

**Public Service
Senior
Executives**

Annual
Determination

*Report and determination under
section 240 of the Statutory and
Other Offices Remuneration Act
1975*

**29 August
2017**

Public Service Senior Executives

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Section 1

Background

Legislative Framework

1. Senior executives employed under the *Government Sector Employment Act 2013* (GSE Act) are referred to as Public Service senior executives (PSSEs).
2. Section 35 of the GSE Act provides for the Premier (as the Minister administering the GSE Act) to determine the bands in which senior executives are to be employed. The following four bands were determined by the former Premier on 14 February 2014:

Band 4	Secretary level
Band 3	Deputy Secretary level
Band 2	Executive Director level
Band 1	Director Level

3. Section 40 of the GSE Act provides for the remuneration package of a PSSE to be within the range determined under the *Statutory and Other Offices Remuneration Act 1975* (SOOR Act) for the band in which the executive is employed. Remuneration packages are expressed as a total cost of employment, whether the amount is monetary remuneration for the executive, or partly as that remuneration and partly as the cost to the employer of the executive's employment benefits.
4. Section 240 of the SOOR Act provides for the Tribunal to make an annual determination of remuneration packages for senior executives on and from 1 July in that year.
5. The Tribunal's determination provides for remuneration ranges for Bands 1 to 4 and specific remuneration packages for individual office holders identified in the determination.

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Government Wages Policy

6. In determining remuneration for PSSEs the Tribunal is required pursuant to section 6AA of the SOOR Act to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission (IRC) is required to give effect to under section 146C of the *Industrial Relations Act 1996* (the IR Act) when making or varying awards or orders relating to the conditions of employment of public sector employees.
7. The current policy on wages pursuant to section 146(1)(a) of the IR Act is specified in the *Industrial Relations (Public Sector Conditions of Employment) Regulation 2014* (the IR Regulation) which was made on 24 June 2014. The effect of the IR Regulation is that public sector wages cannot increase by more than 2.5 per cent. Any increase beyond 2.5 per cent can only be awarded if sufficient employee-related cost savings have been achieved to fully offset the increased employee-related costs.

Amendments to the SOOR Act

8. On 1 July 2016 the *Government Sector Employment Legislation Amendment Act 2016* (the GSELA Act) amended Part 3B of the SOOR Act to provide the Tribunal with greater flexibility to determine different remuneration arrangements for PSSEs.
9. The amended provisions also extended the determinations to Health executives from 1 January 2017, Transport executives from 1 July 2017 and Police executives from 31 October 2017 (on commencement of Schedule 3 of the GSELA Act). Except as otherwise provided in the relevant legislation, senior executives in the Public Service, NSW Health Service, Transport Service and NSW Police Force (on commencement of Schedule 3 of GSELA Act 2016) will be employed in one of the four Bands provided for under the GSE Act and will receive a remuneration package within the range applicable for the band as determined by the Tribunal.
10. Where market or other factors require, mechanisms exist for executives to receive higher remuneration. In such cases, the Tribunal may make a determination fixing remuneration above the range for the relevant Band where directed to do so by the

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Premier. Alternatively, the Health and Transport Secretaries and the Police Commissioner (on commencement of Schedule 3 of GSELA Act 2016) will be able to determine a higher remuneration package for a senior executive or class of senior executives, provided this is in accordance with parameters agreed with the Public Service Commissioner.

2016 Annual Determination

11. The Tribunal's 2016 annual determination for the PSSEs dated 15 July 2016 provided for a 2.5 per cent increase in the minimum and maximum remuneration ranges for each band.
12. The increase also applied to the remuneration packages for those senior executives named in the determination.

