

Submission to the NSW Local Government Remuneration Tribunal

30 January 2018

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Opening

The Local Government and Shires Association of New South Wales, also known as Local Government NSW (“**LGNSW**”), is the peak body for Local Government in NSW representing the interests of all NSW general-purpose councils and associate members including special-purpose county councils, the Lord Howe Island Board and the Norfolk Island Regional Council.

LGNSW is registered as an industrial organisation of employers under the *Industrial Relations Act 1996* (NSW) and separately under the *Fair Work (Registered Organisations) Act 2009* (Cth).

LGNSW makes this submission pursuant to section 243(2)(b) of the *Local Government Act 1993* (NSW) (the “**Act**”).

In its determination of 12 April 2017 the Local Government Remuneration Tribunal (the “**Tribunal**”) deemed it appropriate to award an increase of 2.5% in councillor and mayoral fees, taking into account key economic indicators and initiatives for Local Government reform.¹ We thank the Tribunal for the opportunity to provide a written submission in respect of the Tribunal’s 2018 review of fees payable to councillors and mayors.

Executive Summary

This submission is in two parts.

The first part of the submission concerns the categorisation of councils. Under s. 239 of the Act, the Tribunal is only required to review the categorisation model every three years. In 2017 the Tribunal determined a new categorisation model for remuneration purposes, having regard to each of the 128 councils.

Overall, LGNSW supports the categorisation structure implemented by the Tribunal in the 2017 determination and the more recent categorisation of councils which were the subject of merger proposals then on hold. We note, however, that City of Canada Bay disputes its categorisation as “Metropolitan Small” and is seeking to be re-classified as “Metropolitan Medium” and that Randwick City Council disputes its categorisation as “Metropolitan Medium” and is seeking to be re-classified as “Metropolitan Large”. LGNSW supports both councils’ submissions to the Tribunal for re-categorisation.

The second part of the submission concerns the quantum of the increase in fees for councillors and mayors to be determined by the Tribunal. We reiterate our long held view that the current arrangements for setting councillor and mayoral fees are entirely inappropriate. Existing councillor and mayoral fees do not properly compensate them for the significant workload and range of responsibilities of elected members, which continue to grow.

Supporting this position is a comparison of councillor and mayoral fees with the fees paid to chairpersons and directors of not-for-profit companies and government bodies, NSW Members of Parliament (“**MPs**”), and the fees received by councillors and mayors in other States.

¹ Report and Determination of the Local Government Remuneration Tribunal, 12 April 2017 (“**the 2017 determination**”)

Pending essential reform in this area, LGNSW argues in support of an increase in fees for councillors and mayors equal to the maximum available increase (2.5%) given the statutory limitations.

Part 1 – Categorisation

Section 239 of the Act provides that the Tribunal must, at least once every 3 years:

- (a) Determine categories for councils and mayoral offices, and
- (b) Place each council and mayoral office into one of the categories it has determined.

The determination of categories by the Tribunal is for the purpose of enabling the Tribunal to determine the maximum and minimum fees to be paid to mayors and councillors in each of the categories so determined.

In 2017 the Tribunal determined a new categorisation model for remuneration purposes. Each of the 128 councils (either new or existing) was allocated into one of the following nine categories:

Metropolitan

- Principal CBD;
- Major CBD;
- Metropolitan Large;
- Metropolitan Medium; or
- Metropolitan Small.

Non-Metropolitan

- Regional City;
- Regional Strategic Area;
- Regional Rural; or
- Rural.

At the time of making the 2017 determination, the Tribunal noted that a number of further merger proposals were on hold as a consequence of legal action underway.

On 27 July 2017 the Premier, the Hon Gladys Berejiklian MP, issued a media release (which was well received by LGNSW) advising that the following proposed mergers would not proceed:

- Burwood, City of Canada Bay and Strathfield Municipal councils;
- Hornsby Shire and Ku-ring-gai councils;
- Hunters Hill, Lane Cove and City of Ryde councils;
- Mosman Municipal, North Sydney and Willoughby councils; and
- Randwick City, Waverley and Woollahra Municipal councils.

