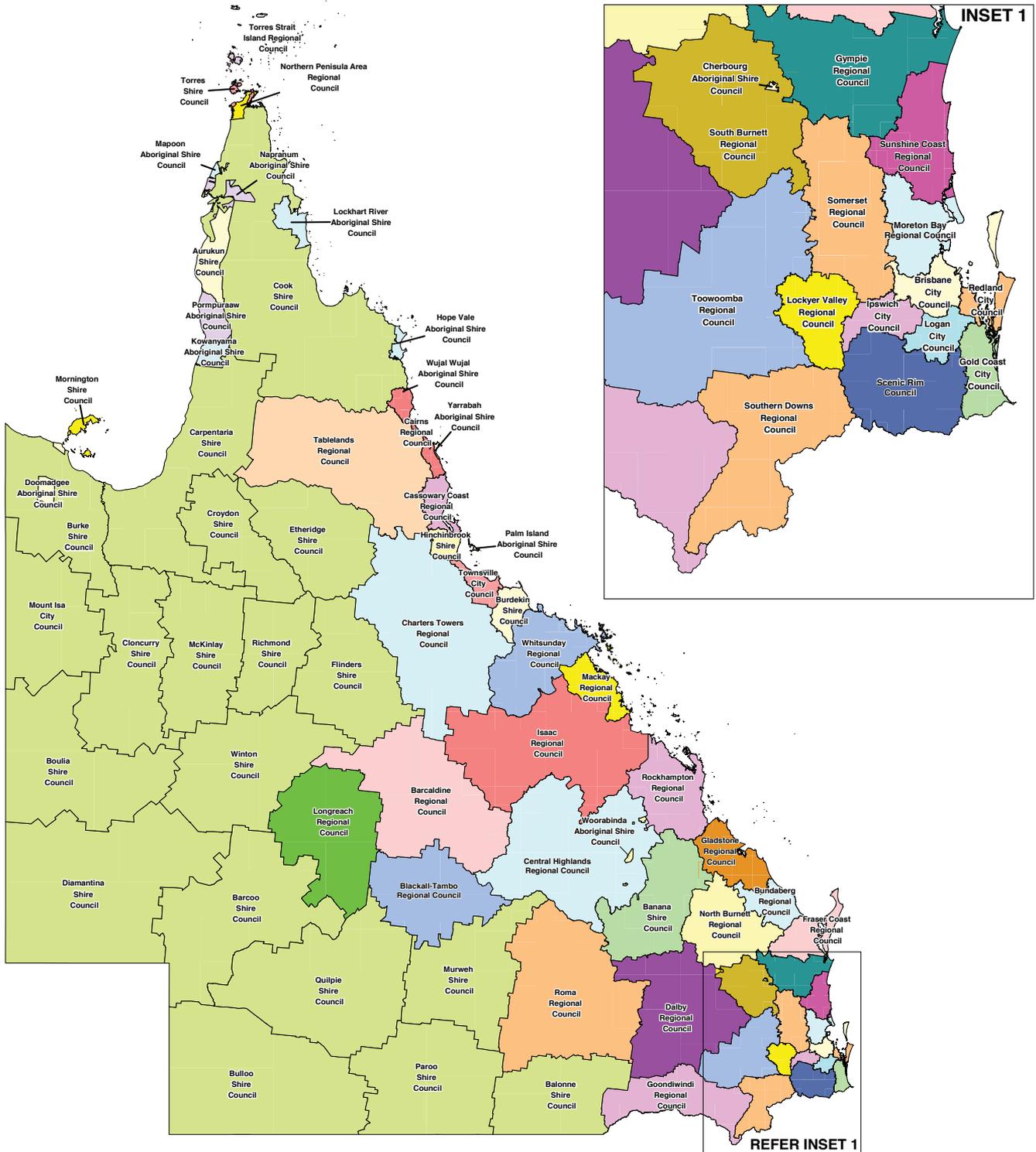


Local Government Remuneration Tribunal Report 2008

LOCAL GOVERNMENT AREAS IN QUEENSLAND

(From 15 March 2008)





LETTER OF TRANSMISSION

The Honourable Warren Pitt MP
Minister for Main Roads and Local Government
PO Box 15031
CITY EAST QLD 4002

2 December 2008

Dear Minister,

On 27 November 2008 the Local Government Remuneration Tribunal, as required by section 250AB(c) of the *Local Government Act 1993* (the Act), determined the levels of remuneration to be paid to Mayors, Deputy Mayors and Councillors from 1 January 2009.

The Tribunal also undertook a review of the Local Government categories it established on 29 November 2007, as well as the category to which each Council was assigned, pursuant to section 250AJ of the Act. As a result of that review, the Tribunal has adjusted the category assigned to Ipswich City Council, moving it to category 7.

The Tribunal has also reviewed the remuneration levels previously determined and has slightly increased the maximum amount payable to Mayors of Councils categorised at levels 3, 4, 5 and 6, respectively. Further, the Tribunal has also increased the remuneration levels of Mayors and Deputy Mayors for Councils in the Special category of Councils, aligning them with the remuneration payable to persons performing equivalent roles in category 3 Councils.

Our determinations on these matters are included in the enclosed Report and we commend them for your attention and further action. A summary of the Tribunal's determinations, together with a remuneration schedule as required by section 250AK(3) of the Act, is contained in Section 10.

Yours sincerely,

Deputy President Adrian Bloomfield
Chairperson

Helen Gluer
Member

Di McCauley
Member

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SECTION 1 – INTRODUCTION AND ROLE OF THE TRIBUNAL

Introduction

This Report has been prepared in accordance with section 250AP of the *Local Government Act 1993*. It details the Local Government Remuneration Tribunal's annual determination for 2008, which takes effect from 1 January 2009.

Although this is the second Report prepared by the Tribunal, certain information outlined in the Tribunal's 2007 determination has also been included in this Report to assist stakeholders who may be new to Local Government, but also to make the Report easier to read and to understand.

Establishment of the Tribunal

The Local Government Remuneration Tribunal ('The Tribunal') was established under section 250AA of the *Local Government Act 1993*. The Tribunal is required to make a determination by 1 December each year about the remuneration to be paid to Councillors including Mayors and Deputy Mayors, with the exception of Brisbane City Council, in the following year.

Her Excellency the Governor approved the appointment of Deputy President Adrian Bloomfield of the Queensland Industrial Relations Commission as Chairperson, Ms Helen Gluer, the Chief Executive Officer of Tarong Energy and Mrs Di McCauley, former Local Government Reform Commissioner, former State Member for Callide, former Minister for Local Government and Planning and former Councillor of Banana Shire Council, as Members of the Tribunal on 25 October 2007.

For further information about the Tribunal, please visit the website www.lgp.qld.gov/remunerationtribunal.

Functions of the Tribunal

The *Local Government Act 1993* provides that the Tribunal is to:

- Establish categories of Local Government (section 250AH)
- Categorise Local Government according to the established categories (section 250AJ)
- Determine annually the remuneration to be paid to Local Government Councillors (section 250AK)
- Provide a report annually to the Minister about the categories and remuneration determined (section 250AP)
- Review the categories of Local Government that it determines at least every four years (section 250AJ(3))
- Undertake other matters that the Minister may direct the Tribunal to perform (section 250AB(d)).

In carrying out its functions, the Tribunal consults with many stakeholders. The Tribunal considers responses which are made to its state-wide call for public submissions, and it also consults through face-to-face meetings with interested parties.

Due to the short amount of time it had in 2007 to make its determination and conduct its consultation program, the Tribunal, this year, travelled to various regions in the State and met with Councillors and senior executive staff of 33 Councils including Indigenous Councils in the Cape York, Torres Strait and South Burnett regions, plus "mainstream" Councils in North Queensland, Darling Downs, North and South Burnett, Western Downs and South-East Queensland. Further information about the Tribunal's consultation process is recorded in Section 4 of this Report.

Ten (10) Local Government categories were established by the Tribunal when it made its first determination in 2007, as per section 250AH of the Local Government Act 1993. These categories were discussed with stakeholders during its 2008 consultation program. The stakeholders provided feedback about the appropriateness of the Local Government categories applied to Councils and the criteria considered when establishing categories, as provided for in section 250AI of the Local Government Act 1993 (see Figure 1 below).

The Tribunal also provided a submission template for interested parties to use should they wish to make a written or on-line submission. The template included questions relating to the categorisation of Local Governments and the level of remuneration determined for Councillors in each category of Council in 2007.

Figure 1

Section 250AI of the Local Government Act 1993 (Criteria for establishing categories)

For establishing categories of local governments, the remuneration tribunal must have regard to the following criteria—

- (a) the size, and geographical and environmental terrain, of local government areas;
- (b) the populations of local government areas, including the areas' demographics, the spread of populations serviced by the local governments and the extent of the services the local governments provide;
- (c) the size of local governments and the workload associated with particular sizes, including whether councillors of the local governments hold office on a full-time or part-time basis;
- (d) the diversity, including cultural diversity, of local governments' communities;
- (e) the extent of development of local government areas, including economic and community development, infrastructure and industry;
- (f) other matters the remuneration tribunal considers relevant to the effectiveness, efficiency and sustainability of local governments;
- (g) other matters prescribed under a regulation.

Tribunal's terms of reference

The Honourable Warren Pitt MP, Minister for Main Roads and Local Government, provided Terms of Reference to the Tribunal on 25 October 2007, which remain unaltered. The Terms of Reference as set out in Figure 2 detail the legislative requirements concerning the Tribunal's functions as well as certain matters the Tribunal is required to consider when making its determination about Councillor remuneration.

Figure 2

The terms of reference for the Local Government Remuneration Tribunal (the tribunal) comprise the following elements:

- 1 Purpose**
- 2 Composition and terms of appointment**
- 3 Functions**
- 4 Required considerations**
- 5 Recommended considerations**
- 6 Administrative support**

1 Purpose

The tribunal is established to determine the level of remuneration paid to local government councillors, mayors and deputy-mayors in Queensland.

2 Composition and terms of appointment

- The tribunal consists of 3 members appointed by Governor-in-Council.
- Members must have extensive knowledge of and experience in one or more of the following:
 - Local government
 - Public administration
 - Law
 - Public finance
 - Industrial relations
 - Community affairs
 - Other knowledge and experience considered appropriate by Governor-in-Council.
- A member may be a commissioner under the *Industrial Relations Act 1999*.
- Members are appointed for up to three years.
- Members are eligible for reappointment.
- Members are entitled to remuneration and allowances decided by Governor-in-Council.
- A member who is also a commissioner under the *Industrial Relations Act 1999* is entitled to expenses associated with performing the functions of a tribunal member, but is not entitled to receive remuneration as a member of the tribunal.

3 Functions

The tribunal will:

- Undertake research and consult with local governments, organisations, communities and individuals including through inviting and considering submissions.
- Decide categories of local governments.
- Assign each local government to a category.
- Prepare annually, by 1 December, a remuneration schedule as required by the *Local Government Act 1993*.
- Review local government categories at least every 4 years.
- Consider submissions seeking a variation to the remuneration a councillor, mayor or deputy-mayor may be paid and if satisfied that, having regard to the exceptional circumstances that apply, may approve payment of a different remuneration amount.
- Produce a report on its decisions for the Minister which will be tabled in Parliament and made available to all Councils.

4 Required considerations

In determining the appropriate remuneration to be paid the tribunal will have regard to:

- the provisions of the *Local Government Act 1993* about councillor entitlements and responsibilities
- community expectations about what is appropriate remuneration.

In deciding categories of local governments the tribunal will have regard to the following criteria:

- the populations of local government areas, including the areas' demographics, the spread of populations serviced by the local governments and the extent of the services the local governments provide;
- the size of local governments and the workload associated with particular sizes, including whether councillors of the local governments hold office on a full-time or part-time basis;
- the diversity, including cultural diversity, of the local governments' communities;
- the extent of development of local government areas, including economic and community development, infrastructure and industry;
- the size, and geographical and environmental terrain, of local government areas;
- other matters the remuneration tribunal considers relevant to the effectiveness, efficiency and sustainability of local governments.

5 Recommended considerations

The tribunal, in making its determination, may have regard to:

- The capacity for councils to pay the remuneration.
- The additional duties undertaken by councillors, for example chairperson or member of a standing or special committee.
- Departmental guidelines for expenses reimbursement policy.
- The legislative framework relevant to local governments.
- The impact of other legislation on remuneration, for example taxation legislation.
- State, national and international best practice in the provision of remuneration in comparable public sector organisations.
- The required levels of public sector accountability in making its determination.

6 Administrative support

The Department of Local Government, Sport and Recreation provides secretariat support for the tribunal as set out in a work performance arrangement agreed to by the Director-General and the tribunal.

SECTION 2 - LOCAL GOVERNMENT STRUCTURE

Role of Local Government

The role of Local Government is legislated under section 20 of the *Local Government Act 1993* (see Figure 3 below). The Tribunal recognises that Local Government law-making and executive roles impact on Councillors in that they are responsible for ensuring the structure and strategic direction of Council meets legislative obligations. Approximately half of Local Government comprises newly established Councils which were formed on 15 March 2008 when the Local Government elections were held. The Tribunal notes that Councils are currently required to conduct major reviews of local laws by 31 December 2010 and this may impact on the law-making and executive roles that Councillors currently undertake.

Figure 3

Section 20 of the *Local Government Act 1993* (Roles of local government)

In exercising its jurisdiction of local government, a local government has—

- (a) a law-making role for local laws; and
- (b) an executive role for—
 - (i) adoption and implementation of policy; and
 - (ii) administration of local government; and
 - (iii) enforcement of its local laws.

The Tribunal also notes that the *Local Government Bill 2008*, which was introduced into Parliament on 28 October 2008, includes proposed amendments to change the legislated role of Local Government. The Tribunal understands that the Bill includes provisions which, if passed, will ensure a more sustainable and accountable financial, strategic planning, performance and reporting regime is achieved by Councils. The Tribunal also understands that the Bill simplifies the way in which Local Government is to carry out its role, such as that contained in the proposed legislation covering the law-making aspect. The Minister for Main Roads and Local Government, in his original Terms of Reference to the Tribunal, asked the Tribunal to consider the legislative framework supporting Local Government. However, as the *Local Government Bill 2008* has not been passed, the Tribunal can only consider the current legislated role of Local Government in making its 2008 determination.

How Councils have adapted to the reformed Local Government structure

Last year, the Tribunal was tasked with determining remuneration for Councillors in what would be a new Local Government structure post the quadrennial Local Government elections, held on 15 March 2008. The reformation of the Local Government system resulted in 157 Councils being merged into 73, with Councillors across the State reducing in number from 1250 to 526. While all of the Councillors with whom the Tribunal consulted in 2008 demonstrated a positive attitude towards progressing issues within their respective communities, with Councillors also demonstrating a continued passion to serve their community, the Tribunal did note that some Councillors are reluctant to change their approach towards the level and frequency of contact they have with constituents, which is putting extreme pressure on their workload.

The Tribunal noted last year that the State Government's reform of Local Government, which led to the new structure, was undertaken to build stronger Councils in Queensland. In striving to build stronger Councils to manage the high economic and population growth occurring in the state, Local Government is being encouraged to adopt a "board of directors" approach. This concept was introduced so that Councils could be more strategic in the way in which they represent their constituents and deal with local level matters. This level of focus is further developed in the newly introduced *Local Government Bill 2008*.

Following its consultation this year, the Tribunal has noted that some Councils are struggling with applying the board of directors' approach to the way they carry out their role. Some Councils appear to be neglecting the strategic business of Local Government because they are working on amalgamation issues, focusing too much of their time and attention on low-level matters raised by their constituents, and attending community functions in which Council is not directly involved, e.g. football club dinners. The Tribunal discusses this issue in more detail in section 5 of this Report.

Local Government structures

Section 250A1(c) of the *Local Government Act 1993* requires the Tribunal to consider the workload associated with particular sizes of Local Government, including whether Councillors hold office on a full-time or part-time basis. In addition, the Terms of Reference provided by the Minister to the Tribunal recommended that the Tribunal consider the additional duties undertaken by Councillors, which may include an additional role as a chairperson or member of a standing or special committee.

While not provided for in the *Local Government Act 1993*, a Council may establish a portfolio structure, where each Councillor is assigned a portfolio to be responsible for (i.e. planning and environment, community services, water). The Councillor is responsible for dealing with all matters pertaining to the portfolio topic across the Local Government as a whole.

A standing, special or advisory committee system can be established by a Council under section 452 of the *Local Government Act 1993*. Usually with such committees, a Councillor is chosen by Council to be chairperson or a member.

The Tribunal undertook a review of the internal structure of Councils across the State. This review showed that approximately 67% of Councils have adopted some form of internal structure. Of these, a committee or portfolio structure exists within approximately 54% of Councils, while approximately 13% have a combined portfolio and committee structure. The Tribunal also notes that 27% of Councils currently have no structure. However, due to the size and the demographics of the communities they serve, an internal structure may not be suitable for many of these Councils.

The Tribunal's consideration of Council structures is detailed in section 5 of this Report.

Indigenous Council structures

The Tribunal notes that the majority of Indigenous Councils have either a portfolio or committee structure, or both. The Tribunal is also aware that, in addition to a portfolio or committee structure, there are other unique structures Indigenous Councils may have, such as community forums and land panels, which do not apply to mainstream Councils.

On 10 August 2007, the *Local Government Reform Act 2007* was passed, which resulted in the amalgamation of 157 Councils into 73, including the amalgamation of a number of Indigenous Councils. Bamaga and Seisia Island Councils were amalgamated with Injinoo, Umagico and New Mapoon Aboriginal Shire Councils to form the new Northern Peninsula Area Regional Council (NPARC). Badu, Boigu, Dauan, Hammond, Iama, Kubin, Mabuiag, Mer, Poruma, Saibai, St Pauls, Ugar, Warraber and Yorke Island Councils were amalgamated with Erub Shire Council to form the Torres Strait Island Regional Council (TSIRC).

The *Local Government Act 1993* was amended on 15 November 2007 through the *Local Government and Other Legislation (Indigenous Regional Councils) Amendment Act 2007* to provide a new governance framework for the NPARC and the TSIRC.

The Tribunal notes that NPARC and TSIRC have an additional role to that of a committee or portfolio through the new governance framework that established community forums for the 20 communities that form the NPARC and TSIRC. These forums were established to protect Torres Strait Islander and Aboriginal customs and cultural practices by giving community members an additional voice on matters including culture, customs and land trusteeships. The community forums comprise a Councillor for the particular community as Chair, three to seven elected community members and a convenor. The forums have a dual role as an advisory group and as a Land Panel. The Councillor who is the chair of a community forum is also the chair of the Land Panel. The community forums provide advice to the NPARC and TSIRC on local and trusteeship matters.

The NPARC and TSIRC (like other Indigenous Councils) have a dual role as a Council and as a trustee for multiple Deeds of Grant in Trust (DOGITs). Trusteeship of land held as DOGITs by the former Aboriginal, Community or Island Shire Councils was transferred to the NPARC and TSIRC and continues to be held and managed by them as separate trusts.

The Tribunal's consideration of the unique structure of Indigenous Councils is discussed further in section 6 of this Report.