Section 2

Special Determinations

13. The Tribunal has made seven special determinations, pursuant to section 24P of the SOOR Act, since the making of the 2016 annual determination.
14. On 22 August 2016 the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Ms Sandra Chipchase in the role of Chief Executive Officer, Destination NSW with a remuneration package of \$495,250 per annum.
15. On 16 September 2016, the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Ms Carolyn McNally in the role of Secretary, Department of Planning and Environment with a remuneration package of \$507,350 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base amount.
16. On 9 November 2016 the Tribunal determined to alter the range of remuneration packages for Band 2 PSSEs to provide Mr Tim O'Connor in the role of Executive Director, Criminal Investigations, NSW Crime Commission with a remuneration package of \$380,230 per annum; and Mr Jon Spark in the role of Executive Director, Financial Investigations, NSW Crime Commission with a remuneration package of \$352,384 per annum.
17. On 9 November 2016 the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Dr Nigel Lyons in the role of Deputy Secretary, Strategy and Resources, Ministry of Health with a remuneration package of \$495,250 per annum.
18. On 17 July 2017 the Tribunal determined to alter the range of remuneration packages for Band 3 PSSEs to provide Mr David Riches in the role of Head, Projects NSW, Infrastructure NSW with a remuneration package of \$576,345 per annum with

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effect from 1 July 2017. This determination was made prior to the making of the 2017 annual determination and no further increase is applied in this determination.

19. On 19 July 2017 the Tribunal determined to alter the range of remuneration packages for Band 4 PSSEs to provide Mr Michael Pratt in the role of Secretary of NSW Treasury with a remuneration package of \$563,750 per annum, plus a discretionary remuneration range of up to 12 per cent in addition to the base amount, with effect from the date of his appointment being 1 August 2017. At the Premier's request, that special determination is altered by the annual determination to apply the 2017 general increase to maintain relativity between Secretary remuneration levels.
20. On 15 August 2017 the Tribunal determined to alter the range of remuneration packages for Band 2 PSSEs to provide Ms Leilani Frew in the role of Executive Director, Steering Committee Chair and Strategic Lead for the WestConnex Project for the NSW Treasury with a remuneration package of \$374,877 per annum, with effect from the date of her appointment being 29 May 2017. This determination was made prior to the making of the 2017 annual determination and no further increase is applied in this determination.
21. Special determinations are published on the [NSW Remuneration Tribunals](#) website.

Section 3

Government Submission

22. The Secretary NSW Treasury provided the Government submission to the Tribunal on 25 August 2017. The Government submission provides an overview of the State's recent economic performance and makes a recommendation in respect of the quantum of the increase to apply to PSSEs. Extracts appear below.

Employee expenses

- *In 2017-18 employee expenses are expected to increase by 2.9 per cent. This increase is driven primarily by wage growth combined with increased investment in frontline staff, largely within health and education.*
- *Employee expenses are expected to increase on average by 4.1 per cent per annum over the forward estimates, however at a slower growth rate than previously projected, mainly driven by the application of efficiency measures by the government.*
- *The combination of initiatives such as the NSW Public Sector Wages Policy and the Labour Expense Cap has kept average employee expense growth low. Annual average growth in employee expenses was 6.3 per cent from 2003-04 to 2010-11 compared with the forecast average annual growth rate of 4.0 per cent for the ten years to 2020-21.*

Economic analysis and the State's budget

- *The NSW economy grew by 3.5 per cent in 2015-16, well above its trend rate of 2½ per cent. This momentum is expected to persist in the near-term with economic growth expected to remain above-trend in 2016-17, 2017-18 and 2018-19.*
- *The 2017-18 Budget was delivered in accordance with the Government's economic and fiscal strategy that continues to support the maintenance of the State's triple-A credit rating, and ensures that State finances and services are sustainable over the long term.*
- *The 2016-17 budget result is an expected surplus of \$4.5 billion, which reflects a temporary boost in revenues from the State's asset recycling program. The Budget forecasts a surplus of \$2.7 billion in 2017-18 and average surpluses of \$2.0 billion across the budget and forward estimate years.*
- *Keeping expense growth below long-term average revenue growth is key to strengthening the fiscal position. The Government is committed to keeping*

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annual expense growth below long-term average revenue growth of 5.6 per cent, consistent with the requirements of the Fiscal Responsibility Act 2012.

Government's submitted increase

23. The Government submits that the Tribunal should approve an increase of 2.5 per cent from 1 July 2017, on the basis that it is consistent with the NSW Wages Policy and reflects the NSW Government's intent, pursuant to section 6AA of the SOOR Act and the IR Regulation.

Section 4

2017 Annual Determination

General Increase

24. The Tribunal, after consulting with the Assessors and having regard to the provisions of section 6AA of the SOOR Act, determines an increase of 2.5 per cent for the remuneration package ranges for PSSEs bands, effective on and from 1 July 2017. The new rates are as set out in Determination No. 1.
25. The 2.5 per cent increase also applies to those determinations for particular senior executives named in the determination, except for those identified in Section 2.