LGNSW notes that the Tribunal has advised that, if requested, it will review the allocation of the above metropolitan councils into the existing categories as part of its 2018 determination. The Tribunal will not, however, alter the groups or the criteria which apply unless there is a very strong case to do so.

The current categorisation of the above listed councils is as follows:

Metropolitan Medium

- Hornsby Council;
- Ku-ring-gai Council;
- Randwick Council; and
- City of Ryde.

Metropolitan Small

- Burwood;
- City of Canada Bay;
- Hunters Hill;
- Lane Cove;
- Mosman;
- North Sydney;
- Strathfield;
- Waverly;
- Willoughby; and
- Woollahra.

LGNSW sought the views of the above metropolitan councils as to whether their current categorisation was appropriate. At the date of filing this submission, City of Canada Bay (“**CCB**”) and Randwick City Council (“**RCC**”) have disputed their respective categorisations.

CCB argues that it should be re-categorised from “Metropolitan Small” to “Metropolitan Medium” and has filed a submission with the Tribunal in support of its position, noting particularly its major health and retail facilities, which are among key criteria for Metropolitan Medium categorisation (p. 14 of the 2017 determination).

LGNSW agrees with CCB that the Council displays many of the characteristics of “Metropolitan Medium” councils. Most notably, CCB provides major health, retail and sporting facilities to greater Sydney and is also experiencing high ongoing population growth. This council’s population has increased 27% since 2001 and is expected to increase an additional 32% between now and 2036.

The area of CCB also includes the Concord Repatriation General Hospital and two major retail centres – Rhodes Waterside Shopping Centre and Birkenhead Point. CCB’s significance as a major hub is also demonstrated through what are regarded as renowned recreational facilities, for example Concord Oval (which was the main sport ground used by NSW Rugby Union), Drummoyne Oval (home of the Dirty Reds Rugby Club) and the Bay Run (the second most popular walking trail in NSW).

RCC argues that it should be re-categorised from “Metropolitan Medium” to “Metropolitan Large” and has filed a submission with the Tribunal in support of its position, noting particularly its significant regional facilities.

LGNSW agrees with RCC that the Council displays many of the characteristics of “Metropolitan Large” councils, particularly with regards to education, recreation, and sports, which are among key criteria for Metropolitan Large categorisation (p. 13 of the 2017 determination). RCC is home to Centennial Park, which has more than 20 million visitors and 560,000 sporting and recreational participants annually and Sydney’s premier racecourse (Royal Randwick). RCC is also home to prominent educational institutions and health facilities including the University of New South Wales, the National Institute of Dramatic Arts and the Prince of Wales Hospital.

On this basis, LGNSW supports the submissions of CCB and RCC to the Tribunal. With respect to all other matters, LGNSW supports the categorisation structure implemented by the Tribunal

in the 2017 determination and the more recent categorisation of councils who were on hold as a consequence of merger proposals and legal action underway.

Part 2 – Councillor and Mayoral Fees

The Tribunal is required by legislation to give effect to the NSW State Government's public sector wages policy ("**wages policy**") when determining the maximum and minimum amounts of fees to be paid to mayors and councillors. Presently the Tribunal's capacity to make a determination that would remunerate councillors and mayors adequately and fairly for sustained increases in workload and responsibility is hamstrung by the capped amount of 2.5 percent as per the wages policy.

Councillors and mayors have not been appropriately recompensed for the significant time involved in undertaking their official duties for some time now. The maximum remuneration which the Tribunal can award in no way fairly compensates for the duties, workload and responsibilities of elected members. The increasing workload and accountability of elected representatives (particularly in recent years) may mean that, without proper compensation, fewer people are likely to put themselves forward for public office.

