors compared with Councils with relatively small populations.

These submissions put at issue the basis laid down by the Tribunal in the 1995 Report for categorisation particularly in relation to the significance of population as a measure. As stated on page 23:

“The categorisation of Councils by population results in undue weighting to suburban councils. Particularly is this so when the type

of population is taken into account. For example, other councils in addition to the resident population have other groups of population, either short term, long term or both. The presence of these persons creates a need for additional facilities, maintenance, cleaning, safety, and other infrastructure requirements.”

A typical example of the impact of a non-resident population is Sydney and to a lesser extent, Parramatta.

While the Tribunal stated that population was a significant matter to be taken into account, there were other matters which equally had to be considered in dealing with the mixture of rural and urban councils, the large majority of whom were small rural Councils. Acceptance of the submissions made on this occasion would necessitate a complete review of the present basis for categorisation. This is a step the Tribunal would not be willing to take unless notice had been given to all Councils most of whom have complied with the present system and could be adversely affected by such a change. The Tribunal is not prepared to alter the categorisation of individual Councils on the basis solely of population at this stage.

As to other claims for re-categorisation, the Tribunal has made it clear that categorisation pursuant to the Act is intended to have some permanency in its character. Revision of the system does not require attention annually but “...*at least once every three years.*” (Section 239(c)). Nevertheless, it has become the practice for some Councils to make applications for changed categorisation each year when forwarding details of their activities. This information is of assistance in keeping the Tribunal informed of the details of change occurring throughout the State. All such material so submitted forms part of the case not only for re-categorisation but for the determination of fees.

Sydney City Council

The case for increases in fees for Sydney was presented by the Lord Mayor in written and oral submissions. Additional submissions were made by two Councillors. On the last occasion upon which detailed submissions were made the history of recompense

for the Mayor and the role of Councillors and Mayors were detailed (see 1995 Report, pages 38 and 67).

In its determination of fees for Sydney at that time, the Tribunal stated:

“In the case of Category S1, taking into account the history of the allowance, the current fee and the remuneration received for the Mayor’s additional role on the Sydney Organising Committee for the Olympic games and the Sydney Cove Authority, the appropriate fees for 1995/96 should be \$50,000 as the minimum and \$75,000 as the maximum. The maximum fee makes provision, inter alia, for the payment of a fee therefrom for any Deputy Mayor elected by a Council.” (page 78)

It was noted, inter alia, that members of the Council all suffered from interference with their normal occupations either as self-employed persons or employees.

On each occasions since the fixation of fees in 1995 Sydney has exercised its discretion to determine fees for the Mayor and Councillors below the maximum determined by the Tribunal. On occasions Council indicated its preference for the Tribunal to determine the fees rather than the Council. Pursuant to the 1999 Determination, the fees for Councillors ranged from \$15,000 to \$22,000 and the additional fees for the Mayor from \$50,000 to \$84,750. The fees resolved by Sydney were \$18,500 for the Councillors and the additional fee for the Mayor of \$65,000. The total fees for the Mayor resolved by Council for the 1999/2000 year amounted to \$83,500 compared with the available maximum fee of \$106,750. A fee of \$7000 resolved by Council for the Deputy Mayor was deducted from the Mayor’s fee.

It was expressly stated by the Tribunal in 1995 that:

“The maximum fee makes provision, inter alia, for the payment of a fee therefrom for any Deputy Mayor elected by a Council. The Tribunal has no power to determine a fee for the Deputy Mayor.”

The fees for Sydney were determined as part of a fee structure for all New South Wales Councils. While Sydney relies on unique features of its area, other Councils rely on the presence of large resident populations, an issue which is being pressed at the present time.

Accordingly, the relativities between the fees of Category 1, 2 and 3 Councils and the three special categories Councils, are coming under increased scrutiny. On balance, taking into account the history of fees and relativities with other Councils, it is not possible to ascertain from the information supplied any basis for increasing the maximum fees for Sydney for the ensuing year.

The original fees were determined in accordance with the relativities assessed in 1995 and amended from time to time due to changes in Local Government which affected all Councillors and Mayors. The initial fee for the then Mayor of Sydney in 1995 was determined on the basis that the Mayor would spend part of his time as a member of SOCOG estimated at that time to be about 12%. The quantum of payment for such duties was of no relevance to the Tribunal's determination. The Tribunal was informed that the Mayor's role with SOCOG is continuing until some, as yet, undetermined time in 2001. It would be an unsatisfactory basis for the Tribunal to assume that the Mayor would devote more time to Council activities such as may be delegated to him by the Council and re-evaluate such activities for some as yet unknown time.