SECTION 3 – LOCAL GOVERNMENT COUNCILLORS

Legal responsibilities of a Councillor

In accordance with section 250AK(4)(a) of the Local Government Act 1993 the Tribunal is to have regard to the responsibilities of Councillors as provided for under the Act. As with the current legislation, the proposed *Local Government Bill 2008* includes a legislative framework for the Councillor role. The Tribunal understands that the Bill provides clearer expectations in terms of Mayor and Councillor roles, responsibilities and powers, and requires Councillors to comply with five principles to achieve accountable and transparent decision-making within Local Government. Again, because these new provisions have not yet been passed into law by the Legislative Assembly, the Tribunal has based its determination on the current legal responsibilities of a Councillor.

The role of a Local Government Councillor is legislatively provided for in section 229 of the *Local Government Act 1993* (see Figure 4 below). The Tribunal notes that the role of a Councillor is to represent the Local Government area and determine an appropriate level of services and infrastructure for the area. The Councillor is to also carry out strategic planning and decision-making activities concerning the Local Government area.

The Tribunal notes that some Councillors have additional responsibilities. For instance, some Councillors of mainstream Regional Councils are required to deal with matters relating to joint Local Government boards. The *Local Government Reform Implementation Regulation 2008* requires eight Regional Councils to administer various joint Local Government boards as set out in the regulation.

Some Indigenous Councils are required to deal with matters relating to various enterprises conducted by such Councils. During its consultation, the Tribunal was advised by a number of Indigenous Councils that Councillors are currently dealing with the divestment of certain enterprises, including the relinquishment of canteen licenses as part of the State Government's alcohol reform strategy.

Councillors' workload

The Tribunal notes that section 229 of the Act provides that a Councillor must represent the overall public interest of the Local Government area and, if the Councillor is elected to a Local Government which has a divisional structure, is to also represent the public interests of the division assigned to the Councillor. In its 2008 deliberations, the Tribunal noted that while some Councils are divided in a formal sense, those Councillors elected to a division are very conscious of the need to represent the whole of the Local Government area rather than just focus on their particular division.

In 2007, Councillors of Councils that were about to be amalgamated indicated to the Tribunal that they anticipated having an increased workload due to the increased size of their Local Government area and the reduction in the number of Councillors servicing that area. Through consultations in 2008, current Councillors of amalgamated Councils confirmed this is the case. However, when the Tribunal examined Councillors' workload further it found that some Councillors are experiencing difficulty in balancing priorities and are concentrating on extraneous matters, which is impacting on the ability of a number of Councils to set their strategic direction. This issue is discussed in more detail in Section 5 of this Report.

Figure 4

Section 229 of the *Local Government Act 1993* (Councillors' role)

- (1) A local government councillor—
 - a) represents the overall public interest of the local government's area and, if the councillor is a councillor for a division of the area, also represents the public interest of the division; and
 - b) takes part in deciding the facilities, services and enterprises that are appropriate for the area; and
 - c) takes part in formulating, adopting and reviewing—
 - i) the local government's corporate plan and operational plans; and
 - ii) the policies and goals of the local government; and
 - d) takes part in making decisions for achieving the goals and implementing the policies of the local government.
- (2) In performing the role, a councillor—
 - a) must serve the overall public interest of the area and, if the councillor is a councillor for a division, the public interest of the division; and
 - b) if conflict arises between the public interest and the private interest of the councillor or another person—must give preference to the public interest.
- (3) A councillor must ensure there is no conflict, or possible conflict, between the councillor's private interest and the honest performance of the councillor's role of serving the public interest

Section 231 of the *Local Government Act 1993* (Additional roles of mayor)

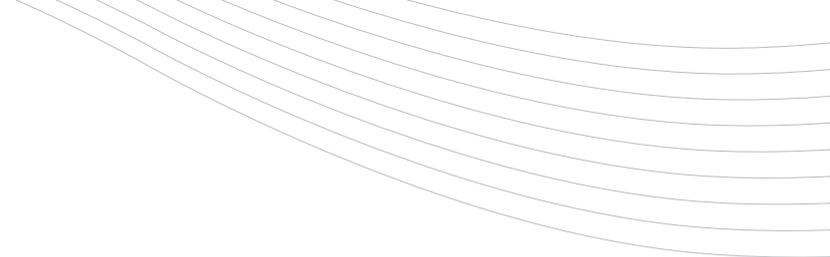
- (1) The mayor of a local government—
 - a) presides at, and is responsible for the orderly conduct of, meetings of the local government at which the mayor is present; and
 - b) ensures the carrying out of the local government's decisions; and
 - c) exercises the powers, and performs the duties, given to the mayor by the local government; and
 - d) ensures the appropriate representation of the local government at civic or ceremonial functions.
- (2) In performing the role mentioned in subsection (1)(b), the mayor may identify to the chief executive officer of the local government the officer's duty in carrying out policies and decisions of the local government.

Role of a Mayor

The additional role of Mayors is provided for in section 231 of the *Local Government Act 1993* (see Figure 4 above). Last year, the Tribunal noted that the Mayor's role carries with it a greater responsibility for the way in which a Local Government conducts its business and achieves its goals. The Mayor's role also has a ceremonial responsibility, which, in the Tribunal's opinion, was found to be more prominent for Mayors in some regions than others due to the history, customs and culture of various Local Government areas.

Following the reform of Local Government, the Tribunal found this year that while the traditional role of Mayor has not changed overall, the workload in some Councils has, because of the restructure of Local Government. In a number of cases, the Mayor has had to lead the development and implementation of new approaches and strategies of Council to meet community expectations under a new structure with different, and often competing, resources.

The Tribunal also notes that many Mayors are inundated with invitations to represent the Council at civic or ceremonial functions, so much so that Mayors are delegating these invitations to other Councillors to attend, which then impacts on the workload of those Councillors.



Accountability and transparency of a Councillor's role

The Tribunal recognises that in undertaking their role, a Councillor has a responsibility to ensure accountability and transparency is achieved. The *Local Government Act 1993*, and most Councils' Codes of Conduct, specify the level of accountability and transparency that is to be achieved by Councillors. In its deliberations this year, the Tribunal noted that Councillors' workload included activities to ensure a high level of accountability and transparency. Such activities include amalgamated Councils holding ordinary meetings in different regions within the Local Government area, hosting public forums to seek input from, and report back to, the community and providing written reports to the community about Council decisions.

Why Councillors undertake the role

Last year, the Tribunal noted that in general Councillors undertook their role because they wanted to use their skills and expertise to contribute to the community. Through its consultation this year, the Tribunal notes that the passion of individual Councillors to serve their community still remains as strong as ever. A large number of the Councillors the Tribunal met with this year not only indicated their commitment to serve and sustain their community, but also shared with the Tribunal their vision to ensure the region which they serve moves forward for the benefit of future generations. Such an approach is to be commended.

SECTION 4 – CONSULTATION PROCESS

Pursuant to section 250AN(2) of the *Local Government Act 1993* the Tribunal may consult with persons it considers appropriate. Because the Tribunal had only a very short time in which to make its first determination in 2007, it increased its consultation program this year and met with 33 Councils, representing over 45% of Local Government.

Consultations / deputations

As part of its 2008 consultation program, the Tribunal attended the following Conferences and met with representatives of the Councils identified:

- Indigenous Councils' Annual Conference 2008 in Cairns (6 & 7 August 2008). The Chairperson delivered an address and made himself available to meet with representatives of Indigenous Councils on an informal basis.
- Local Government Association of Queensland Annual Conference 2008 in Cairns (2-4 September 2008). The Tribunal held deputations with Local Government delegates from the following 18 Councils:
 - o Balonne Shire Council
 - o Boulia Shire Council
 - o Bundaberg Regional Council
 - o Burke Shire Council
 - o Cairns Regional Council
 - o Cook Shire Council
 - o Dalby Regional Council
 - o Ipswich City Council
 - o Lockyer Valley Regional Council
 - o Logan City Council
 - o Moreton Bay Regional Council
 - o Northern Peninsula Area Regional Council
 - o Scenic Rim Regional Council
 - o Somerset Regional Council
 - o Tablelands Regional Council
 - o Townsville City Council
 - o Whitsunday Regional Council
 - o Winton Shire Council

Visits

To better understand the nature and range of issues facing Local Government Councillors and Mayors the Tribunal also decided to visit a number of different areas and regions during its 2008 consultation program, as follows:

- o Cape York and Torres Strait. The Tribunal met with Councillors and community representatives in Kowanyama, Pormpuraaw, Bamaga, Kubin, St Pauls, Badu, Boigu, Saibai, Warraber Island, Thursday Island and Hope Vale.
- o Cherbourg Aboriginal Shire Council
- o Dalby Regional Council
- o Fraser Coast Regional Council
- o Goondiwindi Regional Council
- o Gympie Regional Council
- o Ipswich City Council (inspections of infrastructure etc)
- o Logan City Council (inspections of infrastructure etc)
- o North Burnett Regional Council
- o Palm Island Aboriginal Shire Council
- o Roma Regional Council
- o South Burnett Regional Council
- o Toowoomba Regional Council
- o Yarrabah Aboriginal Shire Council

These visits and inspections provided the Tribunal with the opportunity to see the Local Government area being managed by each Council and to view first-hand the types of issues being dealt with by Councils. The Tribunal would like to thank those Councils that it met with in the regions for their time in meeting with, and for showing their Local Government area to, the Tribunal. The face-to-face meetings in regions provided valuable feedback to the Tribunal and highlighted various matters that may not have been apparent in written submissions or during deputations.

Details of persons the Tribunal met with during the above deputations and visits are shown in Appendix A.

Submissions

In accordance with section 250AN(3) of the Act the Tribunal must invite submissions about Councillor remuneration and Council categories from Local Governments, interested groups and persons and members of the public. As such, the Tribunal called for submissions through public notices published in major newspapers state-wide at the beginning of August 2008. Invitations were also distributed to delegates attending the Indigenous Councils' Conference and LGAQ Conference, respectively.

The public notices advised how interested parties could make a submission to the Tribunal, either by completing an on-line form, faxing, emailing, telephoning or posting a submission. The closing date for submissions was Tuesday, 30 September 2008 but a small number of submissions received after this date have also been considered.

To further assist interested parties in making a submission to the Tribunal, a website was developed (<http://www.lgp.qld.gov.au/remunerationtribunal>) that provides details about the Tribunal, its membership, role and functions and its consultation process.

In addition to calling for submissions, the Tribunal also wrote to each stakeholder who had lodged a submission in 2007, inviting them to make a fresh submission to the Tribunal in 2008.

Of the 61 submissions the Tribunal received in 2008, 39 were made by Local Government stakeholders, 1 was made by a State Member and Minister and 21 were made by members of the community. The 61 submissions made this year is a reduced amount compared to the 144 the Tribunal received last year. However, the Tribunal held an increased number of face-to-face meetings with Local Government stakeholders this year, in the form of deputations and/or visits, where some stakeholders availed themselves of the opportunity to provide a verbal submission to the Tribunal rather than prepare a written one.

Further, the Tribunal believes that many Councils and individuals were motivated to write a submission in 2007 because it was the first time an independent body had set remuneration levels for Councillors, Deputy Mayors and Mayors. Having considered the Tribunal's determination, many of those who prepared a submission in 2007 may have not deemed it necessary to write a follow-up submission, presumably because the matters they initially raised have been considered and dealt with appropriately by the Tribunal.

Details of the 61 submissions received by the Tribunal this year are contained in Appendix B.

SECTION 5 – FEEDBACK TO THE TRIBUNAL THROUGH CONSULTATION AND SUBMISSIONS AND THE TRIBUNAL’S RESPONSES

Through submissions and its consultation program, the Tribunal received comprehensive feedback from stakeholders about a whole range of matters concerning the activities of Councillors and issues they are dealing with, as well as comments about a variety of other matters, including the adequacy or otherwise of the levels of remuneration determined by the Tribunal in 2007. Below are details of some of the feedback provided as well as the Tribunal’s response to such matters.

Council categories and Councillor remuneration levels

With a few exceptions, the feedback to the Tribunal about the categories of Council it had previously determined, as well as the remuneration levels established, was positive with most Councils indicating their acceptance of both the category to which they were assigned as well as the remuneration levels determined.

However, several Councils invited the Tribunal to reconsider the category to which they were assigned based upon new information said to now be available and/or changed circumstances. This included reference to perceived reliance by the Tribunal in 2007 on particular data which was said to be either inaccurate or out of date, or a belief that the Tribunal had failed to consider certain matters in making its earlier determination. It also included claims the Tribunal had given undue weight to other factors, especially some of the statistical data recorded in the Appendices in the 2007 Report.

Some Councils, and Councillors, also argued that the Tribunal had failed to properly assess their workload and/or the time they were spending in travelling on Council-related business and/or had failed to properly assess the value of their contribution and/or had just plainly undervalued either the category or the remuneration level which the Council, or Councillor, believed was warranted. Invariably, such arguments were based upon the Council’s, or Councillor’s, reading of the statistical data in the Appendices to the Tribunal’s 2007 Report where the respective Councils and Councillors were focusing on individual elements of the data. Such things as the level of population, Council area, revenue and capital expenditure figures were referred to, with the comment that Councils categorised at a higher level had a smaller population, smaller land area, lower revenue stream etc. which the complaining parties thought justified their Council being classified at a higher level.

Such submissions, however, failed to appreciate that the criteria set out in section 250A1 of the *Local Government Act 1993* requires the Tribunal to consider a range of factors in deciding which Councils are to be allocated to which categories. As the Tribunal highlighted in its 2007 Report, when it rejected a two-criteria approach advocated by the Local Government Association of Queensland, some form of multi-faceted approach is required if the Tribunal is to meet its obligations under section 250A1. Accordingly, no single element should be looked at when comparing one Council, in its category, with another. An overall assessment of all of the relevant statistical data, and circumstances, is required.

Several medium-larger Councils also invited the Tribunal to reconsider its approach of establishing a remuneration range for each of the Mayor, Deputy Mayor and Councillor roles, respectively, within the 10 categories of Council previously determined. Instead, they suggested that the Tribunal should establish a single rate for each elected position within each category.

However, a significantly larger group of Councils, and individual Councillors, supported the continuation of the Tribunal’s approach of establishing a remuneration range for each elected position within each category. This position was also supported by a number of submissions from members of the public. In each instance, those supporting the existing approach argued that a remuneration range gave Councils maximum flexibility to decide an appropriate remuneration rate to fit the circumstances of each Council concerned.

Several larger Councils (Gold Coast and Logan) have used the remuneration range to pay higher levels of remuneration to Councillors who act as chairpersons of committees/portfolios, while a lower rate has been paid to Councillors who do not hold such roles. In addition, a number of other Councils have resolved to pay remuneration by adopting a base rate and meeting fees approach where Councillors are paid the base rate of remuneration, in the relevant category determined by the Tribunal, with any additional remuneration being dependent upon those Councillors attending Council meetings and the like. Still other Councils have resolved to pay Councillors different levels of remuneration dependant on Councillors' ability to contribute to the affairs of Council, or because of affordability considerations.

A survey undertaken by the Tribunal in relation to the actual remuneration levels determined by each Council disclosed that Councils have made significant use of the availability of a remuneration range to set remuneration levels appropriate to their particular needs and/or circumstances. Appendices C, D and E to this Report are graphic representations showing the minimum and maximum remuneration levels determined by this Tribunal for each of the roles of Councillor, Deputy Mayor and Mayor within the 10 categories decided, the minimum and maximum levels of remuneration decided by Councils, as well as the average level of remuneration determined by Councils. These graphs show the widespread use of the remuneration range concept.

Based upon the significant positive feedback to the Tribunal about the concept of a remuneration range for each elected role within each category, when compared to the limited opposition to such approach, the Tribunal has resolved to continue the practice of setting a remuneration range for the positions of Mayor, Deputy Mayor and Councillors, respectively, in each category of Council.

Strategic direction

Many of the Councils which met with the Tribunal, or which the Tribunal visited, had conducted strategic planning events, sometimes over several days, to, *inter alia*:

- identify major issues facing such Councils
- identify the relative priorities of each item identified
- establish goals and timelines concerning such matters
- generally shape the structure and direction of the Council

Where this had occurred the Councillors involved presented as having a clearer appreciation of the matters to which they should give priority than did those Councillors in Councils which had not participated in such a planning exercise. They also seemed better placed to manage the competing demands they encountered on a day-to-day basis.

In addition, many such Councils seemed to have made better progress towards addressing and resolving transitional and other issues arising from Council amalgamations compared to those Councils which had not conducted comparable strategic planning sessions. Further, because the former Councillors had spent the time and effort discussing a whole range of strategic and other issues in planning sessions - often with senior Council staff present - they appeared to be better able to make considered decisions, and in a more timely manner, when new matters arose rather than dealing with issues "on the run" or in a piecemeal way.

The Tribunal was surprised to find that more Councils had not, at the time the deputations were held or visits were conducted, held some sort of "planning day" or similar exercise. Several Councils which had not conducted such an exercise reported they were still experiencing difficulty in "bedding down" issues arising from amalgamation, with one expressing the view it would be several years before all of the issues associated with amalgamation were addressed. In the meanwhile, the Council expected to continue to devote considerable time and resources to amalgamation issues which, it admitted, would be at the expense of being able to focus on the strategic direction of the Council.

Councillor workload

During its 2007 consultation process the Tribunal was informed that Councillors who intended to nominate for election in March 2008 expected their workload to increase because of the reduced number of Councillors, in the vast majority of Councils, after that election. Feedback to the Tribunal during its most recent round of consultations has confirmed this expectation. Many Councillors who had served in previous Councils, particularly those which had undergone amalgamation, commented that they had never worked so hard and said they had underestimated the time they would be required to spend on Council-related activities after 15 March 2008.

While aspects of the additional workload are related to transitional matters relating to amalgamations, what stood out at the Tribunal's consultation meetings was the perceived need by some Councillors to cover the commitments previously undertaken by a larger number of former Councillors. These commitments included attending such things as community events, irrespective of the relative importance of those events. Councillors invariably justified their attendance at such events by stating it was the community's expectation they attend. However, a number of other Councillors also indicated they attended events, often requiring a large time commitment, because it was a way of meeting the electorate and "being seen". Other Councillors justified their attendance on the basis it was an appropriate way to get to know the various communities in the Council area in order to better understand the needs and issues of those communities.

In addition, when assessing the workload of Councillors in 2007, the Tribunal noted that some Councillors were involved in "extra curricular" activities such as chairing boards of external bodies or attending committee or other meetings relevant to those bodies. The Tribunal notes that this situation still remains, with many Councillors burdened with the task of representing Council on a variety of external boards and committees. Some Councillors advised they can spend up to 3 hours or more at board or committee meetings and attended simply because they are required to attend under an instrument previously developed between Council and that community organisation when Council provided funding to that body. Even where Council is not required to have a representative on the community organisation some Councillors are still attending such board and committee meetings because they feel obligated to fulfil the role(s) previously undertaken by former Councillors. Others attend because they fear there will be some form of backlash if Council does not continue to support all of those bodies and organisations it might previously have supported, even if the support is not financial.

The Tribunal also noted a significant diversity of opinion between different Councils about their role in servicing the community. Some Councillors felt very strongly that as elected representatives they were expected to be the first point of contact if any member of the public had an issue about any matter concerning Council, or about a Council-delivered service. They argued it was their role to receive a telephone call or personal deputation from a ratepayer and to take the issue up with the relevant section of the Council on behalf of that ratepayer. They also argued that such service was traditionally expected of them by their constituents, who also expected them to be available 24/7 for that purpose. However, other Councillors indicated they did not share that view. They had implemented measures whereby any ratepayer who contacted them, in the first instance, about a Council-related matter was encouraged to take the matter up with the Council directly. Only if the matter was not addressed to the ratepayer's satisfaction was the ratepayer to come back to the Councillor. Such procedure had been reinforced in newspaper advertisements, in newsletters and on telephone answering systems. This had led to a reduction in the number of matters they were required to attend to and freed up time to devote to other activities, including research and strategic issues.

