



REPORT OF

THE BOARD OF INQUIRY

INTO THE ALLOWANCES

OF LOCAL GOVERNMENT

ELECTED MEMBERS

Patricia L Leary (Chair)
Tim J Abey
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Hobart, Tasmania
28 July 2004

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[Source - Tasmanian Electoral Office]
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Establishment of the Board of Inquiry

- [1] By instrument dated 26 April, 2004, the Minister Assisting the Premier on Local Government, Jim Cox MHA, pursuant to section 215(1)(b) of *the Local Government Act, 1993* (the Act), established the *Local Government Elected Members' Allowances Board of Inquiry* (the Board).
- [2] The Minister appointed Patricia Leary as Chairperson, with Tim Abey and James McAlpine as members to collectively constitute the Board.

Terms of Reference

- [3] The Board's terms of reference are as follow:
 - “1. *The Board is to inquire into, and submit a report in writing to me, containing recommendations and reasons for those recommendations on the appropriate amount to be payable as an annual allowance in respect of the offices of Mayor, Deputy Mayor, and Councillor of each council or group of councils within Tasmania.*
 2. *In determining what is to constitute an appropriate amount for each allowance, the Board is to take into account:*
 - (a) *the statutory roles of the respective offices of Mayor, Deputy Mayor and Councillor; and*
 - (b) *any other factors considered relevant.*
 3. *The Board is to have regard to the range of allowances it will recommend being effective from October 2004 for a period of up to 4 years and may consider the advisability of annual indexation of the allowances and, if appropriate, make a recommendation in that regard.*
 4. *The Report is to be provided to me by no later than 31 July, 2004.*
 5. *I have determined that, for the purposes of section 215(4) of the Local Government Act 1993, no allowances are to be payable to the members of the Board in respect to this inquiry.” [Appendix 1]*

Background

- [4] *The Local Government Elected Members' Allowances Board of Inquiry 2000* (the 2000 Inquiry) having considered the terms of reference, the submissions received and “*the statutory roles of the respective offices of Mayor, Deputy Mayor and Councillor*” made the following recommendation:

| No of electors in municipal areas | Mayor | Deputy Mayor | Councillor |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--------------|------------|
| Up to 5,000 | \$11,800 | \$5,400 | \$4,700 |
| Over 5,000 and up to 10,000 | \$17,700 | \$6,800 | \$5,800 |
| Over 10,000 and up to 15,000 | \$23,600 | \$8,200 | \$7,000 |
| Over 15,000 and up to 20,000 | \$36,600 | \$10,000 | \$8,200 |
| Over 20,000 | \$49,600 | \$11,800 | \$9,400 |
| <i>We note that Regulation 29(2) prescribes that “any allowance payable to a mayor or deputy mayor is additional to the allowance payable to a councillor”.</i> | | | |

Current Legislative Provision

- [5] Regulation 29(1) of the *Local Government Regulations 1994* prescribes the above allowances as determined by the 2000 Inquiry.
- [6] Section 340A of the *Act* provides:
- “(1) A councillor is entitled to prescribed allowances.*
- (2) A mayor and deputy mayor are entitled to prescribed allowances in addition to any allowances referred to in subsection (1).*
- (3) A councillor, mayor or deputy mayor may decide not to receive part or all of an allowance.*
- (4) A decision under subsection (3) is to be by written notice to the general manager of the relevant council.”*
- [7] Section 340A provides a discretion to a Mayor, Deputy Mayor or Councillor not to receive part or all of a prescribed allowance.

Statutory Functions of Elected Members

- [8] At Section 27 the *Act* provides the statutory roles for the respective offices of Mayor and Deputy Mayors as follows:
- “(1) The functions of the mayors are:*

- (aa) to act as a leader of the community of the municipal area; and
 - (a) to act as chairperson of the council; and
 - (b) to act as the principal spokesperson of the council;
 - and
 - (c) to oversee the councillors in the performance of their functions and in the exercise of their powers.
- (2) *The deputy mayor is to act in the position of mayor and exercise the powers and perform the functions of mayor if:*
- (a) the mayor is absent; and
 - (b) the mayor or the council, by notice in writing, appoints the deputy mayor to act in the position.
- (2A) *The mayor, by notice in writing, may delegate any power or function of the mayor to the deputy mayor for a specified period.*
- (3) *An appointment under subsection (2) remains in force:*
- (a) for the period specified in the notice; or
 - (b) until sooner revoked."