On the information supplied by the Council, the Council still has the discretion to increase fees for 2000/2001 within the fee structure determined by the Tribunal on 29 April 1999 if it considers that the Mayor should be delegated additional functions in lieu of his duties for SOCOG when the latter terminates. If increases beyond the maxima determined by the Tribunal in 1999 are sought by the Council, then new facts concerning the responsibilities of the Mayor and/or Councillors can be brought to the attention of the Tribunal in its 2001 inquiry.

Category 1 Councils

Submissions were received from Bankstown, Baulkham Hills, Blacktown, Lake Macquarie, Liverpool, Parramatta, Penrith, Warringah, and Wyong concerning their activities during the previous year. The major issue raised was relativity with Newcastle and Wollongong and either inclusion in Category S2 or the creation of another category between Category 1 and Category S2.

Blacktown suggested a separate category between Category 1 and Category S2 based upon Category 1 features plus a resident population in excess of 200,000. The Tribunal recognised the evidence of significant changes in this Category in its 1999 Determination and provided for significant increases in fees for Mayors in particular and Councillors. It proposes to deal with these Councils as a group rather than individually in its 2001 inquiry because the main issue is relativity with Newcastle and Wollongong. The issue concerning emphasis on population in determining categories is a complex matter which is dealt with elsewhere in this Report. The Tribunal does not propose to change the present categorisation for any Category 1 Councils at this stage.

Category 2 Councils

Category 2 Council submissions were largely confined to repeated applications for classification as Category 1. In the case of Randwick a decision on its application for classification to Category 1 in 1999 was deferred by the Tribunal subject to the supply of further information. This has now been effected to the satisfaction of the Tribunal and the categorisation of Randwick is confirmed as Category 1.

In the case of Canterbury and Hurstville detailed submissions were made both in writing and orally by the Mayors. The Canterbury case was based largely on the high level of cultural diversity, the problems of street prostitution, the complexity of decision-making on social issues and the pressure on Councillors to attend numerous functions and meetings with the community groups. Hurstville, an adjoining Council, relied on its status as an urban regional centre for the St George and Southern Sydney areas and its central position in regard to transport, business and government.

These factors however are not uncommon in a number of Councils in Category 2. The strength of each case has to be considered in relation to all Councils in Category 2 and Category 1 particularly those adjacent. These are Liverpool, Bankstown, Sutherland, Marrickville, Kogarah, Canterbury and Rockdale particularly in regard to Hurstville's regional significance. While it is accepted that Hurstville provides services to some residents of Kogarah and Rockdale the evidence is not of sufficient weight to justify categorisation with, for example, Sutherland and Liverpool in accordance with the criteria used by the Tribunal in determining categories. It needs to be stressed that the fee structure enables the Councils to set fees in excess of the minima for Category 1 Councils. The social factors in Canterbury also occur in a number of other suburban Councils such as Marrickville. Accordingly, no change in the category of these two Councils will be made this year.

Category 3 Councils

In addition to a claim for increased fees, three Category 3 Councils sought categorisation as Category 1, namely Blue Mountains, Shoalhaven, and Tweed. The same applications were made in 1999 and not granted by the Tribunal for the reasons outlined in the 1999 Report. It was therein indicated that any benefit to be granted to Councillors and Mayors for their activities arising from the changes occurring in their areas would more appropriately be dealt with by an increase in the maximum fee for Category 3. It is recognised by the Tribunal that Tweed is situated adjacent to Queensland but the Tribunal is dealing with New South Wales Councils pursuant to the Local Government Act 1993 and their comparability. Consequently in assessing Tweed, the Tribunal takes into account the activities of, inter alia, similar adjacent Category 3 Councils on the North Coast area in New South Wales. It has not been possible to ascertain features of Tweed which distinguish its activities from these Councils.