Based upon the nature and range of the discussions between Tribunal Members and elected Local Government representatives, the Tribunal has generally reached the conclusion that the quality of decision-making around many Council tables, and the quality of Council's focus on strategic issues and direction, bears a striking correlation with the divergent approach taken by different Councillors as elected representatives. Those Councils where Councillors have given greater emphasis to making themselves available 24/7 have tended to concentrate their attention and focus on matters at the lower end of the scale. Those which have taken the opposite approach have invariably established strategic plans and are making significant progress towards achieving many of the goals they set for themselves, and for the Council. A clear case in point is Dalby Regional Council.

In the Tribunal's view, a number of Councils will need to reassess their level of focus in the not too distant future if they are to achieve an appropriate balance between servicing the immediate needs of their community while also addressing the longer term needs of the community, in a strategic sense.

Learning curve for new Councillors

A number of Councillors complained to the Tribunal that their level of remuneration failed to adequately compensate them for the significant amount of time they were spending in coming to grips with the requirements of their role as a Councillor. These complaints came not only from Councillors elected to a Local Government representative role for the first time but also from Councillors who had served on a previous Council which had amalgamated with others to form a much larger Council. In the latter case, some Councillors argued that the nature and range of matters they were now required to be familiar with was significantly in excess of that which they had previously been exposed to.

The Tribunal appreciates that there is a learning curve for all new Councillors coming into a Local Government representative role for the first time. However, the time an individual Councillor takes to acquaint themselves with their role is not something which the Tribunal is prepared to recognise and/or build into the level of remuneration it sets. It is the responsibility of each elected Local Government representative to put in whatever time and effort is necessary in order that they might be able to undertake their elected role, as required by legislation. It is the time and effort spent in performing that role, as well as the nature of the responsibilities assumed, that the Tribunal takes into account in determining appropriate levels of remuneration (see more about this in Section 8).

With respect to the second group, who argued for additional remuneration to compensate for the additional workload demands in amalgamated Councils, the Tribunal points out that it has already taken such additional workload into account when it established the amalgamation loading payable to Mayors, Deputy Mayors and Councillors in Councils which were to be affected by amalgamation. This loading was designed to reflect the additional workload involved in such Councils and the additional effort required to deal with various issues which amalgamation would generate. The loading was initially set at 10% of the mid-point of the salary range determined for the elected position concerned, with such loading progressively phasing out over the 4 year life of each affected Council. While the workload associated with amalgamation might not be spread over the whole 4 years, additional compensation spread over the term of each Council was deemed the most appropriate way to recompense the Councillors concerned.

Nothing has been put to the Tribunal during the current round of deputations and visits which would cause it to review the level of amalgamation loading already established or the period over which it will phase out.

Divided v undivided representation

A number of Councillors in Councils with an undivided electoral system commented that the nature of such system required them to travel extensively within the Council borders to attend Council and other meetings which rotated through different centres in the Council, attend other meetings or deputations outside the main centre, attend community functions and events at a variety of locations, and familiarise themselves with the different parts of the entire electorate. Many such Councillors said that this additional travel had not been recognised by the Tribunal when it established categories of Councils and set levels of remuneration in 2007. Accordingly, such Councillors asked the Tribunal to alter the category to which the Council was assigned or to otherwise increase levels of remuneration to reflect such travel commitments. Still others asked for additional remuneration, in the form of some travelling allowance, to compensate them for the additional time involved.

The above arguments were mirrored by Councillors elected to roles within divided electorates. They invariably argued that not only was it expected they would be totally familiar with all of the issues within their particular division but it was also expected they would be equally familiar with issues in the other divisions within the Council, in addition to attending meetings, deputations and the like in areas outside their divisions.

In determining categories of Council in 2007, and setting remuneration levels, the Tribunal was acutely conscious of the amount of travelling time likely to be involved for Councillors in each of the 72 Councils within its jurisdiction. While the Tribunal could obviously not anticipate where each individual elected member might reside within each of the Councils' boundaries the Tribunal, nonetheless, took into account the size of each Council, and the resultant likely travel commitment of Councillors elected to that Council, in making its determinations.

Overall, it is the Tribunal's assessment that there is very little difference in time involved in attending to Council affairs and/or travelling to attend Council commitments in Councils of a similar size irrespective of whether those Councils operate under a divided or an undivided electoral system. Nothing which has been put to the Tribunal during its current round of consultations has identified any particular matter which the Tribunal has not previously considered in determining categories of Council and appropriate remuneration levels of Councillors, Deputy Mayors and Mayors because of the particular electoral system adopted within each Council.

Council structures

Section 250AK(5) of the *Local Government Act 1993* provides that the Tribunal may include in its determinations concerning remuneration, or may separately provide for, an appropriate amount to recognise the different duties a Councillor may be required to perform if the Councillor is appointed to a committee, or as a chairperson of a committee, under section 452 of the Act. This section became operative on 22 November 2007.

In the course of its 2008 consultation process the Tribunal received a number of approaches to establish different remuneration levels, or an additional allowance, to Councillors appointed to the role of chairperson of a committee or portfolio.

Persons making such submissions generally argued that chairpersons of committees and portfolios carried an additional workload responsibility over and above other members of Councils. They indicated that chairpersons were often called upon at short notice to deal with matters relating to their portfolio and also had greater responsibilities because they were the first point of contact for parties who wished to raise issues relating to that portfolio with the Council.

However, a comparable number of Councils or persons who expressed a view about this issue did not support the payment of any additional remuneration. This was for a variety of reasons including: the nature of the structure adopted within that particular Council; the fact that the committee memberships and chairpersons' roles, respectively, were spread equally across all Councillors; the view that while chairpersons might be the primary point of contact in Council relating to a particular issue other Councillors were still required to be equally abreast of issues relating to that portfolio if they were to properly participate in Council discussions and/or community consultations; and, the perceived minor difference in responsibility associated with participating in a committee compared to performing the role of chairperson.

Questions asked by Tribunal Members during the visitation and consultation process also established there was a large number of different systems in place, with some Councils having adopted a committee structure, others having adopted a portfolio structure, others having a hybrid system, others having standing committees and advisory committees, while others had no structure at all.

Some Councils also only had 4 or 5 committees or portfolios while others had more than 20, resulting in considerable differences in workload and/or responsibility between different members/chairpersons. Accordingly, in order to better understand the overall situation, the Tribunal conducted a survey of the 72 Councils within its jurisdiction. The results confirm the Tribunal's assessment about a lack of any apparent consistency, as follows:

Number of Councils with committee structure (includes Advisory Committees)	26
Number of Councils with portfolio structure	13
Number of Councils with combined or hybrid structure	9
Number of Councils with no structure	20
Number of Councils who did not respond	4
Total	72

After having considered the information provided to it during the various deputations and visits conducted, as well as the information contained in the above table, the Tribunal has (again) elected not to specify any additional level of remuneration to be paid to persons who might be appointed to a committee or to the role of chairperson of a committee or portfolio.

Rather, the Tribunal remains of the view that the best place at which any decision might be taken to differentiate the remuneration levels of committee members and/or chairpersons is by discussion in each Council, when the particular circumstances applicable to that Council can be considered. For example, the Tribunal is aware that within the Logan City Council and Gold Coast City Council, respectively, a decision has already been taken to provide different levels of remuneration for chairpersons of committees/portfolios compared to the remuneration level paid to those members of Council who do not hold such a role. The Tribunal believes that such distinction is appropriate given the particular circumstances of those two Councils.

In the Tribunal's view, individual Councils are best placed to understand, and to quantify, the different workload involved in chairpersonship and/or participation in different committees/portfolios within the overall structure determined by Council. If, as a result of such consideration, Council is of the view that different levels of remuneration are warranted between different members of Council, then it is in a better position to make that assessment than is this Tribunal. The minimum and maximum levels of remuneration established within each category provide ample scope for Councils to make this type of decision, if they so desire.

Full-time versus part-time capacity of Councillors

Pursuant to section 250A1(c) of the *Local Government Act 1993*, the Tribunal is required to consider whether Councillors hold office on a full-time or part-time basis. As noted last year by the Tribunal, the *Local Government Act 1993* is silent about the matter. Meeting all of the legislative requirements a Councillor is required to observe may not necessarily make the Councillor's role a full-time one. However, a Councillor's role includes underlying work such as meeting preparation and research, conducting inspections, receiving deputations, and so on, that may move the role into a full-time capacity for a number of Councillors.

Information provided to the Tribunal during this year's round of deputations and visits has established that virtually every Councillor elected to a category 6, 7, 8 or 9 level Council is working in their role on a full-time basis. Depending on the Council concerned, and the nature of issues presently before such Council, a large number of Councillors in category 5 Councils are also either working full-time or very near to full-time (greater than 80%) on Council-related activities. This level of involvement accords with the Tribunal's assessment when it established remuneration levels for each of those categories of Council in 2007.

The amount of time being spent by Councillors in Councils categorised as Special or 1, 2, 3 and 4 varies from Council to Council, and often depends upon the amount of time each Councillor is prepared (or is able) to devote to their role, or feels that they have to devote to their role to meet community expectations. For Councillors in Councils categorised at levels 3 and 4 the time commitment averages 2-3 days a week, although this is usually (but not always) spread unevenly across the week. For Mayors the time commitment is considerably more, in some cases causing the role to virtually become full-time. Again, this accords with the Tribunal's expectations.

Even then Councillors in all categories can still be contacted at all times of the day and night by constituents. As the Tribunal observed last year, even if their workload may not require them to work full time, performing the role of a Mayor, Deputy Mayor or Councillor requires full time commitment. The onerous demands placed on Councillors is exemplified in a submission sent to the Tribunal by the Senior Corporate Governance Officer of the Fraser Coast Regional Council, a category 5 Council, as follows:

"... the level of commitment required of a Councillor to effectively discharge their roles and responsibilities under the Local Government Act and to adequately represent the community undoubtedly has an impact on Councillors' personal and family lives. The expectations that are placed on Councillors by their constituents require a 24 hour, 7 day commitment and this should be recognised when determining remuneration levels.

The degree of fragmentation and spread of official Council duties which are undertaken by Fraser Coast Councillors also makes it difficult to maintain other interests outside their public lives. A Councillor's average day may include attendance at Council chambers in the morning at 9.00am, various committee meetings throughout the day followed by attendance at community meetings in the evening. In between meetings, Councillors are called upon to acknowledge the concerns and aspirations of the community, undertake discussions with various regulatory bodies, and interact with developers, staff and other levels of government. The job of Councillor is an all-encompassing one where time is constantly in demand from various quarters."

Irrespective of the category of Council concerned, the amount of time spent by an individual Councillor on Council-related duties is a matter for that Councillor to decide in consultation with the Mayor and/or other Councillors. In one particular instance a Councillor in a category 5 Council informed the Tribunal that they were required, because of obligations associated with their usual professional occupation, to practice in their occupation for at least one day each week if they were to maintain their credentials. Working in their usual professional role for one day a week would still enable that Councillor to meet the workload expectations which the Tribunal had in mind when it established remuneration levels for the category of Council concerned. However, whether the Councillor concerned is meeting the expectations of the electorate is a matter to be decided at the next Local Government elections, scheduled for 2012.

Council staffing issues

A number of Councillors with whom the Tribunal met voiced concern that their efforts to better progress many of the issues confronting them, especially those arising from amalgamation, were being restricted (in some cases even hamstrung) because of the loss of many senior staff following amalgamation through redundancies and resignation.

However it eventuated, the loss of such senior staff, with the associated loss of corporate knowledge, has adversely impacted on the decision-making capabilities of a number of Councils. As a result, a number of Councillors have been required to undertake more research than might otherwise have been required because the staff members who had knowledge about a particular matter or issue are no longer employed by Council.

For obvious reasons, the Tribunal is not prepared to consider the extra time Councillors might be expending in re-gathering this lost information in its assessment of appropriate remuneration levels.

However, on a different point entirely, the vast majority of Councils with which the Tribunal met expressed their very great concern at the current shortage of qualified town planners within the Local Government sector. Several Councils expressed the view that many important and/or strategic developments within their Council area were being held up because there were insufficient town planners to assess the relevant planning applications.

In addition to making this point about the shortage of town planners, several Councils also indicated that individual planning applications were being brought before the full Council for its consideration in circumstances where those applications would previously have largely been determined by Council staff. This was because there were insufficient staff to progress the applications and the matter was deemed important enough to bring it before the full Council for its consideration, rather than leaving it to be assessed by staff through the routine arrangements. Councils in this position invited the Tribunal to consider the extra responsibilities, and workload, involved in undertaking such assessments.

Notwithstanding the additional workload which might be being placed on some Councillors in some Councils, the Tribunal has decided not to make any special adjustment in remuneration levels to take account of this issue. This is for three reasons. Firstly, it would require a detailed consideration by the Tribunal to identify which Councils might be so affected, as well as identify the nature and degree of the input Councillors might have into the overall approval process. Secondly, the Tribunal has taken this type of issue into consideration in categorising individual Councils and setting appropriate remuneration levels within those categories. Thirdly, the involvement of a particular Council in the overall planning process might ebb and flow, or be transitory, depending upon the engagement and/or departure of town planners from its employ. All of these factors mitigate against the Tribunal establishing an identifiable component in the overall remuneration level, or additional remuneration by way of a separate payment or allowance. The preferred approach is to adopt a global assessment of remuneration levels, taking into consideration the normal duties of a Mayor, Deputy Mayor or Councillor within the respective categories, noting that there are ebbs and flows in the demands and responsibilities associated with the performance of the role over time.

Affordability

Surprisingly, a number of individual Councillors from Indigenous Councils who met either formally or informally with Members of the Tribunal, as well as a number of members of the public, are of the belief that the remuneration levels determined by the Tribunal are funded either by the Tribunal itself or by the State Government, rather than having to be funded by Councils from their own revenue streams.

This causes the Tribunal to have some concerns about the issues individual Councillors might have considered at the time they determined an appropriate level of remuneration within the ranges set by the Tribunal. Indeed, several Indigenous Councils have elected to adopt the highest level of remuneration permissible in circumstances where the Tribunal questions the ability of some of those Councils to afford those levels of remuneration on an ongoing basis.

Accordingly, the Tribunal wishes to emphasize that the remuneration ranges it determines for each role within each category of Council establishes both the minimum and maximum amounts that can be paid, and that Councils have the ability to set a rate somewhere between the two figures. Some Councils seem to have focused on the upper range as if it were **the** rate of remuneration which must be paid, without appearing to have considered the issue of affordability as deeply as one might reasonably have expected.

However, as the Tribunal noted in its 2007 Report, it would be a meaningless exercise for the Tribunal to attempt to set levels of remuneration for each of the 72 Councils within its jurisdiction by closely examining all of the relevant criteria it is required to consider, including affordability. In the Tribunal's view, the appropriate course for it to take is to determine a reasonable number of categories of Council and to establish rates of remuneration which properly remunerate Councillors for the time and effort they expend, as well as the responsibilities they assume. It is then up to individual Councils to make an assessment of the appropriate remuneration levels to adopt within that range having regard to that Council's particular circumstances. It is reasonable to assume that in making such decision the Councillors concerned would place the issue of affordability as one of the highest, if not the main, points in their list of relevant issues to consider.

The Tribunal encourages all Councillors, and Chief Executives who might provide guidance to Councillors, to carefully consider the issue of affordability each time they might be called upon to make any determinations about the level of remuneration for Mayors, Deputy Mayors and Councillors, respectively.

Further, given the level of attendance at Council meetings in some Councils, as reported to the Tribunal during its deputation and visitation program, the Tribunal would encourage more Councils who are experiencing such issues to consider the introduction of a base rate and meeting fees approach to the payment of remuneration.

Councillor expenses and facilities

The Tribunal notes that the definition of remuneration was removed from the *Local Government Act 1993* through the *Local Government and Industrial Relations Amendment Act 2008* on 6 March 2008. While the term *remuneration* includes *recompense for losses*, it should be noted that the Tribunal is precluded from considering the reimbursement of expenses or the provision of facilities to a Councillor by a Council in its determination because of section 250AK(2) of the *Local Government Act 1993*. Section 250AK(2) provides that the Tribunal must not include any amount for expenses to be paid or facilities to be provided to Councillors that are provided for under a Council's Expenses Reimbursement Policy, which is established under section 250AR of the *Local Government Act 1993*.

The Terms of Reference provided to the Tribunal by the Minister (see Figure 2 above) recommend that the Tribunal consider the Departmental guidelines for the Expenses Reimbursement Policy. The Tribunal notes that the Director-General of the Department of Local Government, Sport and Recreation amended the guidelines in July 2008 and that they now provide four principles that Local Government must meet when developing their Expenses Reimbursement Policies, instead of the former mandatory limits set for Councillor expenses and facilities.

During the Tribunal's 2008 consultation program, several Councils commented on the confusion they were experiencing with the new Expenses Reimbursement Policy process. Some Councillors indicated they were paying certain expenses out of their own pocket because of their interpretation of what is now claimable under the Expenses Reimbursement Policy. Notwithstanding the legislative bar to its consideration of this issue, many of these Councillors nonetheless petitioned the Tribunal to consider Councillor expenses and facilities in its determination of remuneration levels.

A number of other Councillors raised the issue of not being compensated for out-of-pocket expenses associated with their attendance at functions and the like. They said that due to the nature of their roles they were required to attend many functions where it was expected they would purchase raffle tickets or donate money towards a charity. Given the high number of these functions they were expected to attend, the cost associated can be quite considerable. Councillors therefore petitioned the Tribunal to consider these added expenses when making its determination.

Some Councillors also raised the issue of being out of pocket for campaign costs and not being able to claim for these expenses when they lodge their annual return to the Australian Taxation Office. These Councillors also petitioned the Tribunal to take this into consideration when determining Councillor remuneration.

The Local Government Association of Queensland (LGAQ) supplied the Tribunal with a copy of a letter it sent to the Honourable Warren Pitt MP, Minister for Main Roads and Local Government, on 22 September 2008, which provided details about a resolution made at the LGAQ Annual Conference in Cairns in September 2008 about these matters. The resolution, put forward by Gold Coast City Council, asked the Minister to amend the *Local Government Act 1993* to allow the Local Government Remuneration Tribunal to establish an expenses of office allowance, or similar, for Local Government representatives. This resolution was adopted at the conference (Resolution Number 9).

A number of Councillors took the above resolution even further by arguing that because their remuneration levels were based on a percentage of the remuneration level for a State Member of the Legislative Assembly (MLA), their total remuneration packages should also be based upon a percentage of an MLA's package, including expenses and allowances. Such Councillors argued that they were representatives of the electorate, albeit at a different tier of government, and were expected to undertake equivalent duties to MLAs and, in doing so, incurred comparable expenses.

A significant number of the Councils which the Tribunal met with, especially the smaller and middle sized Councils, expressed a view that they would prefer the Tribunal be responsible for setting guidelines regarding expenses, expense reimbursement and provision of facilities, as opposed to being required to set such policies themselves by utilising the policy guidelines issued by the Director-General of the Department of Local Government, Sport and Recreation. In expressing such view, they indicated that they did not have the resources to develop their own policies but, even if they did, were still of the strong belief that policies set by an independent body, such as the Tribunal, would be more transparent and acceptable to the community, at all levels. Larger Councils, however, were happy to set and adopt their own policies, subject to their ultimate approval by the Director-General of the Department of Local Government, Sport and Recreation.