[9] Section 28 of the *Act* prescribes the role and functions of councillors:

- "(1) The councillors of a municipal area have the following functions:*
- (a) to represent and promote the interests of the community;
 - (b) to facilitate communication between the council and the community;
 - (c) to review the performance of the council.
- (2) *In carrying out their functions, councillors are to:*
- (a) act in the best interests of the community; and
 - (b) ensure that resources and access to services and facilities are provided equitably."

Submissions To This Inquiry

- [10] The Board advertised the nature of its task in each of Tasmania's three daily newspapers on Wednesday 5 May, 2004. It also advertised in the Saturday Mercury newspaper on Saturday 8 May, 2004. Interested persons and organisations were invited to make written submissions relevant to the terms of reference by not later than 5.00pm Friday 4 June, 2004. [Appendix 2]
- [11] The Board also announced that, if requested, it would hear oral submissions at public hearings to be held in each of Tasmania's regional areas, i.e. Hobart, Launceston and Burnie. For that purpose the advertisements encouraged interested persons who wished to present oral submissions, to make arrangements with the Board by no later than 5.00pm Friday 4 June, 2004.
- [12] The Chairperson of the Board also wrote to the Mayor and Councillors of each council, the Local Government Association of Tasmania and the Southern Tasmanian Councils Board inviting them to make submissions to the Board. [Appendix 3]
- [13] The Board received twenty one (21) written submissions and heard three (3) oral submissions. One council informed the Board that it did not wish to provide a submission. [Appendix 4]

Summary of Issues Raised

- [14] A number of the submissions expressed support for maintaining an independent Board for the review and recommendation of allowances for elected members.
- [15] The submissions disclosed a range of matters for consideration. Many of the matters are the same as those raised in the 2000 Inquiry. We adopt the same approach as that of the 2000 Inquiry in respect to the matters raised and group them similarly as follows:
- (a) *Issues: being the concerns raised about the nature of the allowance;*
 - (b) *Criteria: the elements suggested to the Board as being relevant in our recommendation of an appropriate level of allowances; and*
 - (c) *Comparators: reference points to which we should have regard in considering the quantum of the allowances.*

Issues

- [16] Nature of Allowances:
- Allowance for office, sitting fee or salary;
 - Discretionary or mandatory;
 - Relationship with expenses.

[17] Income Tax Aspects:

- PAYE income tax deductions;
- Impact of provisional or PAYG tax.

[18] Quantum of Allowances:

- Current amounts unrealistic;
- Current amounts do not reflect the complex requirements and current demands on elected members or time spent undertaking the role and functions of an elected member;
- Current amounts are a disincentive to younger employed people to enter local government.

[19] Review of Allowances:

- Annual indexation by Consumer Price Index movements proposed in most submissions;
- Claims for a retrospective increase to reflect CPI for last four years;
- Reconsideration of formula based on number of electors, need to consider other factors;
- Increase number of categories with larger councils being a separate group.

[20] Superannuation:

- Employer contributions;
- Salary sacrifice;
- Loss of superannuation benefits for employees who are elected members.

[21] Other issues:

- Lack of administrative support in small councils;
- Capacity to pay in smaller councils;
- Performance issues;
- Attraction and retention;
- Salary packaging;
- Short timeframe for the review of annual allowances;

- Review of allowances each three years as proposed in the Local Government Amendment Bill 2004.

Criteria

[22] The submissions we received proposed we consider the following criteria:

- Accountability for effective management of community assets;
- Amount of capital and operating budgets;
- Carer costs;
- Cities have greater responsibilities than other municipal areas;
- Complexity of decisions taken;
- Diverse range of urban and rural communities served in each municipal area;
- Financial impact on elected members;
- Frequency and length of council and other meetings;
- Geographical or physical size of municipal areas;
- Impact of taxation;
- Impact on family, social and career aspects of elected members;
- Incentive for candidates to nominate for election;
- Mayors and Deputy Mayors have higher profiles and greater responsibilities;
- Patronage, donations &c. costs;
- Personal presentation costs;
- Population;
- Public expectations;
- Responsibility levels of elected members;
- Statutory roles the same for all elected members;
- Telephone, facsimile and information technology costs;
- Time required to discharge responsibilities;

- Use of personal property by elected members.

Comparators

[23] Allowances should be comparable with:

- amounts payable in the commercial sector, government business enterprises, port authorities or other statutory authorities, for the same or similar levels of responsibility; or
- consider a nexus with Tasmanian Parliamentary salaries.

Expenses

[24] At Section 1 of Schedule 5 of the Act, Expenses, provision is made for the reimbursement of expenses:

“1. A council is to reimburse a councillor for reasonable expenses incurred in carrying out the duties of office in relation to:

(a) telephone rental and telephone calls; and

(b) travelling; and

(c) care of any child of the councillor.”