This part of LGNSW's submission will draw a comparison between the fees paid to mayors and councillors and the fees paid to chairpersons and directors of both not-for-profit companies and government bodies. This comparison is appropriate given that ss. 226 and 232 of the Act create a parallel between the role of mayors/councillors and those of chairpersons/directors of other corporate entities.

A comparison of the fees paid to mayors and councillors in Local Government in NSW and Queensland will then show that despite the duties of elected members being comparable across States, NSW's elected members are very poorly remunerated when compared to their Queensland counterparts.

A comparison will be made of the fees paid to mayors and councillors in Local Government in NSW with the salaries of NSW MPs. LGNSW reiterates its argument (initially stated in its 2009 submission)² that given the similarities between the work of MPs and councillors, this comparison is both appropriate and proper. It also demonstrates that councillor and mayoral remuneration, as measured against that of MPs, is woefully inadequate given the competence, skill and experience of local elected members.

Finally, we invite the Tribunal to consider a number of 'other matters' when determining the maximum and minimum amounts of fees to be paid to mayors and councillors, including:

- i) new induction and other professional development training requirements for elected Local Government representatives;
- ii) implementation of the NSW Local Government Capability Framework; and
- iii) the non-payment of superannuation to elected Local Government representatives.

² Submission to the Local Government Remuneration Tribunal, 11 February 2009.

Fees paid to chairpersons and directors of not-for-profit and government bodies

This part of LGNSW's submission makes reference to the 2017 Australian Board Remuneration Survey ("the Board Members Survey")³ (a copy of which is attached to this Submission and marked "Attachment 1"). The Board Members Survey is based on remuneration data covering 1021 boards, including of government bodies and not-for-profit bodies.

This submission will use the remuneration paid to directors of boards and board chairpersons of both government bodies and not-for-profit bodies as comparators against the remuneration paid to mayors and councillors in NSW Local Government. LGNSW submits that a parallel exists between directors of boards and councillors, and chairpersons of boards and mayors, given the role of both the mayor and councillors as provided for in ss. 226 and 232 of the Act.

Four councils were selected for comparison. These councils vary in size, location and categorisation. The remuneration of the mayor and councillors at each council has been assessed against the average remuneration paid to the chairpersons and directors of a comparable government or not-for-profit organisation. Comparability is assessed on two dimensions: total revenue and total number of full time employees ("TFTE") of the organisation/council.

Burwood Council and a comparable Government body* (based on total revenue)

Position	Total Revenue of Organisation/Council	Average Remuneration	Maximum Remuneration
Chairman – Government Body	\$40-80M	\$72,117	-
Mayor – Burwood Council	\$50.9M	-	\$61,430
<i>Difference in the average remuneration paid to the Chairman of a Government body and the Mayor of Burwood Council: \$10,687</i>			
Director – Government Body	\$40-80M	\$33,736	-
Councillor – Burwood Council	\$50.9M	-	\$19,310
<i>Difference in the average remuneration paid to a Director of a Government body and a Councillor on Burwood Council: \$14,426</i>			

*All Government body figures extracted from Tables 5.17 and 5.19 of Attachment 1

The total revenue of Burwood Council is \$50.9 million,⁴ compared to \$40-\$80 million for a government body. Yet the chairperson of a government body of comparable revenue to Burwood Council will earn on average \$10,687 more p.a. than the mayor of Burwood Council. Similarly, a director of the government body will earn on average \$14,426 p.a. more than a councillor on Burwood Council.

³ Australian Board Remuneration Survey Report, published by McGuirk Management Consultants Pty Ltd., 2017.

⁴ Office of Local Government, Time Series Data, 2015-16.