Secretary Remuneration

26. The Tribunal notes that it is the Premier's preference that Departmental Secretaries in NSW receive a competitive remuneration package with a discretionary performance based component. This model provides flexibility for remuneration movement over time if the persons appointed to these roles exceed performance expectations, as assessed by the Premier.
27. Secretaries are employed in Band 4 to which a remuneration range applies. The Tribunal notes that all Secretaries subject to this determination are eligible to receive remuneration above the maximum of the range for Band 4 which has been facilitated by the making of determinations which alter the Band for those Secretaries specified in such determinations. If this trend is to continue it may be appropriate to review the range of remuneration available within Band 4.
28. The Tribunal's determination for Mr Rob Whitfield in the role of Secretary of NSW Treasury will apply for the period 1 July 2017 to 31 July 2017. As that determination was personal to Mr Whitfield it will cease with effect from 1 August 2017 when a determination personal to Mr Michael Pratt will apply to the same role.

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The Statutory and Other Offices Remuneration Tribunal

(signed)

Richard Gellman AM

Dated: 29 August 2017

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Section 5

Determination No.1-Remuneration Package Ranges for the PSSEs

The Tribunal determines that the remuneration package ranges for Public Sector Senior Executive Bands effective on and from 1 July 2017 shall be:

Bands and Above Band Determinations

Band	Per annum range		
Band 4 - Secretary level	\$463,551	to	\$535,550
Band 3 - Deputy Secretary level	\$328,901	to	\$463,550
Band 2 - Executive Director level	\$261,451	to	\$328,900
Band 1 - Director level	\$183,300	to	\$261,450

Band	Different remuneration packages that apply to the particular senior executives named
Band 4 – Secretary level	Mr Blair Comley, Secretary, Department of Premier and Cabinet: \$613,750 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Mr Robert Whitfield, Secretary of the NSW Treasury: \$577,850 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration (<i>until the expiration of his employment on 31 July 2017</i>).
	Mr Michael Pratt, Secretary of the NSW Treasury: \$577,850 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration (<i>effective 1 August 2017</i>).
	Mr Mark Scott, Secretary, Department of Education: \$574,000 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Mr Michael Coutts-Trotter, Secretary, Department of Family and Community Services: \$555,150 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Ms Elizabeth Koff, Secretary, Ministry of Health: \$555,150 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Mr Martin Hoffman, Secretary, Department of Finance, Services and Innovation: \$520,050 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Mr Tim Reardon, Secretary, Transport for NSW: \$520,050 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Mr Simon Smith, Secretary, Department of Industry: \$520,050 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.
	Ms Carolyn McNally, Secretary, Department of Planning and Environment: \$520,050 per annum plus a discretionary remuneration range of up to 12 per cent in addition to the base remuneration.

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Band	Different remuneration packages that apply to the particular senior executives named
Band 3 – Deputy Secretary level	Mr Craig van der Laan, Chief Executive Officer, Barangaroo Delivery Authority: \$593,650 per annum plus a discretionary remuneration range of 12 per cent in addition to the base remuneration.
	Mr David Riches, Head, Projects NSW, Infrastructure NSW: \$576,345 per annum.
	Ms Sandra Chipchase, Chief Executive Officer, Destination NSW: \$507,650 per annum.
	Dr Nigel Lyons, Deputy Secretary, Strategy and Resources, Ministry of Health: \$507,650 per annum.
Band 2 – Executive Director level	Mr Tim O'Connor, Executive Director, Criminal Investigations, NSW Crime Commission: \$389,750 per annum.
	Ms Leilani Frew, Executive Director, Steering Committee Chair and Strategic Lead for the WestConnex Project for the NSW Treasury: \$374,877 per annum.
	Ms Denise Dawson, Chief Financial Officer, Department of Family and Community Services: \$366,150 per annum.
	Mr Jon Spark, Executive Director, Financial Investigations, NSW Crime Commission: \$361,200 per annum.
	Mr Stephen Loquet, Chief Information Officer, Department of Education: \$360,600 per annum.

The Statutory and Other Offices Remuneration Tribunal

(signed)

Richard Grellman AM

Dated: 29 August 2017