At the end of the day, the Tribunal has decided to await the outcome of the Minister's consideration of LGAQ's request (above), as well as the finalisation of the present *Local Government Bill 2008*, before further considering any of the matters concerning expenses etc. canvassed with it by stakeholders. The issue is one which has attracted a lot of discussion and comment within Local Government and the media, and the Tribunal thinks it preferable to await the final form of the proposed new legislation before making any firm decisions, one way or the other, about how to approach this whole issue.

In the meanwhile, if any Council, Councillor or member of the public has any firm views about whether the Tribunal should be empowered to look at the issue of expenses or provision of facilities and the like, they should make those views known to the Minister for Main Roads and Local Government, and/or organisations such as the LGAQ or the Local Government Managers Australia.

Rapid development in certain Local Government areas

A number of the Councils with which the Tribunal met, or visited, highlighted the rapid development which was occurring in their Local Government area. Such Councils included Ipswich City Council, Dalby Regional Council, Logan City Council and Townsville City Council.

Several of the Councils indicated that while the nature of the development activities was readily apparent, and was reflected in such things as capital expenditure, it was not always reflected in data showing current population levels, which appeared (to them) to be one of the major criteria considered by the Tribunal in its 2007 Report. In this respect, it was suggested that Councillors were spending considerable time, effort and focus on issues which might not become apparent for a number of years, even decades.

The relevance of the current workload of Councillors to the achievement of future prosperity, which is not always reflected in current data and other material considered by the Tribunal, was highlighted in the submission of the Chief Executive Officer of the Ipswich City Council, as follows:

“(The forecast) attached to this Submission is an indicator of the future growth that can be expected in Ipswich as part of the significant population growth anticipated in the South East Queensland region. These forecast figures predict that in the median series of figures the Ipswich City Council area will grow at an average of 4.6% per annum over the next two decades and more. This, in itself, is a significant ongoing challenge and opportunity for the Council recognising the continued population growth and issues that accompany the ongoing expansion of the residential and industrial footprints.

The predicted growth sees the Ipswich City Council area growing to something in the order of half a million people over the next two decades. While this growth is future growth this produces a compelling need for the current Council to make significant and strategic decisions that will prepare the area for that growth. It is extremely important that Council makes the right decisions at the right time to be able to set up the Council infrastructure and service delivery platforms that will be able to accommodate that growth. It is, therefore, Council’s contention that the key aspects of growth that face the Council are the aspects of decision making that need to be done today, not in the future.

....

Council has estimated that over the next twenty years (it) will need to deliver something in the order of six billion dollars worth of infrastructure to accommodate growth. There are two key areas that Council is (currently) focussed on, firstly, water and sewer infrastructure and secondly, road infrastructure.

Dalby Regional Council indicated that the population figures produced by the Australian Bureau of Statistics and the Department of Infrastructure and Planning did not record the many itinerant workers accommodated within the Region who were working on major infrastructure projects. These workers utilised a large range of Council facilities and required higher than normal servicing from Council, at all levels - from the Mayor downwards. This included: the approval processes for the construction and ongoing monitoring of work camps to make sure that they did not adversely impact upon the community generally; provision of additional water and sewerage facilities to such camps; increased heavy vehicle usage on Council roads; upgrade to the local airport to allow larger commercial airlines to land, and so on.

An October 2006 report on population levels in the Bowen Basin, prepared by the (then) Department of Local Government, Planning, Sport and Recreation highlighted the size of the drive-in/drive-out or fly-in/fly-out workforce. The report disclosed that there were 10,763 non-resident workers living in non-private accommodation across the (then) 9 Shires in the Bowen Basin, compared to the estimated 69,200 residents living in the area at the time of the survey. While the number of workers for the Surat Basin has not been surveyed, the Dalby and Roma Regional Councils, respectively, estimate that there are between 4,000-4,500 non-resident employees working on development or construction projects within those two Council areas.

The Tribunal has used submissions such as these, in conjunction with what it saw and was told during its consultation and visit program, to closely re-examine the category of a number Councils. More detail about the overall review of categories is contained within Section 7.

Workload of Mayors

In making its 2007 determination, the Tribunal made a considered assessment of the likely workload of Mayors in each of the 10 categories of Council it established and determined an appropriate level of remuneration in each category based upon such assessment.

The current round of meetings and visits has enabled the Tribunal to review the workload levels, as well as the responsibilities, of Mayors in each of the categories previously established.

As a result of that review the Tribunal has arrived at the conclusion that its 2007 assessment of the likely workload of Mayors in Councils categorised at levels 3, 4, 5 and 6 underestimated the demands associated with the performance of the role in those categories of Council. Accordingly, the Tribunal has revisited the range of remuneration levels established for each of those categories and increased them slightly (by 5%) to better accord with its (fresh) assessment of what constitutes an appropriate level of remuneration having regard to the demands of the role. The Tribunal has made a consequential adjustment to the minimum level payable to a category 7 Mayor.

In making such adjustments to the remuneration levels of some Mayors the Tribunal has been conscious to exclude consideration of any additional workload component which might be directly linked to amalgamation issues, because that additional workload has been previously recognised in the amalgamation loading established as part of its 2007 Report. Although the maximum remuneration levels available to Mayors in categories 3, 4, 5 and 6 will increase, the Tribunal has decided not to alter the originally determined quantum for the amalgamation loading. This is because, while calculated by reference to the mid-point of the previously determined remuneration range, the amalgamation loadings, payable over a 4 year period, were established as fixed monetary amounts not subject to change, even in circumstances where remuneration levels might alter.

The Tribunal has also adjusted the maximum level of remuneration available to Mayors in the Special category of Councils to align it with the new maximum amount available to Mayors in category 3 Councils. The particular reasons for this adjustment are set out in Section 6, below. (The Tribunal has also made a similar adjustment to the maximum remuneration level for Deputy Mayors in Councils in the Special category of Councils to align it with Deputy Mayors in category 3. Again, the reasons for this are recorded in Section 6).

Role of Deputy Mayors

Several Councils queried whether the remuneration levels payable to Deputy Mayors were to be increased, under some "mixed function" or "higher duties" provision, in circumstances where the Deputy Mayor was required to perform the duties otherwise performed by the Mayor. This included circumstances where the Mayor may have been absent from the Council area for a period of time, including on Council business, sick leave or recreation leave.

Several Deputy Mayors also indicated that the demands placed on them when they were covering the Mayor's absence were considerably in excess of those they were normally expected to carry. Because of this, they requested the Tribunal to make a determination that they were entitled to receive an increase in their established level of remuneration, to the same level as the appropriate Mayor in the category to which that Council was assigned, whenever they were called upon to relieve the Mayor.

Although it was not stated as clearly in the Tribunal's 2007 Report as it might have been, it was always the intention of the Tribunal that the amounts determined for Deputy Mayors in each category of Council were designed to include circumstances where the Deputy Mayor would be called upon to relieve the Mayor. While the actual requirement might vary from Council to Council, depending upon the circumstances - including remoteness and the like - the Tribunal is of the view that the additional amount payable to Deputy Mayors above and beyond that payable to Councillors adequately compensates Deputy Mayors for the additional workload and responsibility they are sometimes called upon to perform, including covering absences of the Mayor.

That having been said, provision exists under section 250AL of the *Local Government Act 1993* for a Council to make special application to the Tribunal requesting permission to be allowed to pay a Deputy Mayor increased remuneration in circumstances where, for example, a Mayor becomes indisposed and the Deputy Mayor is required to assume the Mayor's role for some significant period of time. Equally, if Council is of the view that the Deputy Mayor is being called upon to perform the role of the Mayor for consistent and/or frequent periods, it is open to that Council to make a similar application under section 250AL. Should any such application be made, the Tribunal will consider it on its merits.

Community feedback

Although no members of the community asked to meet with the Tribunal, 21 members of the community lodged written, on-line or telephone submissions. Details of who made these submissions are recorded in Appendix B.

The submissions canvassed a variety of topics and covered such points as:

- Councillors were entitled to receive payment in line with those applying in private industry if they demonstrated the same level of expertise required in that sector.
- Councillors who worked in other roles should not be entitled to receive the “full-time” remuneration determined by the Tribunal.
- The Tribunal should set Councillor expense entitlements. It was wrong that they be allowed to “double-dip” by receiving motor vehicles, mobile telephones and laptops.
- Councillors were grossly overpaid and if their salaries were halved it may give rate payers better value for money.
- Too many Councillors are taking on the role because of the high salaries on offer. Gone are the days when Councillors took on the role to contribute to the community.
- The Local Government Remuneration Tribunal should be axed after setting remuneration levels for Councillors at the start of each four year term. The maximum rate for (the level 7 Council concerned) should be 75%, 90% and 100% of the rate for an MLA for a Councillor, Deputy Mayor and Mayor, respectively.
- The comparison with State Members' salaries is good. However, the salary levels chosen should be 15% lower than the current levels.
- There should be restrictions limiting payment to public servants elected to Council. There should be no double payment involved.
- If residents are paying professional salaries they have a right to expect professional people. There are no professional people in the Council concerned but “four of them have become millionaires during their tenure”. The Councillors enjoy the proverbial “life of Riley”, working the hours they like and coming and going when they please.

All of the material contained within the 21 submissions from members of the public has been considered by the Tribunal in arriving at its determination.

SECTION 6 – A SPECIAL CASE - “INDIGENOUS” COUNCILS

In its 2007 Report the Tribunal decided to establish a Special category covering those Councils it described as the “17 Indigenous Councils” as well as Cook Shire Council. In the course of making its decision the Tribunal referred to two (2) submissions (p32) about the particular difficulties facing Councillors in Indigenous communities, as follows:

The different types of issues faced by councillors in Indigenous communities were highlighted by a number of submissions. One submission from a body representing local government managers commented ‘... Indigenous Councils’ size is not necessarily the measure (of responsibility) -- Indigenous councillors may have different and more expansive roles than mainstream councillors depending on a range of community factors.’ Another submission stated that while Indigenous Councils do not have the population of large Councils, ‘... they do have far greater responsibility than small to medium mainstream Councils and are required to deliver many more services, including some they are not funded for. It must be noted that in Indigenous Councils, the councillors are the representatives of the people in all facets, including education, health, policing, childcare, aged care, sole housing provider, disability services, food store, service station, workshop, roads, sports and many others, and that government representatives from all spheres of government meet with Council and expect Council to act as agents on (the community’s) behalf.’

The Tribunal also decided to conduct further investigations into the peculiar, and unique, issues confronting Indigenous Councils in the course of preparing its 2008 determination. In line with that decision the Tribunal visited and/or held deputations with a significant number of Aboriginal and Torres Strait Island communities (see the full list of places visited and Councils consulted in Section 4 (above) and in Appendix A).

In the course of the Tribunal’s visitation program one Council raised its serious disquiet at the fact that the Tribunal had chosen to describe the category into which it had placed all Indigenous Councils and the Cook Shire Council as “Special”, describing the term as “insulting”. In naming the additional category as “Special” the Tribunal had not intended to offend any Council and/or any individual. It adopted the term because it believed that the unique and very different circumstances applying to elected representatives in the twelve (12) Aboriginal Shire, four (4) Shire and two (2) Regional Councils concerned required that they be given special consideration, hence the origin of the title “Special”. However, if the use of the term Special has offended, then the Tribunal offers its sincere apologies.

Nonetheless, the Tribunal believes there is still a need for a special and distinct category covering the 12 Aboriginal Shire Councils, the Aurukun, Cook, Mornington and Torres Shire Councils, together with the Northern Peninsula Area and Torres Strait Island Regional Councils, respectively. This is because of the vastly different range of issues dealt with by those Councils *vis a vis* other Councils. The nature of the different issues the Mayors, Deputy Mayors and Councillors within such Councils are required to deal with on an ongoing basis are highlighted below.

Social disadvantage

At its meetings with several Aboriginal Shire Councils, the Tribunal was made aware of a Report issued by the Australian Bureau of Statistics which compares the relative social and economic conditions of cities, towns and suburbs across Australia. This Report lists the most disadvantaged areas in Australia and shows that out of all the local areas in Australia, the following Queensland areas are the most disadvantaged (listed in order of social disadvantage as shown in the ABS Report):

- 3 Yarrabah
- 4 Palm Island
- 7 Kowanyama
- 8 Napranum
- 11 Umagico
- 12 Cherbourg
- 13 Boigu
- 15 Injinoo
- 20 Wujal Wujal

Alcohol Management Plans

Through Queensland's Office of Liquor, Gaming and Racing (OLGR), an Alcohol Management Plan has been introduced to control the amount of liquor available in many Indigenous communities. Part of the new plan is to reduce the amount of alcohol consumed in such communities. To that end, Indigenous Councils have been asked to develop initiatives which range from becoming completely dry to restricting the amount of alcohol which can be brought into, and consumed in, communities.

Legislation has also been enacted to prevent Local Governments from holding a general liquor licence, which means that Indigenous Councils which previously did so can no longer run canteens. The affected Councils are working with OLGR to provide alternative methods for alcohol consumption in Indigenous communities, such as a sports club taking over the licence. Each Indigenous Council has a deadline by which they must implement the transitional arrangements. The Tribunal understands that the canteens controlled by the Mornington Shire Council and the Napranum Aboriginal Shire Council were closed and the licences cancelled on 1 July 2008. The general liquor license held by the Lockhart River Aboriginal Shire Council was surrendered on 1 November 2008 and the licenses held by Aurukun and Kowanyama Councils, originally scheduled to also be surrendered on 1 November 2008, are pending a decision following legal proceedings in the Supreme Court. Other Indigenous Councils will have their licences cancelled on the following dates:

- 1 December 2008 - Palm Island and Pormpuraaw Aboriginal Shire Councils
- 31 December 2008 - Northern Peninsula Area Regional Council (Umagico)
- 31 December 2009 - Torres Strait Island Regional Council

On 7 November 2008 the Minister for Aboriginal and Torres Strait Islander Partnerships, the Honourable Lindy Nelson-Carr, announced the introduction of even further alcohol restrictions, commencing on 2 January 2009, for the communities of Hope Vale, Yarrabah, Doomadgee and Pormpuraaw. These will restrict, or totally ban, the amount and/or types of alcohol permitted into such communities.

A number of Councils with which the Tribunal met indicated they were heavily involved in negotiating the above arrangements and the establishment of the related detoxification and other social and healthcare assistance into (or near) their communities to assist residents who will be forced to cope with the new regime. Mayors in particular, have been required to participate in meetings with the Queensland Premier and/or senior Ministers about these matters. These meetings include participation in the Ministerial Indigenous Round Table, amongst others.

The new alcohol management initiatives have not been embraced by all residents in all Indigenous communities. Because of the lack of regular police officers in most Indigenous communities the responsibility for enforcement of the new provisions will reside with the relevant Councils. This has necessitated Councillors, especially Mayors, to work very hard within their communities to have the new alcohol restrictions adopted. The Queensland Government's expectation that Mayors will play a leading role in the introduction of the new alcohol restrictions is exemplified in the statement of the Honourable Minister Nelson-Carr of 7 November 2008, in which she stated *"we recognise... that harm reduction can only be sustained where there is ownership and leadership within the communities ... I expect that the Mayors (will) show leadership and make some tough decisions in order to provide improved outcomes for their communities."*

Community Justice Groups

In response to recommendations made by the Royal Commission into Aboriginal Deaths in Custody, the Queensland Government initiated the Community Justice Group (CJG) strategy. The Tribunal notes that under the *Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Regulation 2008* there are currently CJGs established for all of the Indigenous Local Government areas with the exception of the Torres Strait Island Regional Council. The governance of a CJG's Membership is different for each Indigenous community and is set out in the regulation. The regulation provides that a person is eligible to be a member of the justice group if the person is a member of a main Indigenous social grouping and, in some cases, is living in the relevant Local Government area and, in other cases, has been living in the specified Local Government area for a minimum of five years.

The Tribunal notes that the legislated governance arrangements for seven of the 19 CJGs that currently exist require the Local Government in the relevant area to nominate either one, or in some cases more, representatives to be members of a CJG. Members of a CJG are required to take part in hearings, sentencing and bail processes, establish networks with relevant criminal justice agencies to ensure the justice-related needs of Indigenous communities are met, and to support individuals who are participants in criminal justice matters.

The Tribunal also appreciates that even in Indigenous communities where a Councillor is not legislatively required to be a member of a CJG, Councillors are often assigned the role, because of their standing within the local community.

Family Responsibilities Commission

Some Indigenous Councillors advised the Tribunal that with the establishment of the new Family Responsibilities Commission (FRC) by the State Government, they anticipate their workload will increase in 2009. The FRC was established to assist communities to restore socially acceptable behaviours and to ensure that the proper standard of care is provided to all families living within the community. Aurukun, Coen, Hope Vale, and Mossman Gorge have agreed to be trial communities for the initial operation of the new initiative. This has added to the workload of Councillors in Councils in which those communities are located, especially the Mayors.

As the *Family Responsibilities Commission Act 2008* provides that one of the aims of the Commission is to restore local authority within a welfare reform community, it is anticipated that the relevant Councils will work closely with the FRC to achieve the aims of the Commission. It is also expected that the provisions of the legislation will also be progressively extended to other Indigenous Councils/communities.

Community housing

With very limited exceptions, all of the housing provided within Indigenous communities is community owned. This means that the Council is responsible for assigning families to particular houses, collecting the rents from those persons and making sure that the property is maintained in good order. The Council is also responsible for the control of waiting lists and the ultimate determination of which families will be assigned to which houses.

This responsibility often attracts unwelcome attention in that members of the community often complain to Councillors, *inter alia*, that the house they have been assigned is inappropriate for their needs or another family has been assigned to a particular property instead of their own. Not infrequently, Councillors are approached in the course of their normal activities by residents and are required to explain and/or defend decisions taken by Council in circumstances where the person to whom they might be talking might be upset, emotional or angry about the decision. In addition, because of the Councillor's role and a number of cultural issues, some Councillors are also required to attempt to collect overdue rent from community residents.

The scale of community housing provided by Councils is often considerable, frequently running into many hundreds of homes (in excess of 1,000 in the case of the Torres Strait Island Regional Council).

None of the above responsibilities, functions and tasks is easy to perform in a close-knit remote community and often places Councillors in an unenviable position.

Lack of rate base

Because the vast majority of residential property in Indigenous Councils is community owned, Councils have a very limited ability to generate income by the levying rates. Properties owned by Government agencies are generally exempt from paying rates and there are very few, if any, commercial enterprises operating in the great majority of such Councils.

Consequently, Councils have very limited ability to generate income to provide community services, or services they are expected by Government agencies to provide (see below). The majority of income available to Councils in this category comes from either the State or Commonwealth Government, in the form of general or special purpose grants.

The lack of adequate financial resources places great strain on the capacity of many Councils to meet the reasonable expectations of their constituents. This places enormous, ongoing, pressure on Councillors (especially Mayors) whenever they are asked to explain why the Council is not undertaking certain tasks or providing certain facilities which community members expect.

Visits by government agencies

Many of the Councillors in Councils in the Special category who the Tribunal met with expressed concern about the number of State Government agencies which were visiting them, often unannounced or with very short notice provided, and which expected to meet with the whole Council. Councillors advised that because many of these meetings were at relatively short notice it was not always possible to have the full Council present.