[25] The reimbursement of reasonable out-of-pocket expenses for elected members, as provided by the Act, has no relationship to the allowances under review by this Board of Inquiry. There is a clear difference between the allowances we are considering and reimbursements allowed under the Act at section 1 of Schedule 5.

[26] We are of the view that elected members should, where appropriate, seek their entitlement provided by the *Act*.

Considerations

Issues

[27] Proposed Legislative Changes: As was noted in the 2000 Inquiry the Act at that time was subject to proposed legislative changes. We were informed that there are further proposed changes following a review which has resulted in the drafting of the *Local Government Amendment Bill 2004* and these proposed changes were discussed in some detail in some of the submissions. Whilst we have noted those proposed changes we make our recommendation based on the current provisions found in the Act. We think it inappropriate to take into account proposed amendments which are yet to be legislated.

[28] Nature of Allowances: The terms of reference for the Board require us to make *“recommendations on the appropriate amount to be payable as an annual*

allowance in respect of the offices of Mayor, Deputy Mayor and Councillor of each council or group of councils in Tasmania.” The Board is asked to make recommendations in respect to an *annual allowance*. The allowances are not salary or a fee for service and as such we do not consider it appropriate that we rely on submissions which address sitting fees or salary.

- [29] Income Tax Aspects: We agree with the comments of the 2000 Inquiry that issues about taxation are matters for the Australian Tax Office and as such fall outside the scope of our task.
- [30] Quantum of Allowances: Almost every submission suggested that the current level of allowances paid to elected members was inadequate. A number of the submissions considered that the reliance on elector numbers was an inappropriate base on which to determine allowances. It was generally accepted that the responsibilities and accountabilities for elected members had increased and had become more complex and that expectations of the community had changed and were more demanding. It was also submitted that Councils were now being given responsibilities for matters previously undertaken by State Government, e.g. Sex Industry Regulations, Shop Trading Hours and Partnership Agreements were mentioned.
- [31] Review of Allowances: The submissions were consistent in respect to annual indexation of any allowances we may recommend. In some cases it was proposed that there be a retrospective adjustment to compensate for the lack of any increase to the allowances over the last four year period. We note that the allowances determined by the 2000 Inquiry took into account that four year period; it said “...*in considering the amounts that we should recommend, we take into account the six years from 1994 during which the current allowances remained unchanged and the four year period from November 2000 until the proposed time of the next review. Whilst there are difficulties in predicting what might happen over the next four years, we have estimated to the best of our ability the likely economic circumstances in determining the quantum of allowances that we should recommend.*”
- [32] It will be our recommendation that whatever allowances we propose be indexed annually by reference to the Consumer Price Index [Hobart – all groups].
- [33] Period of Operation: It was submitted to us that the duration of our recommendation should be three years consistent with the proposed term of office of an elected member. Section 46 of the Act prescribes, where relevant, that “*A councillor is to be elected for a period of 4 years...*” We note that the three year term is a proposed amendment only and accordingly we recommend that a four year review period be maintained at this time. We add, that in our view, there is merit in the submission that the recommendation we make have application for the same period as the *prescribed* term of office of an elected Member. However we consider it appropriate at this time to rely on the current provisions of Section 46 of the *Act*.
- [34] Accordingly we will recommend that the allowances, in the form we propose, be implemented for a period of four years.

[35] Superannuation: The submissions suggest that the impact on superannuation for elected members who are full-time employees creates a serious disadvantage and is a disincentive to attracting employed persons to Council office. There is considerable force in this contention. Although we have noted previously that the allowances we will recommend are not wages or salary we are prepared to include in the allowances an identifiable amount of 9% as a *one off* adjustment as a consideration of the entitlement which is available to wage and salary earners under the *Superannuation Guarantee Charge Act 1992*. Individual elected members can determine how best that part of their allowance can address any short fall in their superannuation entitlement. Indeed we see no barrier to individual Members directing that a proportion of their allowance greater than 9% be applied to a superannuation fund if that is their wish.

Criteria

[36] We have considered a wide range of criteria suggested in the submissions as well as the criteria identified in the 2000 Inquiry, and have taken into account the following, which are not recorded in any order of priority:

- Responsibility for effective management of community assets and revenue;
- Complexity of decision making;
- Greater responsibilities for city councils as compared to other municipal areas;
- Diverse range of requirements and responsibilities in urban and rural communities;
- Commitment in time for council and other meetings and functions;
- Geographical or physical size of municipal areas;
- Higher profiles for Mayors and Deputy Mayors;
- Personal cost in donations and patronage;
- Population in each council area;
- Devolution of responsibilities by the State Government;
- Popular election of Mayors;
- Attraction and retention of elected members;
- Lack of administrative support;
- Increased workload.

- [37] The impact of the criteria we have relied upon varies from council to council and although there is a common thread as to the issues, the degree and effect is not constant. Whilst it was generally submitted that elected members in larger urban areas have increased and demanding workloads, elected members in smaller urban and rural areas are subject to logistical extremes where, in some cases, a smaller population is located over large geographical areas. Many of the submissions claimed that the assessment of the allowances on the number of electors alone was inappropriate. We have taken that view into account and agree that an assessment based on the number of electors alone does not reflect the level of responsibility and workload of elected members.
- [38] Accordingly we have decided that we should propose a formula based on the number of electors recorded and the revenue received by individual councils. To include revenue takes into account the responsibility of elected members to properly manage and be accountable for the considerable income and funds available to councils.

Comparators

- [39] A number of the submissions suggested that we consider certain comparators in our review of the allowances. We do not think that the creation of a nexus with the salaries and allowances paid to members of the Tasmanian Parliament is appropriate as we have noted previously in this report the allowances for elected members are not *wages and salary* and as such should not be compared to wage and salary determinations.
- [40] Any comparison should be relevant to our consideration of "*the appropriate amount to be payable as an annual allowance in respect of the offices of Mayor, Deputy Mayor, and Councillor of each council or group of councils within Tasmania*" and we agree with the view of the 2000 Inquiry that allowances payable to some government business enterprises, port authorities and other relevant statutory authorities, where the same or similar levels of responsibility can be demonstrated, may provide some guidance.
- [41] Submissions proposed that we consider sitting fees for elected members who were appointed to particular committees, Joint or Controlling Authorities or Boards where that committee, Authority or Board is commercial in nature. Where a committee, Authority or Board is established and is commercial in nature we are of the view that the committee, Authority or Board is able to provide an appropriate fee or payment. We note that Section 29 of the Act prescribes that council can make provision for "*the term of office and remuneration of members of a controlling authority.*" It is our view that the recommendation for a specific *sitting fee* is outside our terms of reference.

Review of Current Allowances

- [42] A constant theme in submissions was the inadequacy of the quantum of the current allowances. It was also a constant theme that the quantum of the allowances failed to compensate elected members for the time and commitment

required for the role and function of an elected member and acted as a disincentive to attracting candidates for elected positions.

- [43] This may well be the perception, and anecdotally the view of many, however, in terms of the numbers of persons standing for election the figures provided by the Tasmanian Electoral Office do not support the perception. **[Appendix 5]**
- [44] Nevertheless we concede that the figures provided would possibly not reveal candidates who do not contest elected positions. For example it is not possible to determine from this data set whether the preponderance of candidates are retired or operate their own business, and that younger, full-time employed persons are under-represented.
- [45] In the task before us we have considered the matters relied upon by the 2000 Inquiry and the reasons for the recommendations made at that time.
- [46] The submissions before us urged a reconsideration of the basis on which the allowances are determined being by reference to the number of electors. It was also stressed upon us that councils are now responsible for the management of many millions of dollars of ratepayer money and exercise a similar role and responsibility as that of corporate Board members. Elected members are accountable for the management and proper distribution of those funds.
- [47] We consider that the fiscal responsibility of elected members which attaches to the revenue received by each council is a factor to take into account, along with the number of electors, in any formula which will provide a suitable base from which to determine categories for appropriate allowances to apply. This formula will establish a V x R index which provides the basis for the categorisation of Councils.
- [48] We propose seven categories compared with the present five. This means that in some cases a council will be grouped differently to that which currently applies. We are however satisfied that the new categories more adequately group councils with broadly similar demographics and revenue streams.
- [49] It is not our intention that any existing allowances reduce as a result of our recommendations. If this is an unintentional result, then we recommend that the Council be placed in the next higher category until the next review. We have applied this rationale to George Town Municipality.
- [50] We are of the view that, given our recommendation in relation to indexation, councils should not change categories before the next review. To do so would be akin to income tax bracket creep. It would be open for councils to change categories at the time of the next review in the event that the relevant demographics changed at a significantly greater or lesser rate than Local Government overall.
- [51] Accordingly we recommend that the following be the basis on which categories will be determined:

| |
|---------------------------|
| Council Categories |
|---------------------------|

| Category | Municipality | Voters | Revenue | VxR Index |
|----------|----------------------|--------|---------|-----------|
| 1 | Launceston | 44525 | 73975 | 3294 |
| | Hobart | 35919 | 76344 | 2742 |
| 2 | Clarence | 36328 | 56276 | 2044 |
| | Glenorchy | 31981 | 46291 | 1480 |
| 3 | Kingborough | 21009 | 27112 | 570 |
| | Devonport | 17752 | 28983 | 515 |
| | Burnie | 13630 | 26548 | 362 |
| | Central Coast | 15180 | 19646 | 298 |
| | West Tamar | 14625 | 14386 | 210 |
| 4 | Meander Valley | 12791 | 14867 | 190 |
| | Huon Valley | 98933 | 15115 | 149 |
| | Waratah-Wynyard | 9591 | 14035 | 135 |
| | Northern Midlands | 8654 | 12551 | 109 |
| 5 | Brighton | 8351 | 10696 | 89 |
| | Sorell | 8052 | 10610 | 85 |
| | Circular Head | 5614 | 13788 | 77 |
| | Derwent Valley | 6555 | 8853 | 58 |
| | Dorset | 5458 | 9550 | 52 |
| | Latrobe | 6093 | 7842 | 48 |
| | Break O'Day | 5075 | 7820 | 40 |
| | George Town | 5040 | 7807 | 39 |
| 6 | West Coast | 3677 | 9644 | 35 |
| | Glamorgan/Spring Bay | 3669 | 7389 | 27 |
| | Southern Midlands | 4174 | 5526 | 23 |
| 7 | Kentish | 3903 | 4787 | 19 |
| | Central Highlands | 2518 | 5547 | 14 |
| | Tasman | 2141 | 5478 | 12 |
| | King Island | 1278 | 4520 | 6 |
| | Flinders | 770 | 4043 | 3 |

The V x R index is determined by the following formula.

$$\frac{V \times R}{1 \text{ million}}$$

Where V equals No. of voters and R equals total revenue.

Basis for Adjustment

[52] With the increase in categories from five to seven it is not possible to apply an across the board percentage adjustment which will be common to all councils.

[53] We do however make the following observations:

- As previously foreshadowed, the new allowances contain a *one off adjustment* of 9% to compensate for the absence of superannuation;
- It is clear that the 2000 Inquiry looked forward as well as backwards in framing their recommendation. It is not possible to ascertain with precision the factors taken into account in this forward projection, although projected inflation would in all likelihood have been a major element. It follows therefore that a *catch up* based on CPI movements since the 2000 inquiry is not sustainable;
- We note however that wage movements in the wider community have generally outpaced CPI movements since the 2000 Inquiry. We have taken this differential into account in formulating our proposed scale of allowances;
- We have also had regard to allowances paid to members of Government appointed boards, statutory authorities etc, together with allowances paid to local government officials interstate where such information is available. Direct comparisons are problematic and we make none. Nonetheless we are satisfied that our proposed scale of allowances sits comfortably within the range of allowances to which we have referred.

[54] Accordingly, having taken into account the submissions received, the statutory roles of Mayor, Deputy Mayor and Councillor and those matters we have referred to as being relevant we recommend that the following allowances apply from 1 October 2004.

Local Government Elected Members' Allowances

| V x R | Mayor | Deputy Mayor | Councillor |
|-------------------|-------|--------------|------------|
| | \$ | \$ | \$ |
| Greater than 2500 | 72000 | 15500 | 12000 |
| >1000 to 2500 | 57000 | 13500 | 11000 |
| >250 to 1000 | 42000 | 11500 | 9500 |
| >100 to 250 | 27000 | 9500 | 8000 |
| >40 to 100 | 20500 | 8000 | 7000 |
| >25 to 40 | 17000 | 7000 | 6000 |
| Up to 25 | 14000 | 6500 | 5500 |

Regulation 29(2) prescribes that “*any allowance payable to a mayor or deputy mayor is additional to the allowance payable to a councillor.*”

Our Recommendation

- [55] 1. Application of our Council Categorisation and Allowances effective from 1 October, 2004; **[Paragraph 54]**
2. The allowances we have recommended be indexed annually by reference to the CPI (Hobart - all groups). The adjustment should represent the change in the index for the June quarter in the current year compared with the June quarter in the previous year. The adjustment to take effect from 1 October each year.
 3. The allowances we have recommended be the subject of review in four years.

Signed by the Board of Inquiry on 28 July 2004.

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P L Leary

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T J Abey

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J P McAlpine