Comparison 2 –

Inner West Council and a comparable Government body* (based on TFTE)

Position	Total No. Full-time Employees	Average Remuneration	Maximum Remuneration
Chairman- Government Body	1001-4000	\$133,117	-
Mayor – Inner West Council	1049	-	\$89,780
<i>Difference in the average remuneration paid to the Chairman of a Government body and the Mayor of Inner West Council: \$43,337</i>			
Director- Government Body	1001-4000	\$61,440	-
Councillor – Inner West Council	1049	-	\$28,950
<i>Difference in the average remuneration paid to a Director of a Government body and a Councillor on Inner West Council: \$32,490</i>			

*All Government body figures extracted from Tables 5.17 and 5.19 of Attachment 1

The TFTE at Inner West Council is 1049,⁵ compared to 1001-4000 for a government body. Yet the chairman of a government body with a comparable number of TFTE to Inner West Council will earn on average \$43,337 p.a. more than the mayor of Inner West Council. Similarly, a director of a government body will earn on average \$32,490 p.a. more than a councillor on Inner West Council.

Comparison 3 –

Bourke Shire Council and a comparable not-for-profit body* (based on total revenue)

Position	Total Revenue of Organisation/Council	Average Remuneration	Maximum Remuneration
Chairman - Not for Profit	\$20-\$40M	\$41,931	-
Mayor - Bourke Shire Council	\$21M	-	\$36,820
<i>Difference in the average remuneration paid to the Chairman of a not-for-profit body and the Mayor of Bourke Shire Council: \$5,111</i>			
Director - Not for Profit	\$20-\$40M	\$18,661	-
Councillor – Bourke Shire Council	\$21M	-	\$11,570
<i>Difference in the average remuneration paid to a Director of a not-for-profit body and a Councillor on Bourke Shire Council: \$7,091</i>			

* All Not for Profit figures extracted from Tables 5.14 and 5.16 of Attachment 1

The total revenue of Bourke Shire Council was \$21 million in 2015/16,⁶ compared to \$20-\$40 million for a not-for-profit organisation. Yet the chairperson of a not-for-profit organisation of comparable revenue to Bourke Shire Council received on average \$5,111 more p.a. than the Mayor of Bourke Shire Council. Similarly, a director of the not-for-profit organisation received on average \$7,091 p.a. more than a councillor on Bourke Shire Council.

⁵ Office of Local Government, Time Series Data, 2015-16.

⁶ Office of Local Government, Time Series Data, 2015-16.

Comparison 4 –

Port Macquarie Hastings Council (“PMH”) and a comparable not-for-profit body* (based on TFTE)

Position	Total No. Full-time Employees	Average Remuneration	Maximum Remuneration
Chairman- Not for Profit	401-600	\$69,460	-
Mayor – PMH Council	507	-	\$61,430
<i>Difference in the average remuneration paid to the Chairman of a not-for-profit body and the Mayor of PMH Council: \$8,030</i>			
Director- Not for Profit	401-600	\$21,160	-
Councillor – PMH Council	507	-	\$19,310
<i>Difference in the average remuneration paid to a Director of a not-for-profit body and a Councillor on PMH Council: \$1,850</i>			

* All Not for Profit figures extracted from Tables 5.14 and 5.16 of Attachment 1

The TFTE at PMH Council is 507,⁷ compared to 401-600 for a not-for-profit organisation. Yet the chairperson of a not-for-profit organisation with a comparable number of TFTE to PMH Council receives on average \$8,030 p.a. more than the mayor of PMH Council. Similarly, a director of a not-for-profit organisation receives on average \$1,850 p.a. more than a councillor on PMH Council.

The current arrangements for setting councillor and mayoral fees do not properly compensate elected members for the growth in workload and range of responsibilities over time. As the above comparison demonstrates, in some cases councillors receive \$32,490 per year less than their counterparts at government bodies. It is totally unacceptable that the gap in average remuneration between councillors and directors of government bodies is, in some cases, larger than the total remuneration received by councillors annually. Furthermore, chairpersons and directors do not have the legal and civic responsibilities of elected members as prescribed under the Act.

