

Local Government  
Association of NSW



Shires Association of NSW

Our ref: R94/0113.dh Out-15956  
10 April 2008

Rcvd the Hon Fred Nile MLC  
Chairman  
Select Committee on Electoral and Political Party Funding  
Parliament House  
SYDNEY NSW 2000

Dear Revd Nile *Fred*

**Select Committee on Electoral and Political Party Funding**

Thank you for receiving us at hearings of your inquiry.

As we anticipated in our separate verbal submissions, the Local Government and Shires Associations of NSW have considered further the question of electoral and political party funding.

At the meeting of our Joint Management Committee held on 6 March 2008 we resolved to make a further submission to your inquiry emphasising our support as a first option for full public funding of elections, or if public funding is unavailable, for the extension of pecuniary interest provisions to cover political donations. We noted the possibility that tightening restrictions on political donations could push them 'underground' and the need consequently for regulation to capture donations on the broadest possible basis. Further, we resolved that as a principle, all regulation of donations should apply equally to candidates and elected officials across all three spheres of government.

This resolution of our Joint Management Committee was endorsed by the respective meetings of our elected Executive Committees on 3 and 4 April.

As we advised your inquiry, the Shires Association of NSW previously has not resolved a position on political donations and electoral and political party funding. As a result of your inquiry and our recent discussions, the Association's Executive proposes to submit this matter for debate at the 2008 Annual Conference of the Association in June with the recommendation that the Association adopt formally as policy full public funding of elections and the other principles spelled out above.

The Local Government Association of NSW, as we advised, has a longstanding policy of support for public funding, transparency of donations, and consistent regulation of donations across all three spheres of government.

With regard to your question concerning limiting expenditure by candidates for election to local government, and whether we could recommend how to calculate a cap or varying caps on expenditure, we have enclosed a copy of Section 239 of the Local Government Act 1993 which provides for categories of councils to be determined for the purposes of the Remuneration Tribunal determining fees payable to mayors and councillors.

Further we have enclosed a copy of the Tribunal's 2006 Report and Determinations which includes a list of councils by category and an explanation of how the Tribunal made its determination. While the application of such a process to the determination of caps on election donations and expenditure would require much additional study, the Tribunal's categorisation of councils provides a useful guide to how councils can be categorised according to size and activity.

In providing you this information, please note that the Associations do not endorse the Tribunal's determination of fees and continue to question whether the Tribunal has correctly categorised councils according to Section 239.

Thank you again for extending the opportunity to give evidence to your inquiry. Please contact us if we can provide you with further information.

Yours sincerely



Cr Genia McCaffery  
President  
Local Government Association of NSW



Cr Bruce Miller  
President  
Shires Association of NSW

## **Local Government Act 1993 No 30**

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### **239 Categorisation of councils and mayoral offices**

- (1) The Remuneration 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.
- (2) The determination of categories by the Remuneration Tribunal is for the purpose of enabling the Remuneration Tribunal to determine the maximum and minimum amounts of fees to be paid to mayors and councillors in each of the categories so determined.

New South Wales Government  
NSW Remuneration Tribunals

# 2006 Report and Determinations

PDF Version

REPORT  
and  
DETERMINATIONS  
OF  
THE LOCAL GOVERNMENT REMUNERATION  
TRIBUNAL  
Under  
SECTIONS 239 AND 241  
of the  
LOCAL GOVERNMENT ACT 1993  
19 April 2006

LOCAL GOVERNMENT REMUNERATION TRIBUNAL

2006 ANNUAL REVIEW

**GENERAL:**

1. Pursuant to Section 241 of the Local Government Act 1993 (the Act) the Local Government Remuneration Tribunal hereby determines the categories for Councils, County Councils and mayoral officers and the maximum and minimum amount of fees to be paid to mayors and Councillors of Councils, as well as chairpersons and members of County Councils.
2. The Tribunal made its initial determination in 1994. Because of limited material and time available this determination was regarded as an interim determination.
3. In 1995 the Tribunal undertook a thorough investigation into the roles and responsibilities of Councillors and Mayors, and embarked on an extensive program of consultation with and visits to Local Councils across the State. As a result of that review, the Tribunal 1995 report determined that the then 177 General Purpose Councils would be categorized into five general categories or two special categories. County Councils would be considered as a separate group.
4. The distinguishing features of each Category are set out in the 1995 Report. The overall structure of the categories has remained largely unchanged since its introduction in 1995.
5. Section 239 of the Act requires the Tribunal to determine the categories of Councils and mayoral offices at least once every 3 years. In practice the Tribunal has reviewed the categorisation of Councils annually based on submissions received. Since 1995, thirty nine Councils have been recategorised and two new categories (Category 1A and Category S4) created.

**BACKGROUND TO THE CURRENT REVIEW:**

6. The review of Categories was commenced in 2003. For reasons outlined hereunder the Tribunal has not completed this review until now. For this reason the Tribunal has provided information that, while provided by Councils for previous annual reviews remains relevant to the consideration of Council Categories and categorisation undertaken as part of the current review.
7. Since the Tribunal initially determined the Categories in 1995 there have been significant changes in the structure of local government Councils in NSW; most notably the reduction in

- the number of general purpose Councils from 177 to 152 as at 30 June 2005.
8. In addition, significant population growth has had an impact on a number of Councils particularly those in outer metropolitan Sydney and larger rural Councils.
  9. In recognition of these changes, in 2003 the Tribunal undertook a preliminary review of Councils with a regional focus within Category 3. The Tribunal postponed further consideration of this group until a number of rural amalgamations under way at that time had been resolved.
  10. In the 2004 report the Tribunal advised that it would defer consideration of Categories until the completion of the Government's structural reform programme. In this Report the Tribunal also advised that it would undertake a fundamental review of the Categories in 2005 to determine whether they should be retained or whether changes were warranted. The Tribunal commenced its investigation with a review of Categories 1, 1A and Special Category 2.
  11. For the 2005 Review, Councils in this group were asked to address the following:
    - Is the current Category structure of S2, 1A and 1 appropriate? Should these Categories be reduced/expanded and if so on what basis?
    - Does the current Category definition still accurately describe your Council?
    - Whether the current categorisation is appropriate for your Council? If not where should it be categorised and on what basis should this re-categorisation be granted?
    - Has the role of your Council changed since 1995? If so how?
    - What additional responsibilities has your Council undertaken since 1995, what are the issues facing Council in the next few years and what steps is Council taking to address them?
    - What other matters would you wish the Tribunal to consider as part of this review?

#### **Submissions Received**

The following submissions were received in response to this request:

#### **Special Category S2**

##### **Newcastle City Council**

Newcastle City Council supported the Tribunal's method of categorisation as determined in the 1995 report and that Special Category S2 was still appropriate for Newcastle. The Council did however seek an increase in fees to a level which adequately reflects the workload of Councillors. The submission highlighted the establishment of some 40 committees under section 355 of the Act and the additional representation Council provides on the boards or committees of 21 external organisations.

#### **Category 1A**

##### **Penrith City Council**

The submission argued that the Council's current Category 1A classification remains the appropriate Category in view of Council's identified regional planning and service delivery role and the need to put in place policies and programs that transcend traditional local government boundaries.

#### **Category 1**

##### **Joint submission from Bankstown, Baulkham Hills, Campbelltown, Fairfield, Gosford, Hornsby, Lake Macquarie and Sutherland Councils.**

The joint submission sought to re-categorise these Councils into Category 1A. Alternatively, it was recommended that the Tribunal consider the option of consolidating categorise S2, 1A and 1 or developing a new alternative categorisation system.

This joint submission argued that each of the Councils has experienced rapid development, an expansion in the role of Mayors and Councillors, a greater complexity in service delivery and extended accountabilities. In addition, the concept of minimum and maximum fees no longer has relevance to Category 1 Councils. The submission pointed out all Category 1 Councils pay the maximum fees as recompense for the roles of Councillor and Mayor.

It was also put to the Tribunal that each of the eight Councils has operated successfully as regional leaders of large communities and each has developed innovative service solutions appropriate to their geographic locality.

It was claimed that since the introduction of the 1993 Act, the role and commitment of Councillors and Mayors has been extended through new performance obligations, greater community expectations, a greater concentration on representative function and more defined statutory obligations.

#### **North Sydney.**

The submission from North Sydney Council stated that current Category structure is adequate. However, it was suggested that North Sydney Council would be more appropriately categorized as 1A due to its increased significance both regionally and nationally. Also the fee scale should allow for more discretionary power of each Council in determining Councillor and Mayoral allowances.

12. Following receipt of these submissions the Tribunal decided to broaden its review to include all Councils. Councils were asked to address the same issues. The following submissions received from Councils in categories 2 to 5 are summarized below.

#### **Category 2**

Canada Bay, Holroyd and Waverley Councils all sought re-categorisation to Category 1.

Canada Bay raised the impact on Councillors of the additional responsibilities associated with the transformation of disused industrial sites into modern residential developments, increased population, and major regional economic change.

Holroyd Council's submission argued that the Council has grown and changed dramatically in recent times into one of the state's prominent industrial areas with significant cultural challenges. In addition, the Council has emphasised the extent of its cultural diversity and the additional responsibilities for elected representatives.

Waverley has based its argument for re-categorisation on the importance of its regional retail and transport interchange facilities, its national importance as a tourist destination and the scope and scale of development in the area.

#### **Category 3**

Submissions were received from the following Category 3 Councils: Byron, Clarence Valley, Hastings, Coffs Harbour, Maitland, Shoalhaven, Tweed, Tamworth Regional, Hawkesbury City, and Wingecarribee.

Clarence Valley, Hastings and Coffs Harbour City and Tamworth Regional Council supported the creation of a new Category for large regional Councils.

Such Councils, the submission argued, may be characterised as having large populations/areas, population growth, a regional significance, ecologically sustainable development and community services. Tamworth Regional and Clarence Valley have also highlighted the additional role and responsibilities of Councillors in the new amalgamated Council areas.

Shoalhaven City Council sought re-categorisation to Category 1A since the nature of its work is more closely associated with larger urban cities. Tweed Shire Council

sought reclassification to Category 1 to recognise the sustained policy pressures of a high multi-purpose authority. This submission was received prior to the removal of the Council by the Minister.

Hawkesbury City and Wingecarribee Shire Council sought an increase in fees due to increased workload and the diversity and complexity of issues dealt with by Councillors. Wingecarribee has also questioned the equity of Category 3 Councils and Category 2 Councils being remunerated at the same level.

#### Category 4

Submissions from Councils in this group were received from Kiama, Richmond Valley and Yass Valley Councils. Kiama has supported the current Category structure for Categories 2 to 5. However the Council considers it should more appropriately be grouped in Category 3. Yass Valley Council recommended a move toward a remuneration system based on the time and effort expended by Councillors and Mayors. Richmond Valley has sought a review of the current Category structure.

#### Category 5

Submissions were received from Corowa, Greater Hume, Lachlan, Liverpool Plains, Upper Hunter, Berrigan and Gwydir Shire Councils. These Councils all sought re-categorisation from Category 5 to Category 4. Those Councils affected by amalgamations have highlighted the additional responsibility for Councillors associated with the increased workload, populations and economic activity. An increase in the minimum and maximum fees have been sought to recognise these additional responsibilities.

13. In addition, the Tribunal has received a submission from the Local Government and Shires Association (the Associations).

The Associations did not address those questions asked by the Tribunal in regard to the current categorisation scheme. They had, however, argued for an increase in fees to a level which more adequately reflect the roles and responsibilities of Councillors and Mayors. The Associations suggested that no Mayor should receive less than \$20,000 p.a. (inclusive of the Councillors fee) and that fees for Councillors and Members in all categories, other than S1, be increased by 10% and the additional fees for Mayors and Chairpersons be increased by 21.5%.

The Associations also raised the following issues which impact on the role and responsibility of Councillors.

- Devolution – wherein new responsibilities are imposed upon local Council by other spheres of government;
- Increased community expectations
- Stringent planning and building regulations
- Increased street lighting charges
- Expenses associated with total catchment management
- The provision of public health infrastructure and services support
- The provision of community law and safety measures, often as a result of public perceptions of increased crime and declining police numbers in county areas.

14. Prior to completion of the 2005 Review, the Tribunal received a request from the Minister for Local Government asking that the Tribunal defer making its determination because:

*“...the Department of Local Government will undertake a review of the expenses policies adopted by Councils with a view to guidelines being developed. Councils are currently required, pursuant to section 252 of the Act, to adopt a policy for the payment of expenses to mayors, deputy mayors and other Councillors.*

*As the issues surrounding the payment of fees and expenses are related, the Minister has requested that the Tribunal defer its review of categories until such time as the*

*Department has completed its review. One option being considered is the central regulation of expenses and whether different categories of Councils should have variable expense structures."*

15. The Tribunal made no changes to the categories of Councils or the fees for Councillors and Mayors from those determined in 2004 but following this determination the Minister, on 29 June 2005, issued a special reference to the Tribunal to review its determinations of 13 April 2005.
16. On 19 July 2005 the Tribunal wrote to all Councils and the Local Government and Shires Association of NSW advising of the Special Reference from the Minister. The Tribunal further advised that it intended;

*"...as far as practicable, to complete its review of specific categories of Councils. In particular, the Tribunal will be concentrating on the current Category structure to determine whether it is still appropriate given the changes that have occurred since it was established in 1995. In addition the Tribunal will consider the categorisation of newly amalgamated Councils."*

17. In undertaking this review the Tribunal advised that it would be relying on the submissions received for the 2005 annual review but that Councils would be welcome to make any further submissions.
18. The Tribunal completed its review on 19 December 2005. The Tribunal provided for a 4 percent increase in fees effective on and from 1 July 2005 for Councillors and Mayors. In respect of the Categories and the categorisation of Councils the Tribunal stated that since 1995 the Tribunal has determined Categories of Councils on the basis of the criteria prescribed in the legislation,

*"... Since then the Tribunal has considered individual applications. Where there has been a case established to the Tribunal's satisfaction that the original categorisation should be amended, this has occurred.*

*As part of the 2006 review the Tribunal is examining its original criteria particularly in light of amalgamations and having regard to submissions received seeking re-categorisation. On the basis of this review, and after considering the views of the Assessors, the Tribunal will determine whether any changes to the current Category structure are appropriate as well as the Councils within each Category."*

#### **CURRENT REVIEW:**

19. On 10 February 2006 the Tribunal wrote to all Mayors advising the commencement of the 2006 annual review. In respect of categorisation the Tribunal stated:

*"...The Tribunal previously received detailed submissions on categorisation from Councils as part of the 2004 and 2005 reviews. As a result the Tribunal is not calling again for submissions regarding the categorisation of Councils as part of this review. Mayors are welcome to make further submissions if they wish to submit additional information. In particular, Mayors of categories 4 and 5 are invited to provide their views on combining categories 4 and 5 as a single Category. "*

20. The Tribunal received a number of submissions either restating previous matters in support of re categorisation or for retention of existing Category groupings. In respect of the merging of Categories 4 and 5 there seems to be general support for the proposal based on the submissions received.

#### **CATEGORISATION:**

**Categories S1, S2, 1A and 1**



21. In 2001 the Tribunal created Category 1A. The Tribunal had regard to the submissions of the Associations and some Category 1 Councils concerning the weight to be given to the population of the Category 1 Councils. The Tribunal determined that Councils with the significant features of Category 1 and with a residential population of 250,000 or more would qualify for inclusion in that group. Blacktown City Council was the only Council that met the Category 1A criteria.
22. In 2002 the Tribunal also included Penrith City Council in Category 1A. The basis upon which this was determined is outlined in full in the Tribunal's 2002 Report and need not be repeated here, suffice it to say that in the Tribunal's view the regional significance of Penrith was greater than those of other Category 1 Councils.
23. Since then a number of the larger Category 1 Councils have made a joint submission seeking inclusion in Category 1A. The Tribunal was asked to review this submission again as part of the current review. A summary of this submission has been outlined above.
24. The Tribunal has given careful consideration to the contents of this submission but finds that these eight Councils do not as yet meet the criteria for inclusion in Category 1A. None of the Councils have a population of 250,000 or more and in the Tribunal's view none have the regional significance of Penrith although on both criteria some Councils within Category 1 are moving towards meeting one or both criteria within the next few years.
25. The Tribunal considers that overall the criteria for Categories S1, S2, 1A and 1 are still accurate and the Councils within each Category are appropriate.

#### **Categories 2 and 3**

##### **Category 2 – Suburban Councils**

26. This group comprises Councils within the Sydney Metropolitan area. The main activities of this group include:
  - The design and maintenance of public works
  - Waste and environmental services
  - Upkeep of parks and reserves
  - Approval of building and development applications
  - Monitoring of services such as building control, health, food etc.
  - Strategic planning, child care, community development
  - Provision of facilities such as public halls and swimming pools
27. Other issues for these Councils include environmental issues, ageing infrastructure and urban consolidation. Such activities having neither the scale nor diversity of operation of Category 1 Councils. Nor do they have the regional significance of Category 1 Councils.
28. Overall the Tribunal considers that the criteria applicable to Category 2 remains relevant and that the Councils within this Category continue to be appropriate. The tribunal has not been convinced by submissions received from Category 2 Councils that they warrant re-categorisation to a higher Category.

##### **Category 3 – Rural Regional Councils**

29. The principal characteristic of these Councils is now regionalism and, in some cases accompanied by growth. The major town centres of regional Council areas are important centres of commerce, trade, work and recreation for thousands of people in and outside the local government area which these towns serve. These Councils generally have a significant urban population existing along side traditional farming sector and surrounded by smaller towns and villages.
30. The criteria applied to these Councils continues to be relevant and the Councils within this Category are still considered to be appropriate. As with the Category 2 Councils the Tribunal is not satisfied that Category 3 Councils should be re-categorised at this time.

##### **Category 4 and Category 5 Councils**

31. Category 4 and 5 Councils account for just over half of all Councils in NSW. These Councils generally have smaller populations and are less likely to have a regional focus. The Council may have one or two significant townships combined with a considerable rural population. The activities of Category 4 and Category 5 Councils are predominantly concerned with providing a broad range of community services. These may include the provision and maintenance of roads and bridges, weed eradication, rubbish collection and the maintenance of public conveniences and recreational grounds. Councils in this group range from Mid-Western Regional with a population of 22,494 to Urana with 1,414.
32. The role and responsibilities of Category 4 and 5 Councils is, as noted above virtually identical. For this reason the Tribunal considers that Category 5 Councils should be merged with Category 4 Councils. Category 5 will be abolished as a result. Such a proposal has the support of Councils who commented on this issue to the Tribunal.
33. The Tribunal will review the Categories of Councils again as part of the 2009 review. Until then the Tribunal would not expect to move Councils within categories unless there is a significant change in the role and responsibilities of individual Councils.

**FEES:**

34. The Tribunal has reviewed the current economic data including cost of living figures. The Tribunal notes that since 2003 Councillors have received increases totalling 10.5 percent and mayors have received increases totalling 14 percent.
35. On this occasion the Tribunal considers, after considering key economic indicators, and after taking the views of the Assessors into account, that an increase of 4 percent in the fees for Councillors and Mayors is appropriate and so determines.

**Local Government Remuneration Tribunal**

(The Honourable Charles L Cullen QC)

Dated: 19 April 2006

**DETERMINATION PURSUANT TO SECTION 242 OF CATEGORIES OF COUNCILS AND COUNTY COUNCILS EFFECTIVE FROM 1 JULY 2006**

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

**Category 1A (2 Councils)**

Blacktown  
Penrith

**Category 1. (16 Councils)**

Bankstown	Liverpool
Baulkham Hills	North Sydney
Campbelltown	Randwick
Fairfield	Ryde

Gosford	Sutherland
Hornsby	Warringah
Hurstville	Willoughby
Lake Macquarie	Wyong

**Category 2. (21 Councils)**

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

**Category 3. (32 Councils)**

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

**Category 4. (77 Councils)**

Balranald	Glen Innes Severn	Narromine
Bellingen	Gloucester	Palerang
Berrigen	Greater Hume	Parkes
Bland	Gundagai	Oberon
Blayney	Gunnedah	Richmond Valley
Bogan	Guyra	Singleton
Bombala	Gwydir	Snowy River
Boorowa	Harden	Temora
Bourke	Hay	Tenterfield
Brewarrina	Inverell	Tumbarumba
Cabonne	Jerilderie	Tumut
Carrathool	Junee	Upper Hunter
Central Darling	Kiama	Upper Lachlan

City of Lithgow	Kyogle	Uralla
Cobar	Lachlan	Urana
Conargo	Leeton	Wakool
Coolamon	Liverpool Plains	Walcha
Cooma-Monaro	Lockhart	Walgett
Coonamble	Mid-Western Regional	Warren
Cootamundra	Moree Plains	Warrumbungle
Corowa	Murray	Weddin
Cowra	Murrumbidgee	Wellington
Deniliquin	Muswellbrook	Wentworth
Dungog	Nambucca	Yass Valley
Forbes	Narrabri	Young
Gilgandra	Narrandera	

**TOTAL GENERAL PURPOSE COUNCILS** **152**

**Category S3 (10 Councils)**

Castlereagh - Macquarie	New England Weeds
Central Murray	Richmond River
Far North Coast	Southern Slopes
Hawkesbury River	Upper Hunter
Mid Western	Upper Macquarie

**Category S4 (6 Councils)**

Central Tablelands	MidCoast
Cudgegong	Riverina Water
Goldenfields Water	Rous

**TOTAL COUNTY COUNCILS** **16**

**DETERMINATION PURSUANT TO SECTION 242 OF FEES FOR COUNCILLORS AND MAYORS**

Pursuant to s.242 of the Local Government Act 1993, the annual fees to be paid in each of the categories to Councillors, Mayors, members and chairpersons of County Councils effective on and from 1 July 2006 are determined as follows:

	Councillor/Member		Mayor/Chairperson	
	Annual Fee		Additional Fee*	
	Minimum	Maximum	Minimum	Maximum
Category 4	6,355	8,380	6,750	18,300
Category 3	6,355	13,980	13,510	30,520
Category 2	6,355	13,980	13,510	30,520
Category 1	9,525	17,795	20,260	47,275
Category 1A	12,705	20,965	27,010	61,115
S4	1,270	6,990	2,705	11,480
S3	1,270	4,190	2,705	7,630
S2	12,705	20,965	27,010	61,115
S1	19,065	27,960	116,640	153,480

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\* 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: 19 April 2006