The Councillors also commented that they were often called upon to provide information at these meetings, in circumstances where they had already provided the same information to another agency just days or weeks before. Councillors advised that having to attend the many meetings called by State Government agencies was taking them away from conducting their normal role as Councillor.

Lack of facilities and services

Councillors also expressed concern that many State and Commonwealth Government agencies did not provide facilities and/or services in their communities but still expected the Council to take responsibility for delivery of their programs. This meant that individual Councillors had to have a good working knowledge of a large number of government programs in order that they might inform community members about their entitlements/obligations as well as assist them to complete any paperwork associated with accessing those agencies' services. Councillors complained that none of these services were sufficiently funded by the relevant State or Commonwealth Government agencies which, nonetheless, still expected the services to be provided. Councillors said that assuming such responsibilities and obligations required careful financial management because it placed a strain on limited community resources, and required a significant input of time by themselves.

The Mayor of Torres Strait Island Regional Council indicated that the remoteness of the 15 communities within that Council area, and their separation by water, meant that essential services were difficult to provide. As such, the community relied very heavily on the Local Government to provide services, operate businesses and carry on other government agency functions to ensure that the residents were not disadvantaged. This included provision of petrol bowsers, banking services, postal services and so on. Many other Indigenous Councils provided similar services or facilities within their communities.

Several Councils indicated they were expected to take responsibility for maintaining and servicing generators owned by electricity suppliers which were reluctant to send their own technicians to the community concerned because of cost and time considerations. While the Councils received some compensation for doing this it did not involve full cost recovery.

Deed of Grant in Trust (DOGIT) land

Aboriginal Deed in Trust (DOGIT) land is State land granted in fee simple in trust by the Governor-in-Council under the *Land Act 1994* or the *Land Act 1962* (repealed) for the benefit of Aboriginal inhabitants or for Aboriginal purposes. The *Community Services (Aborigines) Act 1984* established Aboriginal Community Councils as the Local Government authority for Aboriginal DOGIT land. The Minister administering the *Land Act 1994* appointed the Aboriginal Community Councils to also be the Trustees of Aboriginal DOGIT land.

From 1 January 2005, Aboriginal Community Councils began to transition to Aboriginal Shire Councils, with their roles and responsibilities set out in the *Local Government Act 1993*. The Minister administering the *Land Act 1994* appointed Aboriginal Shire Councils to be the Trustees of Aboriginal DOGIT land.

Aboriginal Shire Councils, as well as several other Shire Councils and Regional Councils in the Special category of Councils, therefore have dual responsibilities. Firstly, as a Local Government Authority under the *Local Government Act 1993* and, secondly, as the Trustee of DOGIT land under the *Land Act 1994*, with leasing powers under the *Aboriginal Land Act 1991*. Councillors in such Councils are required to be clearly aware of their separate responsibilities and roles as a Local Government Councillor and as a Trustee of DOGIT land. This may require Councils to adopt the practice of meeting as a Local Government Authority and dealing with Local Government business then closing that meeting and reconvening as the DOGIT land Trustee to deal with Trustee business relevant to the *Land Act 1994* and the *Aboriginal Land Act 1991*.

When performing their role as a Trustee, Councillors are required to be aware of, and comply with, a considerable amount of State and Federal legislation, including the *Native Title Act 1993 (Cth)*, *Integrated Planning Act 1997*, *Forestry Act 1959*, *Mineral Resources Act 1989*, *Petroleum Act 1923*, *Aboriginal Land Act 1991*, *Wild Rivers Act 2005*, *Vegetation Management Act 1999* and the *Aboriginal Cultural Heritage Act 2003*.

Native Title – having to establish ILUAs

The Commonwealth *Native Title Act 1993* provides for Indigenous Land Use Agreements (ILUAs) between native title holders or claimants and other interested parties about how land and waters in the area covered by the Agreement will be used and managed in the future. These other parties may include the State Government or a person, or body, wishing to obtain or exercise an interest in the area that is subject to the ILUA.

Some Councillors advised the Tribunal that their workload is impacted by having to negotiate ILUAs as native title rights and interests are generally held by a group or community of people. To settle an ILUA, a Council may be required to undertake comprehensive consultation through a community engagement process. This may involve negotiating with a number of different groups with different interests and/or priorities.

A number of Councils in the Special category of Councils also informed the Tribunal that native title claims had been determined on large tracts of land within those Councils' borders. This meant that the Councils concerned had no, or very little, freehold land under their direct control which meant they had to become involved in direct negotiations with native title representatives and owners, community members and external interest groups if they wished to, for example, build a building or establish a depot on a particular parcel of land. Government agencies also expected Councils to negotiate on their behalf with native title owners where they wished to build a facility in a local community, for instance a healthcare centre. These types of negotiations could often be very involved and time consuming and it was frequently difficult for Councillors to try to explain to government agencies, which might be pressing them for greater progress, about some of the cultural issues involved. All of these things added to the burden associated with performing the role of a Mayor, Deputy Mayor or Councillor in an Indigenous community.

Community forums and land panels

As discussed in section 2 of this Report, Councillors on the Northern Peninsula Area Regional Council and Torres Strait Island Regional Council, respectively, play a role in chairing community forums, which were established under amendments made to the *Local Government Act 1993* in November 2007. As provided for in that Act, a Councillor for the division in which a community forum is established is the chairperson of the forum. The Councillors concerned advised the Tribunal that their role on community forums, along with their other roles, has significantly impacted on their workload.

Cape York Land Council

Some Indigenous Councils reported that their workload included dealing with matters relating to the Cape York Land Council (CYLC). This Council was formed when leaders of 17 Indigenous communities from the Cape York Peninsula came together at a conference in Townsville in 1990 and decided to take collective action by forming the Council to protect the interests of Aboriginal people. The Cape York Land Council Aboriginal Corporation is now incorporated under the *Corporations (Aboriginal and Torres Strait Islanders) Act 2006 (Cth)*, which was enacted in 2007 to replace previous legislation. The Council comprises a chair and a board of 17 members representing each of the communities of the Cape York Peninsula, which includes Indigenous Councils and the Cook Shire Council.

It is the Tribunal's understanding that neither the Chairperson nor the Board members of CYLC are Local Government Councillors. However, the Tribunal notes that the CYLC is involved in 32 Native Title claims made by traditional owners within a number of Indigenous Local Government areas and it is likely that many Indigenous Councils would be involved in helping to resolve these matters.

International treaty

The Torres Strait Island Regional Council indicated it was the only Local Government administering an international treaty, which controlled traditional movements between PNG residents and 14 of its island communities. The terms of the treaty required the relevant islands' Councillor to approve applications lodged by PNG residents, through the Australian Department of Immigration, before those PNG nationals were allowed to travel to the community concerned. A number of Councillors with whom the Tribunal met also indicated that it was their responsibility, on behalf of their local community, to generally oversee the activities of the PNG nationals involved and "move them on" if they overstayed their visit.

In addition, 14 of TSIRC's island communities were also within the restricted zone for quarantine and boarder control for Australia. As such, TSIRC has a greater monitoring responsibility than most other Local Governments.

Community Development Employment Projects (CDEP)

Because of the lack of employment opportunities, as well as current Federal Government requirements concerning entitlement to social security benefits, many Indigenous Councils have assumed responsibility for the conduct and control of Commonwealth funded CDEP Programs. Such Programs are financed by the Commonwealth and allow the local Council to "employ" a defined number of persons on local community development projects. CDEP participants are usually required to work for 32 hours per fortnight in return for a particular payment (in the order of \$700-800 per fortnight).

Travel issues

The vast majority of Councillors with which the Tribunal met complained that the remoteness of their communities made it extremely difficult for them to travel to important meetings they might be required to attend in Brisbane and/or major provincial centres. Mayors, in particular, indicated that they were expected to attend many more meetings with senior government bureaucrats and/or government Ministers than were Mayors of equivalent sized mainstream Councils. The Tribunal observes that this latter statement is undoubtedly correct and has taken it into account in its assessment of the level of remuneration to be paid to Mayors in Indigenous Councils (as well as the Cook Shire Council, whose Mayor is similarly affected). See more about this point below.

Councillors in the Torres Strait Island Regional Council also highlighted the additional travelling time involved in meeting their commitments, because of the remoteness of each island within that Council. They also emphasised that their attendance at regular Council and/or committee meetings often involved them being required to travel by airplane or helicopter the day before a meeting, to Thursday Island or one of the other island communities, and that they were sometimes unable to return to their local community until the day after such meeting. They asked that this travelling time be taken into account by the Tribunal.

After hours callouts

A number of Councillors in remote Indigenous communities highlighted that such communities lacked many facilities and services which would be regarded as normal in the majority of communities in Queensland, for example: Banks, Police, RACQ, SES, Salvation Army, social security providers or service stations. This meant that many Councillors received a knock on the door, at various times of the day and night, from different community members who might be seeking assistance ranging from a loan of money to purchase food, help to settle a family or domestic dispute, assistance to help resolve a conflict between neighbours about loud music or a request to drive 15 to 20kms (or more) outside the town to deliver petrol to, or retrieve, a family whose vehicle might have broken down by the roadside.

In addition, some Councillors explained that it was traditional in their community for the Mayor and/or Councillors to be responsible for gathering community members together so that the death of a relative could be announced to all family members at once, in accordance with traditional practices. Again, such requests for assistance happened at all times of the day and night.

Loans to community members

A number of Indigenous Councils advised that Councillors were now burdened with the issue of not being able to provide loans to members of the community, as they were previously able. These Councils advised that the former loans system helped Council to provide funds to community members to enable them to purchase food and necessities in circumstances of emergency. Because Councils can no longer do this, Councillors are having to deal with calls for help from community members, who might (for example) have run out of supplies for their families, and try to arrange assistance for those people.

Torres Strait Regional Authority

During its consultation with Councillors of the Torres Strait Island Regional Council, Northern Peninsula Area Regional Council and Torres Shire Council, respectively, the Tribunal was made aware that a large number of Councillors within those Councils also hold a position on the Torres Strait Regional Authority (TSRA). The Torres Strait Regional Authority is established as a body corporate with a common seal under section 142 of the *Aboriginal and Torres Strait Islander Act 2005 (Cth)*. A number of the Councillors hold a position on the TSRA because of their position as an elected representative for a particular Island or community within the local Councils mentioned.

The TSRA's functions include protecting the Ailan Kastom of Torres Strait Islanders living in the Torres Strait area, formulating programs to assist the Aboriginal and Torres Strait Islander people living in the Torres Strait area and developing policy proposals to meet Federal, State and regional priorities aimed at helping the community living in the Torres Strait area. The TSRA also advises the Honourable Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, on ATSI matters and undertakes other functions as requested by the Minister.

The Councillor for one of the islands in the TSIRC is the Chairperson of the TSRA and receives a remuneration package of \$216,820 per annum plus a travel allowance of \$263 per overnight stay (comprises accommodation, meals and incidentals) and expenses reimbursement, in accordance with the Commonwealth Remuneration Tribunal's 2008/08 determination (Remuneration and Allowances for Holders of a Full-Time Public Office).

The Deputy Mayor of the Torres Shire Council is also the Deputy Chairperson of the TSRA and receives a meeting fee of \$495 in accordance with the Commonwealth Remuneration Tribunal's 2008/07 determination (Remuneration and Allowances for Holders of a Part-Time Public Office), paid on a pro-rata rate depending on the length of time of each meeting. In addition, the Deputy Chairperson receives a travel allowance and expenses reimbursement on the same basis as the Chairperson.

The Councillors of TSIRC, who are all (with the exception of the Mayor) members of the TSRA, as well as several Councillors from the NPARC, receive a meeting fee of \$366 per meeting, paid on a pro-rata rate depending on the length of time of each meeting. In addition, the members also receive a travel allowance and expenses reimbursement on the same basis as the Chairperson and the Deputy Chairperson. Members of TSRA reportedly attend 4 - 6 meetings per annum.

The dual appointment of a number of Councillors from TSIRC, NPARC and Torres Shire Council to the TSRA has resulted in the situation where, in comparative terms, the remuneration levels being paid to the Mayors of those Councils is significantly undervalued compared to the total rates of remuneration being received by the majority of Deputy Mayors and Councillors in the same region in the performance of their duties as elected representatives. The Tribunal has considered this factor, plus the time involvement and responsibilities being assumed by the respective Mayors, in its assessment of appropriate remuneration levels for Mayors in the Special category of Councils (see below).

Improving the economic viability of communities

Many Councillors reported on initiatives they have established, sometimes in partnership with other organisations, to improve the economic viability of their Local Government area. One example was the tagging of turtles. When a turtle in the Torres Strait is tagged with a micro-chip, a tourist is assigned the code and is able to track the turtle's travels via the internet. This is proving to be a successful strategy in not only boosting tourism within the region but also in sharing knowledge about the Torres Strait's culture and customs.

Another example is a plan to establish a fishing cooperative within the Torres Strait Island Regional Council area to allow local fishermen to sell their produce, especially crayfish, to a single buyer/wholesaler with a view to increasing employment opportunities in the community as well as increasing the economic return from such activities. The Council is investigating the establishment of such an enterprise, to be owned and controlled by Council.

Other Councils are considering employment opportunities available through eco tourism initiatives or carbon offsetting projects.

Councillors employed as staff

At the time of writing its 2007 Report the Tribunal was of the view that under section 226 of the *Local Government Act 1993* a Councillor is precluded from being employed as an employee of the Council to which they might be elected. Because of this belief, and because the employment opportunities within many Indigenous Councils is limited to employment with the local Council, the Tribunal established a reasonably wide remuneration range for Councillors in the Special category of Councils so as to encourage as many qualified persons as possible to make themselves available for elected office.

However, at its meeting with one Aboriginal Shire Council during its 2008 consultation program, the Tribunal was made aware that several Councillors were employed as full-time staff by that Council. Subsequent research undertaken by the Tribunal has established that section 11(2) of the *Local Government (Community Government Areas) Act 2004*, read in conjunction with section 10 of the *Local Government (Community Government Areas) Regulation 2004*, exempts certain Aboriginal Shire Councils from the provisions of section 226 of the *Local Government Act 1993* regarding disqualification from employment by Council on election as a Councillor. This provision does not apply to the new Torres Strait Island and Northern Peninsula Area Regional Councils or the Aurukun, Cook, Mornington and Torres Shire Councils, respectively.

As a consequence of its discovery that one Aboriginal Shire Council had several Councillors who were also employees of that Council, the Tribunal conducted a survey of other Aboriginal Shire Councils to see if the practice was widespread. The results of this survey disclosed that one other Council employs one of its Councillors on a full-time basis while another employs its Mayor for night security work for a total of 12.5 hours per week. In addition, several Councillors were in receipt of CDEP payments for work performed under community employment obligations.

The Tribunal has considered the implications associated with Council employment as it relates to the remuneration range established in its first Report for Mayors, Deputy Mayors and Councillors in the Special category of Councils and makes special observation about this in Section 8 (below).

Remuneration levels for Mayors and Deputy Mayors

Many of the Mayors and Deputy Mayors of Councils in the Special category of Councils that the Tribunal met with highlighted the apparent anomaly that Councillors within those Councils were entitled to a maximum remuneration level equivalent to that of a category 3 Council whereas they were not so entitled. Several Mayors indicated that they were relatively disadvantaged in terms of the remuneration they were entitled to receive *vis a vis* Councillors in those same Councils. This anomaly is readily apparent in the graphs annexed to this Report as Appendices D, E and F, respectively.

Many of the Mayors also stressed the extraordinarily high, and difficult, workload associated with the performance of their role - including many of the elements referred to above - often under difficult and trying circumstances. In addition, the Mayors pointed out the significant amount of time they were required to spend in consultation with senior government Ministers and/or bureaucrats to provide input into, or to negotiate, various pieces of legislation and/or strategies which the Government wished to enact/implement and which concerned their communities.

The Mayors in Northern Peninsula Area Regional Council, Torres Strait Island Regional Council and the Torres Shire Council also highlighted that, in addition to receiving a comparatively higher hourly rate of remuneration than themselves, many Councillors on such Councils were also in receipt of additional remuneration from the TSRA (see above).

Generally, however, the Mayors and Deputy Mayors of Councils in the Special category of Councils who raised this issue indicated that the Tribunal had undervalued their comparative worth, in terms of remuneration, when compared to Mayors and Deputy Mayors of other Councils but, particularly, Councillors within their own Councils.

As a result of its considerable discussion with many Mayors and Deputy Mayors of Councils in the Special category (whether they be Aboriginal Shire Councils, Shire Councils or Regional Councils) the Tribunal accepts that it underestimated the workload and time commitment associated with performing the roles of Mayor and Deputy Mayor, respectively, within Councils classified in the Special category of Councils.

Accordingly, based upon its assessment of all of the circumstances, including the remuneration levels payable to Councillors in the Special category of Councils and the workloads of Mayors of Councils categorised at levels 2, 3, and 4, the Tribunal has decided to align the maximum remuneration levels payable to Mayors and Deputy Mayors in the Special category of Councils with the rates payable to persons occupying equivalent roles in Councils assigned to category 3. This change in remuneration level will, as required by section 250AK(1) of the Local Government Act 1993, apply from 1 January 2009.

In addition to the variation to remuneration levels, and because of the unusual circumstances involved - which includes the significance of the undervaluation of the relative worth of the roles concerned - the Tribunal has also decided to align the amalgamation loading applicable to the two (2) Regional Councils in the Special category of Councils with the amalgamation loading payable to Mayors and Deputy Mayors in category 3. However, the amalgamation loading payable to Councillors in the Special category of Councils will not change from that previously determined. The amounts of the amalgamation loading now payable are shown in Figure 8 below.

Councillor remuneration levels

The Councillors in several Indigenous Councils asked the Tribunal to increase the level of remuneration to which they were entitled to reflect their workload. In doing so they relied upon the types of issues recorded above which, they claimed, justified their remuneration being increased beyond that of Councillors in category 3 Councils with which they were presently aligned.

While Councillors in Indigenous Councils might be called upon to deal with a wider range of issues than might Councillors in category 3 Councils, the number of electors/ residents they service, as well as the financial and other responsibilities involved, is significantly less.

After carefully reviewing the duties, responsibilities and workload of Councillors in the Special category of Councils the Tribunal has concluded that the remuneration level it initially established in 2007 properly reflects the duties and responsibilities involved. The wider range of issues dealt with does not justify any higher level of remuneration than that already determined. In the Tribunal's estimation the alignment with category 3 Councillors was, and remains, appropriate.

SECTION 7 – LOCAL GOVERNMENT CATEGORIES

As noted in Section 5, the feedback from Councils, Councillors and members of the public in relation to the Tribunal's categorisation of individual Councils was generally positive, with the great majority of Councils agreeing with the category to which their Council was assigned. However, a number of Councils and/or Councillors queried the category to which their particular Council was assigned based upon their reading of the economic, demographic and other data contained in the Appendices to the Tribunal's 2007 Report.

Because the requirement to categorise Councils was new, and was first undertaken in 2007, the Tribunal believed it desirable, this year, to again look at the category to which each Council was assigned, especially those which had been queried by Councils and/or Councillors, in order to double check the Tribunal's earlier assessment.

In undertaking this task the Tribunal considered a number of data sets containing statistical information, in accordance with Section 250A1 of the *Local Government Act 1993*. Specifically, the Tribunal considered data associated with each Council's:

- Population, including projected population growths to 2013, 2018 and 2023
- Demographic make-up
- Financial position, including net assets, revenue and expenditure in 2007 and 2008 and projected figures for 2009
- Actual capital expenditure in 2007 and 2008 and projected capital expenditure for 2009
- Total number of staff employed
- Number of rateable properties in each Local Government area
- Number of dwellings in each Local Government area
- Number of development applications received and processed
- Number of building applications received and considered
- Untied revenue (Indigenous Local Governments)
- Drought declared Local Government areas

In addition to this data, the Tribunal also made a formal request to Councils seeking additional information to assist with its 2008 deliberations. This information included:

- The contents pages of the Agenda for each of the last 3 ordinary Council meetings
- Each Council's budget for 2008-2009, and beyond where available
- The internal structure adopted, if any, by Council (i.e. committee or portfolio)

The Tribunal's consideration of this information leads it to conclude that the category previously assigned to every Council within its jurisdiction, with the exception of Ipswich City Council, should remain unaltered.

In the case of Ipswich, the Tribunal gave serious consideration in 2007 to classifying that Council at a higher level but could not justify it based on the data available at that time. However, the Tribunal has considered additional, and fresh, information made available to it by both that Council and other Government agencies which disclosed that the information relied upon by the Tribunal in 2007, especially revenue, capital expenditure, current population and population projections, was understated.

In the area of population growth, Ipswich City Council grew by 17.39% in the 5 years to 2008. In the 5 years 2008 - 2013 it is expected to grow by just under 25% to approximately 200,000. In the following 5 years (2013 - 2018) it is expected to grow by a further 25% to just over 250,000. This massive growth in percentage terms - which no other Council comes near - is reflected in current capital expenditure figures as well as planning and building applications and approvals. In addition, current revenue and expenditure levels place Ipswich well in excess of all other Councils categorised at level 6 and, in several areas, near to or in excess of the levels of Logan City Council, the only category 7 Council.

Upon reviewing the revised information made available to it, together with current data for other category 6 and 7 Councils, the Tribunal has determined to reclassify the Ipswich City Council as a category 7 Council. This re-categorisation will take effect from 1 January 2009.

Although the Tribunal has considered all of the data mentioned above in reviewing the category to which each individual Council has been assigned the Tribunal has decided not to publish that data on this occasion.

This is for several reasons. Firstly, there are gaps in some of the data which, if published in the same form as last year, where Councils were ranked, could lead to some Councils being confused as to their overall ranking. Secondly, a large amount of the material previously published, such as that contained in Appendices D-1 and D-3, respectively, has not altered to any significant extent. Where it has altered it has not affected any particular Council's categorisation. Finally, the Tribunal's experience this year, where individual Councils and/or Councillors queried the categorisation of their particular Council based upon their reading of one or more pieces of data considered by the Tribunal, leads it to conclude it is best advised to only periodically publish the data it considers, rather than annually.

In addition, undue reliance on annual data, especially financial data, can create distortions in the relative position of one Council, *vis a vis* others, from year to year. This is because the income and expenditure statements of many Councils, as well as their capital expenditure projections, may differ substantially from year to year because of unusual "one-off" events or the inclusion of specific purpose grant monies.

While section 250AJ(3) of the *Local Government Act 1993* only requires the Tribunal to review the categories of local government it has established at least every four years the Tribunal, nonetheless, signifies its intention to keep the whole issue of Council categories under annual review, making any adjustments it feels necessary as and when the need arises.

In this respect, the Tribunal has closely considered the circumstances of several other Councils (unnamed) which it had given consideration to altering to a higher level. However, the absence of complete data and/or compelling arguments caused the Tribunal not to make any additional adjustments beyond Ipswich City Council, this year. Nonetheless, the Tribunal will continue to keep several Councils under review.

Notwithstanding that the Tribunal has only altered the category of one Council, it has decided to publish the full list of Councils and the categories to which they are assigned for ease of reference (see Figure 5 below).

The Tribunal has also, despite the criticism from one Council about the title of one of the categories of Councils, decided to maintain the description of the categories to which Councils are assigned as Special and 1-9, inclusive. Such nomenclature has been widely accepted and to alter it would create unnecessary confusion in Government, Local Government and the community.

Further, despite the (limited) criticism of the use of the title “Special”, the Tribunal is strongly of the view that there are good reasons for retaining a Special category to assign those Councils which require special consideration. These special considerations, referred to in Section 6, dictate that such Councils be given their own category with an entirely different remuneration range applicable to other Councils. It is also worthwhile to point out that the Special category of Councils contains twelve (12) Aboriginal Shire Councils, four (4) Shire Councils and two (2) Regional Councils.

Figure 5

Category Allocations for Councils

Local Government Area after 15 March 2008	LGRT Category	Local Government Area after 15 March 2008	LGRT Category
Aurukun Shire Council	Special	Longreach Regional Council	2
Cherbourg Aboriginal Shire Council	Special	Murweh Shire Council	2
Cook Shire Council	Special	Banana Shire Council	3
Doomadgee Aboriginal Shire Council	Special	Burdekin Shire Council	3
Hope Vale Aboriginal Shire Council	Special	Charters Towers Regional Council	3
Kowanyama Aboriginal Shire Council	Special	Goondiwindi Regional Council	3
Lockhart River Aboriginal Shire Council	Special	Hinchinbrook Shire Council	3
Mapoon Aboriginal Shire Council	Special	North Burnett Regional Council	3
Mornington Shire Council	Special	Roma Regional Council	3
Napranum Aboriginal Shire Council	Special	Somerset Regional Council	3
Northern Peninsula Area Regional Council	Special	Cassowary Coast Regional Council	4
Palm Island Aboriginal Shire Council	Special	Central Highlands Regional Council	4
Pormpuraaw Aboriginal Shire Council	Special	Dalby Regional Council	4
Torres Shire Council	Special	Isaac Regional Council	4
Torres Strait Island Regional Council	Special	Lockyer Valley Regional Council	4
Woorabinda Aboriginal Shire Council	Special	Mount Isa City Council	4
Wujal Wujal Aboriginal Shire Council	Special	Scenic Rim Regional Council	4
Yarrabah Aboriginal Shire Council	Special	South Burnett Regional Council	4
Barcoo Shire Council	1	Southern Downs Regional Council	4
Blackall-Tambo Regional Council	1	Whitsunday Regional Council	4
Boulia Shire Council	1	Bundaberg Regional Council	5
Bulloo Shire Council	1	Fraser Coast Regional Council	5
Burke Shire Council	1	Gladstone Regional Council	5
Croydon Shire Council	1	Gympie Regional Council	5
Diamantina Shire Council	1	Tablelands Regional Council	5
Etheridge Shire Council	1	Cairns Regional Council	6
Flinders Shire Council	1	Mackay Regional Council	6
McKinlay Shire Council	1	Redland City Council	6
Paroo Shire Council	1	Rockhampton Regional Council	6
Quilpie Shire Council	1	Toowoomba Regional Council	6
Richmond Shire Council	1	Townsville City Council	6
Winton Shire Council	1	Ipswich City Council	7
Balonne Shire Council	2	Logan City Council	7
Barcaldine Regional Council	2	Moreton Bay Regional Council	8
Carpentaria Shire Council	2	Sunshine Coast Regional Council	8
Cloncurry Shire Council	2	Gold Coast City Council	9

SECTION 8 - LEVELS OF REMUNERATION

In accordance with section 250AK of the Local Government Act 1993, the Tribunal is to decide the remuneration which may be paid to Mayors, Deputy Mayors and Councillors in each category of Council determined. Relevantly, section 250AK provides:

Figure 6

250AK Deciding remuneration

- (1) The remuneration tribunal must, on or before 1 December in each year and for each category of local government, decide the remuneration that may be paid in the following year to—
 - a) a councillor, other than a mayor or deputy mayor, of a local government in the category; and
 - b) a mayor of a local government in the category; and
 - c) a deputy mayor of a local government in the category.
- (2) However, the remuneration decided under subsection (1) must not include any amount for expenses to be paid or facilities to be provided to a councillor of a local government under its expenses reimbursement policy.
- (2A) Also, the remuneration decided under subsection (1) must not include any contribution a local government makes for a councillor of the local government to a voluntary superannuation scheme for councillors established or taken part in by the local government under section 238.
- (3) The remuneration tribunal must prepare a schedule (the **remuneration schedule**) that lists the amounts decided under subsection (1) for each category of local government for the year to which it applies.
- (4) In making a decision under subsection (1), the remuneration tribunal must have regard to—
 - a) the provisions of this Act about entitlements and responsibilities of councillors of local governments; and
 - b) community expectations about what is appropriate remuneration in the circumstances.

In the course of its consultations the Tribunal was frequently asked about the particular matters it considers when determining an appropriate rate of remuneration to be paid to Councillors, Deputy Mayors and Mayors. While the Tribunal Members responded by indicating that the general criteria for establishing categories of Council (see section 250AI) was also relevant to setting remuneration levels, the most eloquent description of the range of matters which could be appropriately considered in any assessment of remuneration levels for Councillors is reflected in the submission from the Senior Corporate Governance Officer of the Fraser Coast Regional Council, previously referred to. The Tribunal respectfully adopts that author's description of the nature of the matters that should (but not exclusively) influence the levels of remuneration determined:

- “1. The level of commitment necessary beyond that of a traditional full-time role (ie both in time, personal and financial resources) to effectively represent the interests of the various distinct communities in the region;*
- 2. The extensive professional skills incorporating financial analysis, strategic visioning, social and environmental planning and interpretation of legislation (Acts, Regulations, etc) necessary to enable Councillors to participate in guiding debate and making effective decisions;*
- 3. The substantial responsibility associated with position of Councillor, particular(ly) in relation to approval of development assessment applications valued up to \$100 million, infrastructure, resource and asset planning and managing sensitive and contentious environmental issues;*
- 4. The complexity and diversity of issues associated with local government;*

5. *The size, population and diversity of the local government area including community and service provision elements and also taking into account the geographic isolation of several communities...;*
6. *The impact on the family and personal lives of Councillors as the result of attendance at many community events and community meetings held outside of normal working hours and on weekends;*
7. *The demands on Councillors to represent constituents via advocacy and lobbying roles on the Boards of various external committees, Local Government Owned Corporations and other related corporate structures, and within numerous specialised Council portfolios.”.*

While the above 7 points are not the sole matters that the Tribunal considers, they nonetheless provide a good indication of the range of issues the Tribunal takes into consideration when determining remuneration levels. In addition to those already mentioned there is also the obvious, and very important, issue of affordability.

In this respect, in making its determination the Tribunal has attempted to achieve a fair balance between affordability and appropriate compensation to Mayors, Deputy Mayors and Councillors for the time and commitment required to properly, and competently, perform their role. The Tribunal also believes it is necessary to set rates which properly reflect the workloads and expectations associated with performing the duties of a Mayor, Deputy Mayor or Councillor in the 10 categories of Council determined. In other words, there needs to be some delineation of remuneration levels to recognise the differences in workload involved which reflects the degree of significance of matters discussed in this Report.

In its Report last year the Tribunal commented that Councillors are called upon to provide strategic advice and, in some instances, are responsible for encouraging industry and development into the Local Government area. This is a role similar to that which many company directors might undertake. The Tribunal was, and remains, of the opinion that if Councillors are required to undertake high-level responsibilities such as these then Councillors should receive appropriate remuneration. The Tribunal notes that the frequency of a Councillor’s involvement in matters of significant importance increases as a Council becomes larger, particularly with the amalgamation of Councils and the reduction in the number of Councillors assigned to each Local Government. This is reflected in the remuneration structure determined.

Comment was also made by many stakeholders that Councillor’s remuneration needs to be appropriate to attract the right candidates for the job. The Tribunal has attempted to achieve this objective in determining the levels of remuneration established, especially in the medium, large and very large Councils, as well as in those Councils placed in the Special Category of Councils. The Tribunal appreciates that it is too early in the new term of office to assess whether the level of remuneration has attracted the right people to Councillor positions, i.e. those who have the appropriate skills, expertise and qualifications to undertake the role, and it will monitor this in the ensuing years of term.

Determination of remuneration

The Tribunal has carefully considered the written and verbal submissions made to it, including that received from the Minister for Main Roads and Local Government, to the effect that the remuneration levels determined for Mayors, Deputy Mayors and Councillors should remain as representing a percentage of the level of remuneration paid to a Member of the Queensland Legislative Assembly (MLA).

Last year, the Tribunal determined a remuneration scale based on a percentage of the remuneration payable to a MLA for several reasons, including common operative date of adjustments to remuneration levels of elected representatives of the community across all three tiers of Government. A Queensland MLA's remuneration is currently set at \$500 less than that of the base rate payable to a Federal MLA. The Federal MLA's base rate of remuneration is currently \$127,060. Therefore, a State MLA's rate is \$126,560.

Although it makes determinations, the Commonwealth Remuneration Tribunal does not have the power to actually "set" Federal Parliamentarians' remuneration levels. The Level of remuneration payable to Federal Parliamentarians is governed by the *Remuneration and Allowances Act 1990 (Cth)* (sub-clause 1(2) of Schedule 3) and is a matter for Government decision. The Tribunal notes that the Prime Minister has placed a "freeze" on the payment of any increase that the Commonwealth Remuneration Tribunal may have recommended be paid to Federal MLAs from 1 July 2008 and that this has impacted on the level of remuneration payable to both State MLAs and Local Government Councillors, respectively.

If the Prime Minister decides to remove the current "freeze" on the payment of any increase that the Commonwealth Remuneration Tribunal may have recommended be paid to Federal MLAs, and this increase is reflected in the levels of remuneration payable to State MLAs, the levels of remuneration for Mayors, Deputy Mayors and Councillors will increase automatically - from the same operative date. Depending on what the Prime Minister decides this may involve back pay to 1 July 2008.

Remuneration levels for Mayors

In Section 5 (above) the Tribunal recorded it had underestimated the demands associated with the performance of the role of Mayor in Councils categorised at levels 3, 4, 5, and 6, respectively, and indicated it proposed to make a slight increase in the maximum levels of remuneration payable in each category to better accord with the Tribunal's fresh assessment of what constitutes an appropriate level of remuneration.

Based on this assessment, the Tribunal has determined it will increase the maximum level of remuneration payable to Mayors in each of the 4 categories mentioned by 5% of the rate payable to a State MLA. A consequential amendment has been made to the minimum remuneration level payable to a category 7 Mayor. The new percentages involved, together with the recalculated monetary amounts which arise, are highlighted in Figure 7 below.

The Special category of Councils

As noted in Section 6 (above), the Tribunal has carefully considered the minimum and maximum amounts payable to Mayors, Deputy Mayors and Councillors in Councils placed in the Special category of Councils. In doing so, the Tribunal carefully considered the sizes of the communities represented by such elected persons, the special and unique issues confronting Councils placed in that category and the issue of affordability. In particular, the Tribunal gave consideration to breaking the Councils placed into the Special category into two groups, with a different maximum level of remuneration for those Councils placed into the "lower" group compared to those placed in the "higher" group.

However, at the end of the day, the Tribunal has decided to continue with a single Special category of Councils with a wider minimum and maximum remuneration range than that previously determined. In so deciding, the Tribunal has been heavily influenced by the very clearly articulated view expressed by Councils to the Chairperson of the Tribunal, at the Indigenous Councils' Conference in August 2008, to the effect that all such Councils wished to remain grouped in a single category. To accommodate this, the Tribunal has seen fit to lower the minimum range of remuneration available at each of the levels of Mayor, Deputy Mayor and Councillor, respectively, in the Special category of Councils to equate with the minimum levels payable in category 1 Councils. This is because several Councils expressed reservations about their ability to afford to pay the minimum amounts previously determined.

On the topic of affordability, and while the Tribunal has certain reservations about the ability of several Councils to afford to pay themselves (on an ongoing basis) the amount of remuneration they determined this year, it has decided the best approach to adopt is to establish a maximum rate, which the Tribunal believes is justified by the demands of the respective elected roles, but to leave it to individual Councils to decide whether they have the capacity to pay those maximum amounts, or a lesser amount.

In this respect, the Tribunal again stresses that the rates determined by it represent the minimum and maximum range within which an individual Council might choose to set remuneration levels. In setting appropriate rates each Council must pay significant regard to the issue of affordability. The Tribunal cannot stress this point enough.

The adoption of a lower minimum rate for each elected role in Councils placed in the Special category of Councils will also help address the situation where the remuneration levels established by the Tribunal in 2007 were structured to accommodate the Tribunal's then belief that the effects of section 226 of the *Local Government Act 1993* would cause a person elected to a Local Government role within an Aboriginal Shire Council to lose any Council employment they might previously have had. The new minimum levels determined will, when considered in association with the normal income derived from Council employment, result in total remuneration levels more in line with the Tribunal's expectations.

The remuneration levels determined for Mayors, Deputy Mayors and Councillors in all categories of Council (to be rounded to the nearest \$10) is shown in Figure 7 below.

Figure 7

Remuneration determined by the Tribunal - 1 December 2008 (see Note 1 below)

Category	Remuneration range determined (p.a) (% of rate payable to a Member of the Queensland Legislative Assembly)			Remuneration range (p.a.) (in \$ rounded to nearest \$10) (see Note 2)			
Special Category	Mayor	35	-	70	\$44,300	-	\$88,590
	Deputy Mayor	15	-	42.5	\$18,980	-	\$53,790
	Councillors	10	-	35	\$12,660	-	\$44,300
Category 1	Mayor	35	-	45	\$44,300	-	\$56,950
	Deputy Mayor	15	-	20	\$18,980	-	\$25,310
	Councillors	10	-	15	\$12,660	-	\$18,980
Category 2	Mayor	45	-	55	\$56,950	-	\$69,610
	Deputy Mayor	20	-	30	\$25,310	-	\$37,970
	Councillors	15	-	25	\$18,980	-	\$31,640
Category 3	Mayor	55	-	70	\$69,610	-	\$88,590
	Deputy Mayor	30	-	42.5	\$37,970	-	\$53,790
	Councillors	25	-	35	\$31,640	-	\$44,300
Category 4	Mayor	70	-	85	\$88,590	-	\$107,580
	Deputy Mayor	42.5	-	55	\$53,790	-	\$69,610
	Councillors	35	-	47.5	\$44,300	-	\$60,120
Category 5	Mayor	85	-	100	\$107,580	-	\$126,560
	Deputy Mayor	55	-	67.5	\$69,610	-	\$85,430
	Councillors	47.5	-	60	\$60,120	-	\$75,940
Category 6	Mayor	100	-	115	\$126,560	-	\$145,544
	Deputy Mayor	67.5	-	77.5	\$85,430	-	\$98,080
	Councillors	60	-	70	\$75,940	-	\$88,590
Category 7	Mayor	115	-	130	\$145,544	-	\$164,530
	Deputy Mayor	77.5	-	90	\$98,080	-	\$113,900
	Councillors	70	-	80	\$88,590	-	\$101,250
Category 8	Mayor	130	-	145	\$164,530	-	\$183,510
	Deputy Mayor	90	-	100	\$113,900	-	\$126,560
	Councillors	80	-	87.5	\$101,250	-	\$110,740
Category 9	Mayor	145	-	160	\$183,510	-	\$202,500
	Deputy Mayor	100	-	110	\$126,560	-	\$139,220
	Councillors	87.5	-	95	\$110,740	-	\$120,230

Note 1: Although indicated as at 1 December 2008, the annual remuneration levels determined are to take effect from 1 January 2009.

Note 2: The monetary amounts specified have been calculated by reference to the current remuneration payable to State MLAs. If that rate of remuneration changes, the remuneration of Mayors, Deputy Mayors and Councillors will also change from the same operative date.

Applying the remuneration rate

The remuneration levels determined above have been designed to reflect the different expectations and demands placed upon Councillors in the 10 categories of Councils determined, taking into account the legislated and expected normal workload of elected representatives. A range of remuneration levels for each category of Local Government has also been deliberately maintained to give individual Councils maximum flexibility in determining the actual rates to be paid to individual Mayors, Deputy Mayors and Councillors, as well as the way those payments might be structured.

As outlined last year, and mentioned above, the adoption of a range within each category will also allow those Councils which strongly expressed such a desire to establish a base rate of remuneration complemented by additional payments reflecting an individual Councillor's involvement in Council affairs including, but not limited to: chairing a committee or portfolio; attendance at Council meetings, committee meetings, meetings concerning the Local Government and community matters; meeting with deputations; attending inspections; and, participation in training and educational seminars and conferences which further the Councillor's knowledge of Local Government affairs and requirements. It will also allow those Councils which expressed concern about affordability to set remuneration levels at the lower end of the range if they so choose.

Amalgamation loading

Last year, the Tribunal decided to establish an 'Amalgamation Loading' designed to reflect the additional workload expected to be managed by Councillors who might be elected to amalgamated Councils at the quadrennial elections held on 15 March 2008. Mayors, Deputy Mayors and Councillors in Councils which were amalgamated are to be paid an additional loading calculated by reference to the mid-point of the salary ranges determined at each Councillor level by the Tribunal at that time. The loading is to be progressively phased out over the term of each elected representative (see Figure 8). In 2009, the applicable amalgamation loading is to reduce to 7.5% of the mid-point of the initial remuneration levels. Unlike the remuneration levels determined (which commence on 1 January 2009), this reduced level of amalgamation loading will apply from 1 July 2009, and remain at that level until 30 June 2010.

It should be noted that the amalgamation loading determined for Councils as listed in Figure 8 is mandatory and the relevant Councils must pay this additional loading to its Councillors, as an identifiable component of remuneration, in addition to (at least) the minimum amounts determined for each elected role in the relevant category.

Because the amalgamation loading was established as fixed monetary (annual) amounts phasing out over the current 4 year term, no adjustment has been made to the amounts payable to Mayors in Councils categorised at levels 3, 4, 5 and 6. However, for the reasons cited in Section 6, there has been an adjustment to the loading payable to Mayors and Deputy Mayors in the two (2) Regional Councils concerned in the Special category of Councils.

Figure 8

Amalgamation Loading (rounded in every instance to nearest \$10)

Category	Councillor Level	15 March 2008 to 30 June 2009	1 July 2009 to 30 June 2010	1 July 2010 to 30 June 2011	1 July 2011 to March 2012
Special Category	Mayor	\$7,590	\$5,690	\$3,800	\$1,900
	Deputy Mayor	\$4,590	\$3,440	\$2,300	\$1,150
	Councillor	\$3,160	\$2,370	\$1,580	\$790
Category 1	Mayor	\$5,060	\$3,800	\$2,530	\$1,270
	Deputy Mayor	\$2,210	\$1,660	\$1,110	\$550
	Councillor	\$1,580	\$1,190	\$790	\$400
Category 2	Mayor	\$6,330	\$4,750	\$3,170	\$1,580
	Deputy Mayor	\$3,160	\$2,370	\$1,580	\$790
	Councillor	\$2,530	\$1,900	\$1,270	\$630
Category 3	Mayor	\$7,590	\$5,690	\$3,800	\$1,900
	Deputy Mayor	\$4,590	\$3,440	\$2,300	\$1,150
	Councillor	\$3,800	\$2,850	\$1,900	\$950
Category 4	Mayor	\$9,180	\$6,890	\$4,590	\$2,300
	Deputy Mayor	\$6,170	\$4,630	\$3,090	\$1,540
	Councillor	\$5,220	\$3,920	\$2,610	\$1,310
Category 5	Mayor	\$11,070	\$8,300	\$5,540	\$2,770
	Deputy Mayor	\$7,750	\$5,810	\$3,880	\$1,940
	Councillor	\$6,800	\$5,100	\$3,400	\$1,700
Category 6	Mayor	\$12,970	\$9,730	\$6,490	\$3,240
	Deputy Mayor	\$9,180	\$6,890	\$4,590	\$2,300
	Councillor	\$8,230	\$6,170	\$4,120	\$2,060
Category 7	Mayor	\$15,190	\$11,390	\$7,600	\$3,800
	Deputy Mayor	\$10,600	\$7,950	\$5,300	\$2,650
	Councillor	\$9,490	\$7,120	\$4,750	\$2,370
Category 8	Mayor	\$17,400	\$13,050	\$8,700	\$4,350
	Deputy Mayor	\$12,020	\$9,020	\$6,010	\$3,010
	Councillor	\$10,600	\$7,950	\$5,300	\$2,650
Category 9	Mayor	No amalgamation loading payable.			
	Deputy Mayor				
	Councillor				

Those Councils where the amalgamation loading is to apply are identified in Figure 9 below.

Figure 9

Councils affected by amalgamation, to which the Amalgamation Loading applies

Local Government Area	
Banana Shire Council	Mackay Regional Council
Barcaldine Regional Council	Moreton Bay Regional Council
Blackall-Tambo Regional Council	North Burnett Regional Council
Bundaberg Regional Council	Northern Peninsula Area Regional Council
Cairns Regional Council	Rockhampton Regional Council
Cassowary Coast Regional Council	Roma Regional Council
Central Highlands Regional Council	Scenic Rim Regional Council
Charters Towers Regional Council	Somerset Regional Council
Dalby Regional Council	South Burnett Regional Council
Fraser Coast Regional Council	Southern Downs Regional Council
Gladstone Regional Council	Sunshine Coast Regional Council
Goondiwindi Regional Council	Tablelands Regional Council
Gympie Regional Council	Toowoomba Regional Council
Isaac Regional Council	Torres Strait Island Regional Council
Lockyer Valley Regional Council	Townsville City Council
Logan City Council	Whitsunday Regional Council
Longreach Regional Council	

Pro-rata payment

Should an elected representative hold a Councillor position for only part of a Councillor's term of office, then the annual remuneration rate and amalgamation loading (if applicable) that applies to that Councillor is to be paid on a pro-rata basis based on the length of time that the Councillor served in office in that calendar year.

What happens if a Council's category is reduced or increased?

Subject to the qualification in the next paragraph, the Tribunal has determined that the remuneration levels determined, including the amalgamation loading, will apply to Councillors throughout their four year elected terms according to the category applicable to their Council as at 15 March 2008. This means that if the category to which a particular Council might be assigned is reduced by the Tribunal some time in the future, the Councillors concerned will still be entitled to the remuneration as if the category had remained unaltered. This recognises the reasonable expectations Councillors might have had about entitlements during their term when they nominated for election.

However, if the category to which a particular Council is increased, the Councillors concerned will be entitled to the remuneration levels, including amalgamation loading, of the new category.

Superannuation not to be included in the remuneration determined

Pursuant to section 250AK(2A) of the *Local Government Act 1993*, which became operative on 22 November 2007, the Tribunal is also not to include in its determination any voluntary contribution a Local Government may make for Councillor superannuation.

Accordingly, the level of superannuation payments made to a Mayor, Deputy Mayor or a Councillor is a matter to be determined by each individual Council having regard to relevant Commonwealth legislation and section 238 of the *Local Government Act 1993*, as is the issue of whether a particular member of Council may salary sacrifice such contributions (section 238A).

In 2007, an issue was raised with the Tribunal concerning superannuation for Councillors who are 75 years or older. The Tribunal notes that under federal taxation law a trustee is unable to accept contributions for a member 75 years or older. The Tribunal understands that in such a circumstance at least one Council has, in the past, paid additional remuneration to a Councillor who is 75 years or older in lieu of superannuation to ensure that all Councillors were receiving equal remuneration.

The Tribunal raised the issue regarding superannuation for Councillors 75 years or older with the Minister for Main Roads and Local Government in January 2008. The Minister then requested the Department of Local Government, Sport and Recreation to review this matter further. The Department has since contacted the Australian Taxation Office, which has confirmed the above commentary. The Tribunal understands that the Department has arranged for the *Local Government Bill 2008* to be drafted in such a way as to provide power for the Governor-in-Council to make a regulation about certain matters. Should the Bill be passed, and a regulation made about this issue, the Tribunal may be able to determine additional remuneration for Councillors 75 years or older in lieu of superannuation contributions which would otherwise be made by a Council.

When are the new remuneration levels to take effect?

Pursuant to section 250AK(1) of the *Local Government Act 1993*, Councillor remuneration, including that of Mayors and Deputy Mayors, must be decided by the Tribunal by 1 December annually and is to apply in the following year. Under section 236A of the *Local Government Act 1993*, a Council may authorise payment of remuneration on and after 1 January of the year. However, a resolution must be made within 2 months after the remuneration schedule is published in the gazette under section 250AQ of the Act. Section 250AQ of the Act also provides that the Minister must publish the remuneration schedule as determined by the Tribunal as soon as practicable after receiving the Tribunal's Report.

How will Councillors and the community know exactly what rate of remuneration might be paid?

There are several legislative provisions that provide full disclosure to the public about a Councillor's remuneration. Under section 236A (Remuneration for Councillors) of the *Local Government Act 1993*, a Local Government must pass a resolution determining the level of remuneration to be paid to each of its Councillors and the purpose for which the remuneration is to be paid. The Local Government may authorise the payment of remuneration to a Councillor of the Local Government only if the remuneration is that which is stated in the remuneration schedule issued by this Tribunal for the category to which the Local Government belongs.

In accordance with section 463 of the *Local Government Act 1993*, a Council can only make resolutions in open meetings (which means the public may be present at the meetings and the recording of the resolution made must be minuted). Therefore, resolutions concerning Councillor remuneration under section 236A of the Act must be discussed in open meetings and details of such resolutions must be included in the minutes. Section 468 (Inspection of records by the public) of the Act further provides that a Local Government must make available a copy of the minutes of each of its meetings in its public office, within 10 days after each meeting, where the public can inspect these documents.

A Local Government is also to provide a copy of any resolution it may make during the year authorising the payment or provision of remuneration to Councillors in its annual determination, as per section 534 (Content of report about other issues of public interest) of the Act. In addition to the copy of the resolution, particulars of the total remuneration paid to each Councillor are also to be outlined in the Local Government's annual report.

SECTION 9 - SECTION 250AL SUBMISSIONS

Section 250AL submissions

Purpose

Under section 250AL of the *Local Government Act 1993*, a Local Government may make a submission to the Tribunal to seek a variation to the remuneration levels determined for a Mayor, Deputy Mayor or Councillor of its Local Government. Section 250AL is not to be treated by Councils as an appeal mechanism against the Tribunal's determinations and a submission made under this provision should only be made if a Council feels exceptional circumstances exist. It should be noted that the variation sought could be either an increase or decrease of the remuneration that has been determined by the Tribunal.

Process

The Tribunal may, but is not required to, consider the submission (see section 250AL(3)). If the Tribunal agrees to consider any section 250AL submission it has the power, having regard to the exceptional circumstances that apply, to approve payment of a different amount of remuneration for the Councillor. If the Tribunal approves any section 250AL submission it must, under section 250AP(1)(d) of the *Local Government Act 1993*, report on the approval in its next annual report to be provided to the Minister of Main Roads and Local Government.

The Tribunal recognises that its first determination in 2007 was based on the new Local Government structure to apply after 15 March 2008 (see map on inside front cover of this Report). It was a complex task for the Tribunal to make a determination on a structure that did not exist at the time. As such, the Tribunal accepted that in such circumstances there may have been some Local Governments which believed that their council had exceptional circumstances that warranted one or more of their Councillors receiving a different rate of remuneration. The Tribunal therefore invited those Local Governments which found that extenuating circumstances existed to seek a variation to a Councillor's remuneration rate, under section 250AL of the Act.

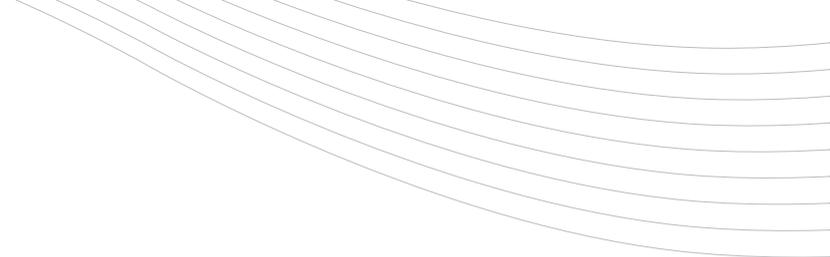
Section 250AL submissions received in 2008

The Tribunal only received one submission made under section 250AL of the *Local Government Act 1993* in 2008. The submission was made by Cook Shire Council on 23 September 2008 and sought additional remuneration for its current Mayor who receives remuneration at the highest range of the Special category as determined by the Tribunal.

Council sought to alter the Mayor's remuneration to align it with the remuneration range determined for a Category 3 Mayor. The submission outlined the exceptional circumstances Council believed applied to this matter, which included: exceptional travel commitments in Queensland's largest shire; special circumstances created by interface with 9 Indigenous Shire Councils, 3 Non-Indigenous Regional Councils, 24 national parks, wet tropics and world heritage areas; heavy involvement in various Far North Queensland and Cape York boards, advisory bodies and groups; heavy involvement in Indigenous affairs and related issues in Cape York Area (such as Alcohol Management Plans, Indigenous Partnership Agreements etc), including associated mentoring role.

The Tribunal considered Cook Shire Council's section 250AL submission pursuant to section 250AL(3) of the Act and resolved (pursuant to section 250AL(4)) to allow the Council to pay the additional remuneration requested to the current Mayor from 1 November 2008 until the end of his current term.

Cook Shire Council was advised of the Tribunal's decision on 22 October 2008.



Although not required by the legislation, details of the approval were also forwarded to the Minister for Main Roads and Local Government and the Director-General of the Department of Local Government, Sport and Recreation. They were also uploaded to the Tribunal's website, as part of the Tribunal's policy to make its decision-making processes as open and transparent as possible.

Disputes about remuneration levels or Council categories

It should be noted that the Tribunal cannot deal with disputes concerning an individual Councillor's concerns about his/her remuneration level. Any application to vary a Councillor's remuneration level can only be raised by a Local Government, not a Councillor.

The application can only be considered if it is made under the exceptional circumstances provisions of section 250AL of the Act. This means that the Local Government must provide details of the exceptional circumstances it believes exist to warrant a variation of the amount of remuneration to be paid to a Councillor, or Councillors.

The provisions within section 250AL of the Act do not enable the Tribunal to consider any disputes or concerns about the categories of Local Government it has determined, or the way in which the categories have been applied. Any such concerns will have to await the Tribunal's next determination, which must be reached by 1 December 2009.

SECTION 10 – SUMMARY OF DETERMINATIONS MADE AND THE TRIBUNAL'S INTENTIONS FOR 2009

General comments

The Tribunal recognises that the majority of amalgamated Councils have been dealing appropriately with implementation of the State Government's Local Government reform agenda, which has impacted greatly on the workload of many Councillors. It also notes that, with the reduction in the number of Councillors in non-amalgamated Councils those Councillors have also been impacted by the reform process. It further notes there has been a significant change in Chief Executive Officer positions within many Councils which has impacted on those Councils to different degrees, but most particularly those where the majority of Council comprise newly elected representatives.

Further, with the rapid development occurring in some regions, and with new industries being established in many Local Government areas, the workloads of many Councillors are increasing and changing.

With Councils working co-operatively with the State Government to implement Government-initiated reform and strategise their respective priorities, with pending new legislation which may provide a more simplified governance framework for Local Government, and with Councillors gaining increased experience in their new roles, the Tribunal is confident that the current workload of Councillors should stabilise during the second year of their terms.

Summary of categories determined and assigned

In 2007 the Tribunal assigned the 72 Local Governments within its jurisdiction to a particular category, as required by sections 250AB(b) and 250AJ of the *Local Government Act 1993*. Twelve (12) Aboriginal Shire Councils, four (4) Shire Councils and two (2) Regional Councils were assigned to a category described as Special because of the unique circumstances applying in those Councils, while the remaining 54 Councils were each assigned to one of nine other categories of Council.

The 10 categories of Local Government as determined by it in 2007 were reviewed again this year by the Tribunal pursuant to section 250AJ of the *Local Government Act 1993*. Following this review, the Tribunal adjusted the category to which Ipswich City Council was assigned, moving it from category 6 to category 7. An explanation for this decision is contained in Section 7.

Summary of remuneration determined

As required by section 250AK of the *Local Government Act 1993* the Tribunal has decided levels of remuneration for Mayors, Deputy Mayors and Councillors based upon percentages of the remuneration payable, from time to time, to Members of the Queensland Legislative Assembly.

Based upon its 2008 review the Tribunal has decided to:

- Maintain the practice of calculating remuneration levels as a particular percentage of the remuneration paid to a State MLA
- Maintain the practice of setting a minimum and maximum range for Mayors, Deputy Mayors and Councillors in each of the 10 categories of Council previously determined
- Increase the maximum remuneration level payable to Mayors in Councils categorised at levels 3, 4, 5 and 6, respectively, by 5% of the rate of remuneration payable to a State MLA

- Increase the minimum amount of remuneration payable to Mayors in category 7 Councils by 5% of the rate of remuneration payable to a State MLA
- Increase the maximum remuneration level payable to Mayors and Deputy Mayors in Councils categorised in the Special category of Councils to align them with the maximum amounts payable to Mayors and Deputy Mayors in category 3 Councils
- Increase the amalgamation loading payable to Mayors and Deputy Mayors in the Special category of Councils to align it with the rate payable to Mayors and Deputy Mayors in category 3 Councils
- Reduce the minimum amount in the range of remuneration levels determined for Mayors, Deputy Mayors and Councillors in Councils in the Special category of Councils to align them with the minimum amounts payable to comparable positions in category 1 Councils

The levels of remuneration determined, including the dollar figures so resulting, as well as the applicable amalgamation loadings, are shown in Figures 7 and 8, respectively, within Section 8 of this Report, above.

Remuneration Schedule

As required by sections 250AK(3) and 250AP(1)(c) the *Local Government Act 1993* the Tribunal is to produce a remuneration schedule each year which records its determination. This schedule is appended as Schedule 1 to the Report.

Tabling and publication of this Report

The Minister for Main Roads and Local Government is responsible for tabling this Report in the Queensland Legislative Assembly as soon as practicable, pursuant to section 250AQ(b) of the *Local Government Act 1993*.

The Minister is to also publish the categories of Local Government established by the Tribunal, the list of categories which have been assigned to Local Governments, and the remuneration schedule as determined by the Tribunal, in the Queensland Government Gazette, pursuant to section 250AQ(a) of the Act.

The Tribunal's intentions for 2009

Through its 2008 deliberations, the Tribunal has informed itself of the changes that are likely to occur within Local Government during 2009. Through meeting with and receiving submissions from stakeholders, as well as from its own research and enquiries, the Tribunal has also been made aware of how the roles and responsibilities of Mayors, Deputy Mayors and Councillors may change should the *Local Government Bill 2008* be passed in 2009.