Fees paid to mayors and councillors in NSW and Queensland

Queensland’s eight tiered categorisation structure is formulated on the basis of similar legislative criteria to that set out in s. 240 of the Act. Section 242 of the *Local Government Regulation 2012* (Qld) provides that in establishing categories, the Tribunal must have regard to factors such as the size, population, demographics and geographical terrain of Local Government areas. The categories for councils in NSW align well with Queensland’s categories.

Despite the categories of councils in NSW and Queensland aligning, elected members do not receive comparable remuneration. One reason for this is the Queensland Tribunal’s objective of aligning the remuneration levels of Local Government representatives to the salary levels of State MPs, reflective of the similar duties/responsibilities among elected members.⁸ In 2011

⁷ Office of Local Government, Time Series Data, 2015-16.

⁸ Local Government Remuneration Tribunal Report 2009.

and subsequent years, the Queensland Tribunal granted the same increase to elected members in Local Government that had been applied to State MPs.⁹

This part of the submission will compare the remuneration of elected members in Local Government in NSW and Queensland. This comparison is appropriate given the parallel between the roles of elected members across States (for example, s. 232 of the Act and s. 12 of the *Local Government Act 2009* (Qld)).

As with the analysis in the earlier part of this submission, four councils were selected for comparison. These councils vary in size, location and categorisation. The remuneration of the mayor and councillors at each council has been assessed against the remuneration paid to the mayor and councillors at comparable councils in Queensland. Comparability is assessed on two dimensions: total revenue and total number of full time employees (“TFTE”) of the council in each State.

Comparison 1 –

Burwood Council (NSW) and Mareeba Shire Council (Queensland) (based on total revenue)

Position	Total Revenue of Council (\$40-80M)	Maximum Remuneration
Mayor – Mareeba Shire Council	\$51M	\$119,903
Mayor – Burwood Council	\$50.9M	\$61,430
Councillor – Mareeba Shire Council	\$51M	\$59,952
Councillor – Burwood Council	\$50.9M	\$19,310
Difference in the maximum remuneration paid to the Mayor of Mareeba Shire Council and the Mayor of Burwood Council: <u>\$58,473</u>		

The total revenue of Burwood Council was \$50.9 million in 2015-16,¹⁰ compared to \$51 million at Mareeba Shire Council.¹¹ Yet the mayor at a Queensland council of comparable revenue to Burwood Council will earn \$58,473 more p.a. than the mayor of Burwood Council. Similarly, a councillor at Mareeba Shire Council will earn on average \$40,642 p.a. more than a councillor on Burwood Council.

Comparison 2 –

Inner West Council (NSW) and Cairns Council (Queensland) (based on TFTE)

Position	Total No. Full-time Employees (1001-4000)	Maximum Remuneration
Mayor – Cairns Council	1120	\$175,859
Mayor – Inner West Council	1091	\$89,780
Councillor – Cairns Council	1120	\$103,918
Councillor – Inner West Council	1091	\$28,950
Difference in the maximum remuneration paid to the Mayor of Cairns Council and the Mayor of Inner West Council: <u>\$86,079</u>		

⁹ Local Government Remuneration and Discipline Tribunal – 2011 Report.

¹⁰ Office of Local Government, Time Series Data, 2015-16.

¹¹ Mareeba Shire Council, Annual Report, 2015-16.

The TFTE at Inner West Council is 1091 for 2015-16,¹² compared to 1120 at Cairns Council.¹³ Yet the mayor of a Queensland council with a comparable number of TFTE to Inner West Council receives \$86,079 p.a. more than the mayor of Inner West Council. Similarly, a councillor at Cairns Council receives \$74,968 p.a. more than a councillor on Inner West Council.

Comparison 3 –

Bourke Shire Council (NSW) and Winton Shire Council (Queensland) (based on total revenue)

Position	Total Revenue of Council (\$20-40M)	Maximum Remuneration
Mayor – Winton Shire Council	\$35.5M	\$103,918
Mayor – Bourke Shire Council	\$21M	\$51,958
Councillor – Winton Shire Council	\$35.5M	\$59,952
Councillor – Bourke Shire Council	\$21M	\$11,570
Difference in the maximum remuneration paid to the Mayor of Winton Shire Council and the Mayor of Bourke Council: \$51,960		

The total revenue of Bourke Shire Council was \$21 million in 2015-16,¹⁴ compared to \$35.5 million at Winton Shire Council.¹⁵ Yet the mayor at a Queensland council of comparable revenue to Bourke Shire Council will earn \$51,960 more p.a. than the mayor of Bourke Shire Council. Similarly, a councillor at Winton Shire Council will earn \$48,382p.a. more than a councillor on Bourke Shire Council.

Comparison 4 –

Port Macquarie Hastings Council (“PMH”) (NSW) and Gympie Council (Queensland) (based on TFTE)

Position	Total No. Full-time Employees (401-600)	Maximum Remuneration
Mayor – Gympie Council	446	\$127,898
Mayor – PMH Council	507	\$61,430
Councillor – Gympie Council	446	\$67,945
Councillor – PMH Council	507	\$19,310
Difference in the maximum remuneration paid to the Mayor of Gympie Council and the Mayor of PMH Council: \$66,468		

The TFTE at PMH Council is 507 for 2015-16,¹⁶ compared to 446 at Gympie Council.¹⁷ Yet the mayor of a Queensland council with a comparable number of TFTE to PMH Council receives \$66,468 p.a. more than the mayor of PMH Council. Similarly, a councillor at Gympie Council receives \$48,635p.a. more than a councillor on PMH Council.

¹² Office of Local Government, Time Series Data, 2015-16.

¹³ Department of Local Government, Racing and Multicultural Affairs, Queensland Local Government Comparative Data, 2015-16.

¹⁴ Office of Local Government, Time Series Data, 2015-16.

¹⁵ Winton Shire Council, Annual Report, 2015-16.

¹⁶ Office of Local Government, Time Series Data, 2015-16.

¹⁷ Department of Local Government, Racing and Multicultural Affairs, Queensland Local Government Comparative Data, 2015-16.

The gap in remuneration between elected members in NSW and Queensland is significant, due to the Queensland Tribunal's commitment to bringing the remuneration of elected members in Local Government into line with that of State MPs. A comparable commitment is absent in NSW.

As the above comparison demonstrates, in some cases NSW mayors receive \$86,079 per year less than their counterparts in local government in Queensland. In terms of the fees paid to councillors, the gap in remuneration between councillors in NSW and Queensland is, in most cases, larger than the total remuneration received by NSW councillors annually. This is totally unacceptable.

Fees paid to mayors and councillors and the salaries of State MPs

In our earlier submissions (most notably 2007 and 2009), LGNSW argued that it is appropriate to draw comparisons between the remuneration of mayors and State MPs. We reiterate our previous submissions and provide the following reasons as to why a comparison with MPs is valid:

Both mayors and State MPs:

- Undertake activities representing the interests of their constituents;
- Attend State, Commonwealth and Local Government functions;
- Participate in the activities of recognised political parties, including national, State and regional conferences, branch meetings, electorate council meetings, executive meetings and committee meetings;
- Are elected by their communities; and
- Are accessible by the public to receive petitions, complaints and the like.

LGNSW asserts that due to the similarities between the work of mayors/councillors and State MPs, mayoral/councillor remuneration is insufficient when measured against their skill, competence and training.

The base salary for State MPs is \$161,040. MPs also receive an electoral allowance composed of a base allowance, additional allowance, recognised office holder allowance (except independents) and an independents allowance.¹⁸

In total, the minimum remuneration for an MP (base salary plus electoral allowance) is \$228,190. The following table highlights the difference between the minimum remuneration for State MPs (\$228,190) with the maximum remuneration of mayors across all NSW councils:

Council Category	Maximum Mayoral Remuneration	Difference between State MP Minimum Remuneration and Maximum Mayoral Remuneration
Principal CBD	\$211,790	\$16,400
Major CBD	\$105,000	\$123,190
Metropolitan Large	\$84,330	\$143,860
Metropolitan Medium	\$65,230	\$162,960
Metropolitan Small	\$42,120	\$186,070
Regional City	\$95,000	\$133,190
Regional Strategic Area	\$84,330	\$143,860
Regional Rural	\$42,120	\$186,070
Rural	\$25,250	\$202,940

¹⁸ Parliamentary Remuneration Tribunal, Annual Report and Determination, 31 May 2017.

LGNSW submits that there is clearly a parallel between the roles and responsibilities of elected member in Local Government and State MPs, and as such, it is reasonable to expect that the remuneration of these elected members be much more closely aligned. At its best, maximum mayoral remunerations falls \$16,400 short of the minimum remuneration of State MPs and, at its worst, it falls \$202,940 short. These figures would be considerably more disparate where councillor remuneration is considered.

Other matters

New induction and other professional development training requirements for elected Local Government representatives

Amendments made to the Act by the *Local Government Amendment (Governance and Planning) Act 2016* saw the inclusion in the prescribed role of councillors, under section 232, a responsibility to: "*make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor*".

In support of this, the amendments allow regulations to be made for induction and other professional development for mayors and councillors.

The Office of Local Government ("**OLG**") has prepared draft *Councillor Induction and Professional Development Guidelines* ("**Draft Guidelines**") which are intended to assist councils to develop and deliver induction and ongoing professional development activities for their mayor and councillors in compliance with the proposed regulations. LGNSW intends providing the OLG with feedback on the Draft Guidelines prior to the OLG's deadline of 16 March 2018.

When the proposed regulations and guidelines commence (anticipated to be in mid 2018) this will mean that elected Local Government representatives are subject to minimum professional development requirements that do not apply to NSW MPs and chairpersons/directors of not-for-profit and government bodies.

It is LGNSW's experience that many mayors and councillors already commit themselves to ongoing professional development and many councils have already implemented induction and other professional development training for their mayor and councillors in anticipation of the new requirements commencing.

The new induction and other professional development training requirements must be considered by the Tribunal when determining the maximum and minimum amounts of fees to be paid to mayors and councillors.

Implementation of the NSW Local Government Capability Framework

Arising from the *NSW Local Government Workforce Strategy 2016-2020*, in 2017 LGNSW developed the *Local Government Capability Framework* ("**Capability Framework**"). The Capability Framework brings into sharp focus the behaviours and attitudes that together make up our desired culture by emphasising how we do the things we do and making transparent what "good" looks like. It is a leap forward in aligning elected members and the workforce to deliver community outcomes by describing capabilities in terms of observable behaviour so that everyone knows what is expected.

NSW councils have embraced the Capability Framework and are using it for councillor professional development in line with legal requirements.

The implementation of the Capability Framework will inevitably lead to enhanced capabilities amongst elected Local Government representatives and must be considered by the Tribunal when determining the maximum and minimum amounts of fees to be paid to mayors and councillors.

The non-payment of superannuation to elected Local Government representatives.

At LGNSW's recent 2017 Annual Conference, members resolved:

“That Local Government NSW lobbies the NSW Government and Remuneration Tribunal to make it mandatory that councils make superannuation payments to mayors and councillors and that these payments must be in addition to the stipend paid to elected officials. The superannuation payments would be at the Superannuation Guarantee rate, as determined by the Commonwealth and which varies from time to time. Payments would be made to complying superannuation funds.” (2017 LGNSW Annual Conference, Motion No. 80, submitted by Lake Macquarie City Council).

Councils are not required to make superannuation contributions equivalent to the Superannuation Guarantee on behalf of mayors and councillors. This is because fees paid by councils to mayors and councillors are not deemed salary, wages or ordinary time earnings for superannuation purposes. These circumstances are unsatisfactory. The time and commitment involved in performing the duties of an elected local government official require many councillors to forsake other activities that would attract income and employer superannuation contributions. Governance experts and practitioners alike recognise that governing bodies with members from diverse backgrounds can achieve superior results for their communities. If councils are to meet the rapidly changing expectations of NSW communities, they need to attract a diverse array of talented individuals to serve as mayors and councillors. Women and men in the middle of their careers, younger adults, and people who care for dependent others are examples of the talent pools from which local government draws relatively few elected leaders. To attract top talent, the Local Government sector should offer compensation, including superannuation, comparable to that available from the work activities mayors and councillors forgo in order to serve on councils.

Currently, councils may resolve to allow councillors to sacrifice a portion of their fees into complying superannuation funds, on a pre-tax basis. However, this is optional. Councillors who utilise this option reduce the ‘take home’ component of their fees.

To enhance Local Government's capacity to attract talented individuals as elected leaders, legislative changes should be introduced, mandating that councils contribute to complying superannuation funds on behalf of mayors and councillors. These compulsory contributions should be additional to fees already paid to mayors and councillors, and should be calculated as if mayors' and councillors' fees were deemed ordinary time earnings for the purpose of the *Superannuation Guarantee (Administration) Act 1992*. By strengthening Local Government's ability to recruit diverse, talented elected officials, such legislative changes would provide significant benefits to NSW communities.

Research by the Association of Superannuation Funds of Australia (ASFA) indicates that the average superannuation balance for women in 2016 was approximately 40% less than for men. Requiring the compulsory payment of superannuation to mayors and councillors would help bridge the superannuation gender gap and assist in attracting more women as candidates for local government.

Whilst mayors and councillors are able to make voluntary contributions into superannuation, the inadequacy of the fees means that many simply do not have the financial capacity to do so.

LGNSW acknowledges that the Tribunal does not have power under existing legislation to make a determination requiring superannuation payments to be made to mayors and councillors. However, the legislation does not preclude the Tribunal from making a recommendation to the NSW Government for this to occur, and we strongly encourage it to do so.

In the absence of legislation requiring compulsory superannuation for councillors and mayors, at the very least, the Tribunal should ensure that the minimum fees are such that mayors and councillors have the financial capacity to make voluntary contributions to superannuation, if they so choose.

Conclusion

Overall, LGNSW supports the Tribunal's proposed categorisation model outlined in the 2017 determination. LGNSW notes, however, that CCB and RCC are seeking to be re-categorised from "Metropolitan Small" to "Metropolitan Medium" and "Metropolitan Medium" to "Metropolitan Large" respectively, and we support both councils' submissions to the Tribunal. LGNSW understands that all other councils who were the subject of "on hold" merger proposals have since been categorised within the new model and do not oppose their respective categorisations.

Regarding the matter of remuneration, the Tribunal must increase the fees paid to mayors and councillors by no less than the maximum of 2.5%. Councillors and mayors are already well behind, with concern that the current fee structure fails to recognise the work of elected representatives, and may be inadequate to attract and retain people with the necessary skills and experience to perform the role.

Finally, LGNSW notes that for some councils, the deadline for submissions to the Tribunal (30 January each year) presents practical difficulties. The vast majority of councils are in recess from mid-December to late-January each year and this timeline makes it difficult to have a submission to the Tribunal by 30 January each year. LGNSW appreciates that by 1 May each year, the Tribunal must report to the Minister for Local Government its determination on the categorisation of councils and the minimum and maximum remuneration payable to Mayors and Councillors (s. 241 of the Act); and that a later deadline may limit the time available to the Tribunal to undertake this process. LGNSW seeks only to inform the Tribunal of this concern and advise that should a member council provide LGNSW with a late submission, it is our intention to forward this to the Tribunal for consideration.

We thank the Tribunal for receiving our submission and look forward to meeting with the Tribunal to discuss these matters further.