In determining the present category for Blue Mountains in 1999, comparisons were made, inter alia, with other Councils particularly those in proximity to Blue Mountains such as Hawkesbury and Wollondilly and also with nearby Category 1 Councils such as Penrith, Liverpool, Fairfield and Blacktown. The Tribunal also took into account regional centres such as Dubbo, Wagga Wagga and Tamworth. On balance, the

Tribunal considered that the Council did not qualify at this stage for Category 1 although it would expect that the Council could resolve to determine the maximum fee permissible for the Council either as Category 2 or Category 3. On balance, the Tribunal decided that Category 3 was more appropriate than the Category 2. The fees for both Category 2 and 3 are, of course, the same and extend beyond the minimum of Category 1. However, if the Council wishes to press for a return to Category 2 the Tribunal is prepared to re-consider the matter in 2001.

Shoalhaven described its high growth and extensive public works and described how it co-operates in joint services within the Illawarra Region of Councils. However, despite these developments Shoalhaven has more affinity with, for example, the Category 3 Councils of Dubbo, Tamworth and Wagga Wagga than Category 1 Councils. As in the case of Blue Mountains, the Tribunal considers that it is correctly placed in Category 3.

Category 4 Councils

Category 4 Councils seeking new categorisation were Nambucca and Parkes. Nambucca's case is based largely on its involvement in joint services with other Councils such as library, emergency and tourism. Since the demise of the mid North Coast Regional Organisation of Councils it has had to re-establish communications with other Mayors at a regional level which has involved considerable time. It was claimed that the region has been classified as one of the most socially disadvantaged areas in the state. Parkes has stressed its role of regional leader in developing export markets and as a centre for people in the area

There are matters, however, which are concerned with the quantity of fees rather than establishing comparability with regional centres such as Dubbo, Tamworth and Wagga Wagga.

No applications for re-categorisation were made by Category 5 Councils.

County Councils

In 1995 a special category (S3) was created for County Councils mainly established for noxious weeds and flood mitigation control. Since that time, substantial developments in the control of water and/or sewerage functions led to the establishment of an additional Category S4 in 1999 for the County Councils engaged in significant commercial activities at that stage confined to water and sewerage.

However, an anomaly in the categorisation of Cudgegong County Council has been brought to the attention of the Tribunal by its categorisation with weed control County Councils. Cudgegong Council is the only special purpose council operating an abattoir in Australia.

The Tribunal visited the abattoir and heard evidence as to the commercial operations of the enterprise at present compared with 1995.

In comparison to figures from 1995 which were set out in the 1995 Report (pages 47 to 48), the abattoir now has a budget of \$26 million, employs 500 people on site, and processes products valued in excess of \$300 million per annum.

The abattoir operates on a strictly commercial basis. Sales and marketing are driven by a number of external factors such as international commodity prices, growth in export countries and international and domestic food quality standards. The abattoir also operates under a number of compliance requirements by the Australian Quarantine and Inspection Service, Environment Protection Authority, Department of Land and Water Conservation and the WorkCover Authority.

The Council has significance regional input. As indicated above, the abattoir is operated in a strictly commercial environment and is the major employer in the region. The Council is expanding its operations and is currently in the process of installing new freezing facilities and a boning room. This has cost \$7 million and is expected to generate another 100 jobs on the site.

The Council is seeking re-classification from Special category S3 to S4. In considering Council's submission, the Tribunal is mindful of the commercial nature of the abattoir's operations and its regional significance. The workforce of the abattoir has doubled from 250 people to 500 people since 1995 and is expected to increase further when the new facilities are completed. The commercial nature requires greater attention and time to the abattoir's operations and the need for complex financial negotiations with Government and banks to secure funding for expansion and innovation.

In view of these changes Cudgegong is added to Category S4.

The categories and fees determined by the Tribunal for 2000/2001 are set out in the attached Determination.

Local Government Remuneration Tribunal

(The Honourable Charles L Cullen Q.C.)

Dated:

DETERMINATION OF CATEGORIES OF COUNCILS AND COUNTY COUNCILS FOR 2000/2001

Category S1 (1 Council)	Sydney
Category S2 (2 Councils)	Newcastle Wollongong
Category S3	County Councils
Category S4	County Councils (engaged in significant commercial activities)

Category 1. (18 Councils)

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

Category 2. (23 Councils)

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

Category 3. (33 Councils)

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

4. (33 Councils)

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

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

175

Category S3 (13 Councils)

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

Category S4 (7 Councils)

Central Tablelands	MidCoast
Cudgegong	Riverina Water
Goldenfields Water	Rous
Lower Clarence	

TOTAL COUNTY COUNCILS 20

**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 2000 to 30 June 2001 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: