



Report 6 of 2014

THE REMUNERATION TRIBUNAL REPORT RELATING TO DETERMINATION 6 OF 2014

ALLOWANCES FOR MEMBERS OF ADELAIDE CITY COUNCIL

Introduction

In terms of section 24(2) of the *City of Adelaide Act 1998* (the Act), the Remuneration Tribunal has conducted a review of the allowances payable to members of the Adelaide City Council (ACC), with the revised rates being published in Determination 6 of 2014. Section 24(2) of the Act requires the Tribunal to undertake a review of the allowances payable to elected members of the ACC every four years. Section 76 of the *Local Government Act 1999* (LG Act), also requires the Tribunal to conduct a review of the allowances payable to elected members of all other recognised local government bodies in South Australia. The Tribunal's determination and associated report in respect of the review of local government councils other than the ACC is published in Determination 7 of 2014. Notwithstanding that the review requirements for councils other than the ACC are dealt with under a different statute, the terminology, the intent and purpose of the two statutory provisions are the same, namely to enable the Tribunal to determine allowances for the elected members of councils in South Australia.

Section 24 stipulates that the Tribunal must make its determination of the review before the day that is 14 days before the day on which nominations close for the council elections, which this year is 2 September 2014 with the election to be held in November 2014. In this context, the Tribunal gave notice of its 2014 review of allowances for all elected members of councils, including the ACC, by inserting notices in *The Advertiser* on 22 March 2014, and all local newspapers in the State at about the same time. The notices invited submissions from councils, and interested persons and organisations. The closing date for submissions was 2 May 2014.

Submissions

A total of 9 submissions was received in relation to the allowances payable to members of the ACC. A further 4 submissions of a general nature about allowances payable to elected members of councils throughout the State also potentially impacted the ACC. The Chief Executive Officer of the Adelaide City Council, Mr Peter Smith also requested to meet with the Tribunal for the purpose of making an oral submission in addition to his written one. The Tribunal subsequently met with the Chief Executive Officer and the Corporate Manager, City and Corporate Governance, Ms Kylie Bennetts, at which time it was presented with significant information about the role and responsibilities of the elected members of the ACC. The Lord Mayor did not make a submission.

In all cases the submissions argued that in general the existing level of allowances paid to the elected members of the Council were deemed inappropriate as they did not adequately reflect the role, responsibilities and time spent in dealing with Council matters. Some of the comments made in the submissions were:

There appears to be a suggestion or common misconception that the legislative statement in Section 24(3)(c) of the Act, that the allowances of office holders are not intended to amount to a salary, means that the offices are not to be properly remunerated or are in some way to be the subject of low remuneration. Section 24(3)(c) of the Act, when read with the other remuneration provisions is simply (in effect) an acknowledgement in the remuneration provisions that office holders of Adelaide City Council are not employees of the Adelaide City Council, and are not therefore to receive remuneration by way of salary or wages, but are to receive a fee commensurate with the nature of the office held and services they render to the Adelaide City Council.

If allowances are not appropriately set this will be a disincentive for a diverse range of candidates to choose to participate in the governance of South Australia's capital city.

As a Capital City Council, members of the Adelaide City Council are responsible for making decisions across a whole range of issues from planning, service delivery, infrastructure, heritage protection and management and in doing so balance the needs of the community and a diverse stakeholder base.

It is well recognised that poor or non-competitive remuneration acts as a disincentive to suitably qualified persons to participate.

One wonders whether it's worth persevering being on Council, an activity that causes me a net financial loss, taking into account my loss of business opportunity, and impact on family, for such a token remuneration as is paid at present.

Councillors are ... operating in an environment of high accountability, high public and media scrutiny and criticism.

Councillors are ... deemed to have roles similar to those of Directors on Boards. Why is it that most Board Directors receive an annual fee greater than those of a City Councillor.

There seems to be a lack of reference to the provision in Section 24 of the City of Adelaide Act which states that "such an allowance should reflect the nature of a member's office".

South Australia is a City State and its heart is the City of Adelaide. This is recognised by all major political parties and the fact that there is a joint Capital City Committee comprising the most senior members of the Government of the day, e.g. the Premier, Planning Minister and the Lord Mayor and elected members of the Council underscores that fact.

The provisions of the City of Adelaide Act clearly demonstrate that elected members of the Adelaide City Council have a more onerous responsibility than elected members of other councils in that when deliberating as a body, the interests of all South Australians have to be taken into consideration and provision made to enable all citizens of the State to participate in what the Adelaide City Council can provide or should provide, in carrying out its responsibilities as a Capital City. A simple example is the management and custodial role the Council has with the Adelaide Parklands, a responsibility no other Council has in South Australia.

The submissions from the Chief Executive Officer as well as the other 8 submissions relating specifically to the ACC provided a valuable source of information and assisted the Tribunal in gaining a clearer understanding of the role and responsibility of an elected member of the Council. The submissions also provided a valuable insight into the actual time required to be spent by members in effectively fulfilling their roles and responsibilities.

Considerations

In undertaking this review and delivering this determination, the Tribunal has been mindful of the role and responsibilities of the elected members of the ACC, as set out in the Act. The Tribunal has also been mindful of the magnitude and complexity of the role of the ACC in its unique role as the State's Capital City Council. Its unique role which is set out in the Act is:

- to recognise, promote and enhance the special social, commercial, cultural and civic role that the City of Adelaide plays as the capital city and heart of South Australia; and
- to provide for collaborative arrangements for inter-governmental liaison between the State and the Corporation of the City of Adelaide for the strategic development of the City of Adelaide and the representation of interests of South Australians not enfranchised to vote in elections for the Corporation of the City of Adelaide; and
- to revise and enhance local governance arrangements for the City of Adelaide; and
- to ensure access to the City of Adelaide for all South Australians.

The Tribunal noted that whilst the geographical size of the ACC area was 15.57 sq kilometres, which is smaller than the geographical area of some other councils in the state, the density of commercial, residential, retail and recreational facilities and the number of users of the city is very high. The daily population of the ACC jurisdiction is in excess of 225,000 people, which includes 21,600 permanent residents, 125,000 workers and volunteers, and 85,000 students. About 20% of the workforce of the greater metropolitan Adelaide works in the city. The Tribunal also noted the significance of the financial responsibility of the ACC. In 2012/2013, the Council's total revenue was \$172.3 million, and expenditure was \$183.9 million. The council is also responsible for managing over \$1.2 billion worth of assets.

The submissions and discussion with the Chief Executive Officer indicated that a councillor was required to spend an average of about 8 hours per week specifically on Council business, and the Lord Mayor was required to spend about 36 – 40 hours per week on Council business. This time excludes the time that several members spend in relation to their appointments and workloads on external boards like the Adelaide Park Lands Authority and the Development Assessment Panel. It also excludes time spent by members at civic and community functions and meeting with constituents. The Chief Executive Officer advised the Tribunal that during 2013, the business workload involved 87 meetings of Council, and the 4 core committees met for over 100 hours. The Capital City Committee, which is established as an intergovernmental body to enhance and promote the development of the City of Adelaide as the capital city of the State, met on 4 occasions during the year and for about 8 hours. The membership of the Capital City Committee consists of the Premier, 2 other Ministers, the Lord Mayor, and 2 other members of Council. The Tribunal was also interested to note the existence of a body called the Council of Capital City Lord Mayors (CCCLM), whose role is to provide national leadership for the effective co-ordination and representation of the special interests of the Capital Cities of the Australian States and Territories, especially in their relations with other spheres of government. The Lord Mayor of Adelaide is of course an active member of the CCCLM.

Role of Councillors

The role of a councillor as described in section 22 of the Act is to:

- participate in the deliberations and activities of the Council;
- provide community leadership and guidance to the City of Adelaide community and to participate in achieving a vision for the desired future of the City through the formation of strategic plans and policies;
- keep the Council's goals and policies under review to ensure that they are appropriate and effective;
- keep the Council's resource allocation, expenditure and corporate strategies, and efficiency and effectiveness of its service delivery, under review;

- participate in setting and assessing performance standards to be met under the Council's contract with the Chief Executive Officer;
- serve the overall public interest of the City of Adelaide.

Councillors are therefore required to attend and participate in meetings, read agenda papers and reports, and liaise with residents in meeting their representational obligations. More importantly, Councillors are in terms of the provisions of the Act, ultimately responsible for the operation of the Corporation of the City of Adelaide; its goals, policies, resource allocation, expenditure, corporate strategies, and the overall efficiency and effectiveness of the Council's delivery of services to the people of the City of Adelaide.

The Tribunal also noted that councillors are also legislators with powers under both the Act and the LG Act to make certain laws and regulations dealing with generally local matters, and in particular, dealing with matters on Local Government land.

Role of the Lord Mayor

The Tribunal noted that the role of the Lord Mayor as described in section 21 of the Act is –

(a) as the principal elected member of the Council representing the capital city of South Australia:

- To provide leadership and guidance to the City of Adelaide community;
 - To participate in the maintenance of inter-governmental relationships at regional, State and national levels;
 - To carry out civic and ceremonial duties associated with the office of Lord Mayor;
- and

(b) as the principal member of the Council -

- To provide leadership and guidance to the Council;
- To preside at meetings of the Council;
- To advise the Chief Executive Officer on the implementation of decisions of the Council between council meetings (as necessary);
- To act as the principal spokesperson of the Council;
- To exercise other functions of the Council as the Council determines.

Findings and Determination

As the ACC is constituted under the Act, separate from the statute establishing all other local government councils, and because of argument presented in this year's submissions, the Tribunal has determined to issue a specific determination and report for elected members of the ACC.

There was some argument presented to the Tribunal that the allowances payable to members of the ACC should be more aligned with the level of allowances payable to members of the City of Melbourne Council, or even the rates payable to the members of the City of Perth Council. The Tribunal came to the view that there were numerous reasons why it was inappropriate to closely align the level of allowances with those payable to councillors of other capital cities.

The Tribunal accepted the argument that the existing allowances payable to members of the Adelaide City Council did not appropriately recognise the role, responsibilities and workload of an elected member of Council. It also noted that the existing rates of allowance or fee payable were inconsistent with the rates of fees for members of government boards with similar levels of responsibilities.

Furthermore, the Tribunal recognised that the elected members of the Council were not eligible for a superannuation payment relative to the allowance they received. The fact that members of Council did not qualify for any employer superannuation support was in the view of the Tribunal, an anachronism in terms of the Australian Retirement Incomes Policy which provides for all persons earning over \$450 a month to receive a superannuation benefit. The Tribunal investigated whether it could include a superannuation benefit as part of the allowance review but advice provided to the Tribunal was that there was no jurisdictional power to provide such a benefit in terms of section 24 of the Act.

The Tribunal has determined that a more appropriate rate of allowance payable to a member of Council was \$24,000 per annum, and the more appropriate rate of allowance payable to the Lord Mayor was \$165,000 per annum. These new rates of allowance represent a 29.1% increase in the rate for a member of council, and a 26.7% increase for the Lord Mayor. In determining these rates, the Tribunal was cognisant that the adjustments to the existing rates were in excess of the movement in the Consumer Price Index, and wage movements generally. However, the Tribunal believes these new rates of allowance are warranted on the grounds of the required time commitment and the level of responsibility, and satisfy the requirement in section 24(3)(d) of the *City of Adelaide Act 1998*, that "an allowance ... should reflect the nature of a member's office".

Consistent with the determination made in relation to councils in general in Determination 7 of 2014, the Tribunal has revised the existing arrangement relating to 'standing committees', which provided for an additional annual allowance to be paid to the presiding member of a 'standing committee'. The Tribunal believes the revised arrangement will better reflect the original intention of the payment to the presiding member of a committee. The Determination therefore provides clarification as to what constitutes a 'standing committee' which will now be known as 'prescribed committees', due to the fact that the role and area of responsibility of such committees are now defined. Furthermore, a different allowance, in the form of a sitting fee will be payable to the presiding member of a committee established in terms of section 41 of the LG Act, where the committee does not meet the requirements of being a 'prescribed committee'.



D R Prior
PRESIDENT

28 July 2014