The Tribunal therefore intends to make further inquiries when making its third determination in 2009. Specifically, the Tribunal will be looking at certain matters including:

- The strategic direction Local Government is moving towards
- The impact any new legislation may have on Local Government and/or roles within Local Government
- The appropriateness of the current number of categories assigned to Local Government
- The appropriateness of the category to which each Local Government is assigned
- The appropriateness of the levels of remuneration determined for each elected role in each category of Council
- Councillor expenses and the provision of facilities to elected representatives
- Other benefits or entitlements, including electoral allowances for Councillors
- Superannuation for Councillors 75 years or older
- Councillor professional development

As with its consultation program this year, the Tribunal will, subject to the Local Government Association of Queensland's consent, be available to meet with Councils at the 2009 LGAQ annual conference to be held in Brisbane. It also expects to call for submissions some time in August 2009 to give stakeholders ample opportunity to express their views, and to also give the Tribunal sufficient time to examine in greater detail the feedback it may receive, before making its next series of determinations by 1 December 2009.

The Tribunal has not, when making its determinations to date, been able to hold public forums due to time constraints, particularly with the time it spent travelling this year to consult with stakeholders in various Councils across the State. As the Tribunal is required under section 250AK(4)(b) to consider community expectations, it plans to consider the possibility of holding at least one public forum in 2009 to allow the community to express its views in a form other than that available to date.

The Tribunal acknowledges the invitations that have already been extended by some Councils to visit particular Local Government areas and the Tribunal will consider these when planning its 2009 consultation program. At the time of writing this Report the Tribunal is considering a consultation program encompassing the following Councils:

- Central Highlands Regional Council
- Isaac Regional Council
- Indigenous Councils not visited this year
- Mackay Regional Council
- Redland City Council
- Rockhampton Regional Council
- Sunshine Coast Regional Council
- Tablelands Regional Council
- Toowoomba Regional Council
- Townsville City Council
- Western Queensland Councils
- Whitsunday Regional Council

Any Council which might wish the Tribunal to visit is invited to signify such interest by contacting the Tribunal's Secretariat.

The Tribunal also recommends interested parties regularly check the Tribunal's website (www.localgovernment.qld.gov.au/remunerationtribunal) for details about the Tribunal's planned activities and about how to make a section 250AL submission.

Acknowledgements

The Tribunal wishes to express its sincere appreciation to all of those who participated in the consultation process this year. The Tribunal's deliberations have been greatly assisted by material contained within submissions and by the comments of persons with whom the Tribunal met in the meetings and visits referred to in Section 4. The opportunity to question experienced Councillors, Chief Executive Officers and senior staff of Councils during the face-to-face consultations was particularly invaluable.

The Tribunal Members also wish to acknowledge the considerable effort expended by Ms Esther Blest, the Tribunal's Secretariat, and Ms Jessica Halpin, Deputy President Bloomfield's Associate, in the preparation, editing and finalisation of this Report.

Schedule 1 - Remuneration Schedule

Category	Councils assigned to category (see Note 1)	Remuneration Range determined (% of rate payable to a Member of the Queensland Legislative Assembly)	Remuneration Range (p.a) (in \$ rounded to nearest \$10) (see Notes 2 and 3)		Amalgamation Loading (p.a) (See Notes 1 and 3)	
			01/01/09 - 30/06/09	01/07/09 - 31/12/09	01/01/09 - 30/06/09	01/07/09 - 31/12/09
Special Category	Aurukun Shire Council	Mayor 35	\$44,300	\$88,590	\$7,590	\$5,690
	Cherbourg Aboriginal Shire Council	Deputy Mayor 15	\$18,980	\$53,790	\$4,590	\$3,440
	Cook Shire Council	Councillor 10	\$12,660	\$44,300	\$3,160	\$2,370
	Doomadgee Aboriginal Shire Council					
	Hope Vale Aboriginal Shire Council					
	Kowanyama Aboriginal Shire Council					
	Lockhart River Aboriginal Shire Council					
	Mapoon Aboriginal Shire Council					
	Mornington Shire Council					
	Napranum Aboriginal Shire Council					
	Northern Peninsula Area Regional Council	A				
	Palm Island Aboriginal Shire Council					
	Pormpuraaw Aboriginal Shire Council					
	Torres Shire Council					
	Torres Strait Island Regional Council	A				
	Woorabinda Aboriginal Shire Council					
Wujal Wujal Aboriginal Shire Council						
Yarrabah Aboriginal Shire Council						
Category 1	Barcoo Shire Council	Mayor 35	\$44,300	\$56,950	\$5,060	\$3,800
	Blackall-Tambo Regional Council	Deputy Mayor 15	\$18,980	\$25,310	\$2,210	\$1,660
	Boulia Shire Council	Councillor 10	\$12,660	\$18,980	\$1,580	\$1,190
	Bulloo Shire Council					
	Burke Shire Council					
	Croydon Shire Council					

Appendix A – List of stakeholders who met with the Tribunal

Date	Name(s) and Role(s)	Council Represented
1 September 2008	Cr Percy Neal, Mayor Cr Sandra Houghton, Deputy Mayor Cr Michael Sands Cr Bevan Walsh Mr Leon Yeatman, CEO	Yarrabah Aboriginal Shire Council
	Cr Alfred Lacy, Mayor	Palm Island Aboriginal Shire Council
2 September 2008	Cr John Brent, Mayor Cr David Cockburn, Deputy Mayor Cr Richard Adams Mr Craig Barke, CEO	Scenic Rim Regional Council
	Cr Annie Clarke, Mayor Cr Tracy Forshaw	Burke Shire Council
	Cr Steve Jones, Mayor Cr Graham Moon, Deputy Mayor Cr David Neuendorf Mr Clint Weber, Director Corporate Governance	Lockyer Valley Regional Council
	Cr Phil Pidgeon Mr John Oberhardt, Deputy CEO	Logan City Council
	Cr Dale Last Cr Ray Gartrell	Townsville City Council
	Cr Bob Millar Cr Rae Frawley	Moreton Bay Regional Council
	Cr Donna Stewart, Mayor Mr Scott Norman, CEO	Balonne Shire Council
3 September 2008	Cr Lorraine Pyefinch, Mayor Cr Tony Ricciardi, Deputy Mayor	Bundaberg Regional Council
	Cr Graheme Lehmann, Mayor Cr Neil Zabel, Deputy Mayor Cr Robin Caddy	Somerset Regional Council
	Cr Ray Brown, Mayor Cr Mick Cosgrove, Deputy Mayor	Dalby Regional Council
	Cr Ed Warren, Mayor Cr Shane Mann, Deputy Mayor Mr Vince Corbet, A/CEO	Winton Shire Council
	Cr Joseph Elu, Mayor Cr Reginald Williams, Deputy Mayor Cr Jeffrey Aniba Cr Gina Nona Cr Michael Bond Mr Stuart Duncan, CEO	Northern Peninsula Area Regional Council
	Cr Peter Scott, Mayor Cr Alan Wilson, Deputy Mayor Cr Colin Burns	Cook Shire Council
	Cr Margaret Cochrane Cr Nancy Lanskey	Cairns Regional Council
	Cr Rogin Taylor, Deputy Mayor Cr Jan Clifford Cr Mark Gaudrey Mr John Finlay, CEO	Whitsunday Regional Council
	Cr Rick Britton, Mayor Mr Peter O'May, CEO	Boulia Regional Council
	4 September 2008	Cr Sheila Ireland Mr Carl Wulff, CEO Mr Jim Lindsay, Chief Financial Officer
Cr Jenny Jensen		Tablelands Regional Council

Date	Name(s) and Role(s)	Council Represented
8 September 2008	Cr Tommy Hudson, Mayor Cr Griffith Patrick, Deputy Mayor Cr Michael Yam Cr Walter Parry Mr John Japp, CEO Mr Robby Sands, Deputy CEO	Kowanyama Aboriginal Shire Council
	Cr Richard Tarpencha, Mayor Cr Denise Bally, Deputy Mayor Cr Dennis Michael Cr Freddy Tyore Cr Toby Barney Mr Edward Natera, A/CEO	Porpuraaw Aboriginal Shire Council
	Mr Danny Sebasio, Deputy CEO	Northern Peninsula Area Regional Council
9 September 2008	Cr David Bosun, Councillor for Kubin Ms Minda Al Cantara, Kubin A/Island Manager Mr John Scarce, CEO	Torres Strait Island Regional Council
	Cr Toshie Kris, Councillor for St Pauls (by phone) Mr John Paiwan, St Pauls Island Manager Mr John Scarce, CEO	Torres Strait Island Regional Council
	Mr Manuel Nomoe, Badu Island Manager Mr John Scarce, CEO	Torres Strait Island Regional Council
	Mr Scott Grubma, Boigu Island Manager Mr John Scarce, CEO Mr Lloyd Sunderland, Executive Manager, Community	Torres Strait Island Regional Council
10 September 2008	Ms Nancy Hooper, Saibai A/Island Manager Mr John Scarce, CEO	Torres Strait Island Regional Council
	Cr Willie Lui, Councillor for Warraber Mr John Scarce, CEO	Torres Strait Island Regional Council
	Cr Napau Pedro Stephen, Mayor Cr Napcia Bin Tahal, Deputy Mayor Mr Bernie McCarthy, CEO	Torres Shire Council
	Cr Fred Gela, Mayor Mr John Scarce, CEO	Torres Strait Island Regional Council
11 September 2008	Cr Greg McLean, Mayor Cr Graham Bowen Cr June Pearson Cr Neville Bowen Mr Lee Robertson, CEO Mr Harry Leemil, Deputy CEO	Hope Vale Aboriginal Shire Council
15 September 2008	Cr Mick Kruger, Mayor Cr Belinda McNeven, Deputy Mayor Cr Barbara Hovard Cr David Dagleish Cr Debbie Hawes Cr Gerard Daniel O'Connell Cr Julie Ann Arthur Cr Les Muckan Cr Linda Harris Cr Sue Brooks Mr Andrew Brien, CEO Ms Lisa Desmond, Director, Organisational Services	Fraser Coast Regional Council
	Cr Joy Jensen, Mayor Cr Paul Francis, Deputy Mayor Cr Faye Whelan Cr Kevin Wendt Cr Paul Lobegeier Cr Peter Baker Cr Peter Huth Mr John Page, CEO	North Burnett Regional Council

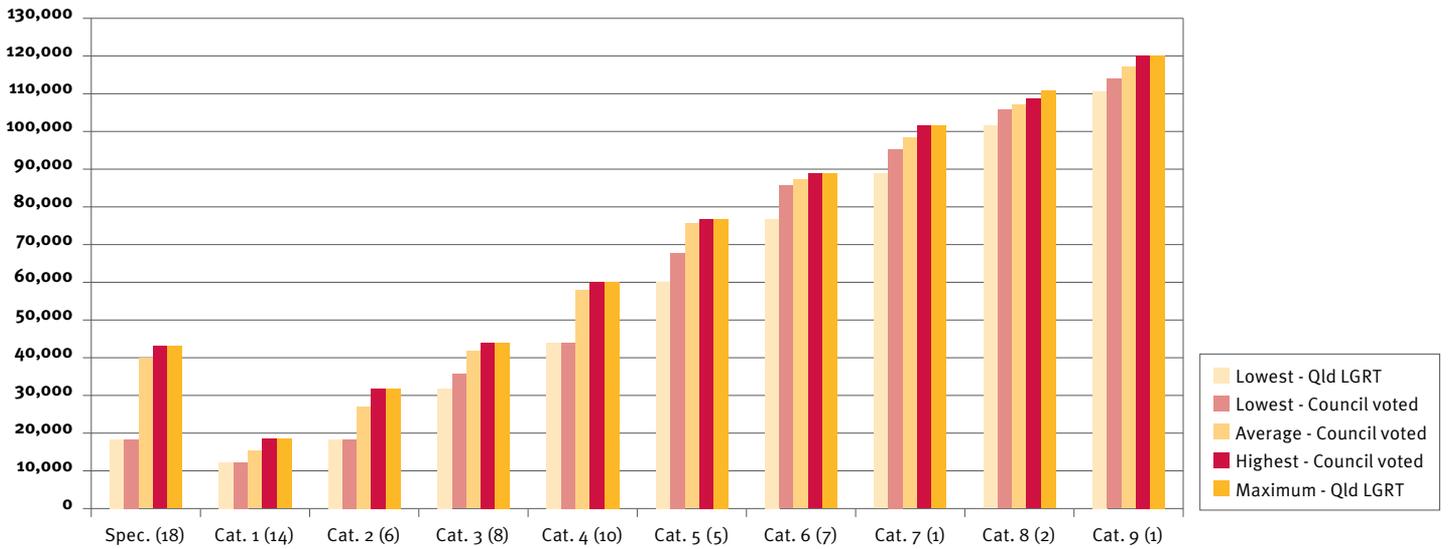
Date	Name(s) and Role(s)	Council Represented
16 September 2008	Cr David Carter, Mayor Cr Damien Tessmann Cr Cheryl Dalton Cr Keith Campbell Cr Kathy Duff Cr Barry Green Mr Tony Hayward, CEO	South Burnett Regional Council
	Cr Sammy Murray, Mayor Mr Warren Collins, CEO Mr Ross Higgins, Deputy CEO	Cherbourg Aboriginal Shire Council
	Cr Ron Dyne, Mayor Cr Tony Perrett, Deputy Mayor Cr Donna Neilson Cr Julie Walker Cr Rae Gate Cr Graham Engeman Cr Larry Friske Mr Craig Manson, Deputy CEO	Gympie Regional Council
23 September 2008	Cr Robert Loughnan, Mayor Cr Tom Hartley, Deputy Mayor Cr Jill Baker Mr Stuart Randle, Deputy CEO	Roma Regional Council
	Cr Ray Brown, Mayor Cr Carolyn Tillman Cr Charlene Hall Cr Ray Jamieson Cr Andrew Smith Cr George Moore Mr Phil Berting, CEO	Dalby Regional Council
24 September 2008	Cr Noel Strothfield Cr Mike Williams Cr Carol Taylor Cr Anne Glasheen Cr Bill Cahill The late Cr Ian Orford Cr Peter Marks Mr Murray Wright, Acting Director, Corporate Services Mr Norm Garsden, Manager Governance & Administration Ms Angela O'Neil, Coordinator Council Business	Toowoomba Regional Council
	Cr Graeme Scheu, Mayor Cr Rick Kearney, Deputy Mayor Cr David McMahon Cr Phil Percival Cr Richard McDougall Cr Robert Reardon Cr Sharon Lee Mr Peter Stewart, CEO	Goondiwindi Regional Council
7 October 2008 (Inspections)	Cr Paul Tully Mr Carl Wulff, CEO	Ipswich City Council
8 October 2008 (Inspections)	Cr Pam Parker, Mayor Mr Michael Pickering, Deputy CEO - Strategy and Outcomes	Logan City Council
9 October 2008	Cr Raymond Sibley, Acting Mayor Cr Ruth Gorringer Cr Michael Thaiday Cr Zina Prior Mr Barry Moyle, CEO Ms Deniece Geia, Deputy CEO	Palm Island Aboriginal Shire Council

Appendix B – Submissions received

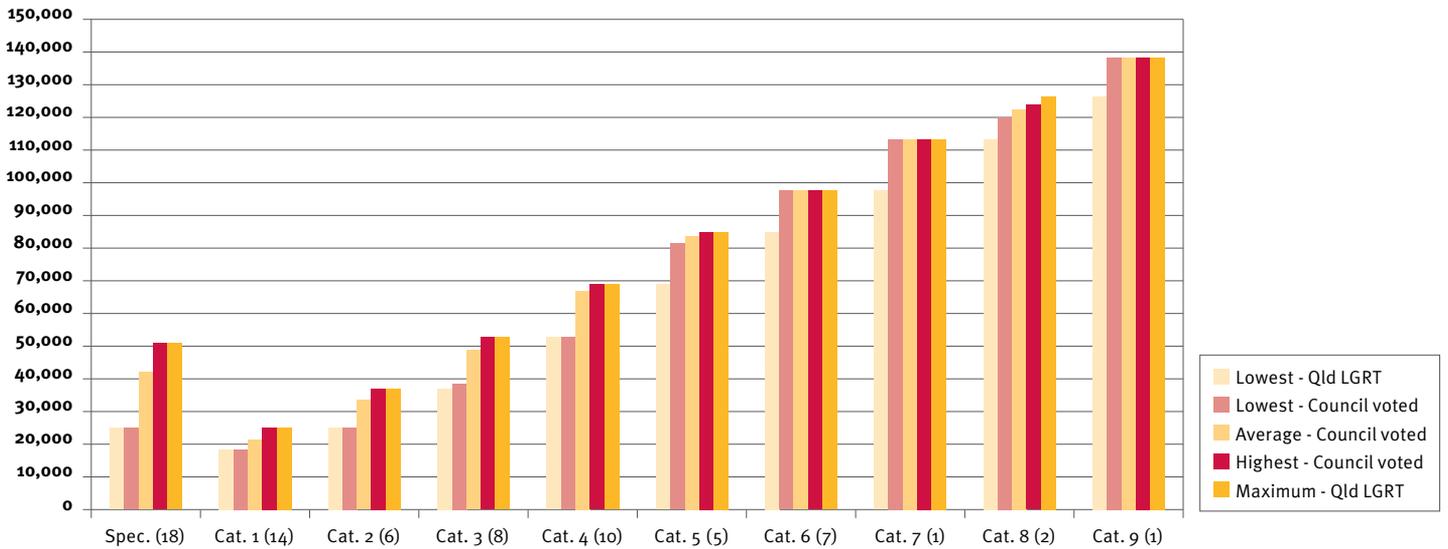
Date Received	Person or Organisation	Council submission relates to
7 August 2008	Mr Ron Hewitt, Member of the Public	All Councils
29 August 2008	Ms Allison Love, Member of the Public	All Councils
1 September 2008	Anonymous	All Councils
4 September 2008 (phone)	Mr John Neve, Member of the Public	All Councils
23 September 2008	Hon. Warren Pitt, Member for Mulgrave Minister for Main Roads and Local Government	All Councils
26 September 2008	Ms Lesley Pocock, Member of the Public	All Councils
1 October 2008	Ms Katharine Wiltshire, Member of the Public	All Councils
19 August 2008	Mr John Bensch, CEO	Aurukun Shire Council
4 August 2008	Ms Sue McCarthy, Member of the Public	Cairns Regional Council
22 August 2008 (phone)	Cr Rob Payne	Cairns Regional Council
23 September 2008	Mr Jon Gibbons, CEO	Carpentaria Shire Council
3 October 2008	Mr George Frangos, Deputy CEO	Central Highlands Regional Council
24 September 2008	Cr Frank Beveridge, Deputy Mayor	Charters Towers Regional Council
20 August 2008	Cr Peter Scott, Mayor	Cook Shire Council
5 August 2008	Mr Phil Berting, CEO	Dalby Regional Council
4 September 2008	Cr Sue Brooks	Fraser Coast Regional Council
30 September 2008	Ms Simone Robinson, Senior Corporate Governance Officer	Fraser Coast Regional Council
25 August 2008	Mr Graham Williams, Member of the Public	Gold Coast City Council
28 August 2008	Mr Anthony Davis, CEO	Gold Coast City Council
28 August 2008	Ms June Coulson, Member of the Public	Gold Coast City Council
04 September 2008	Ms Jill Dumenil, Member of the Public	Gold Coast City Council
26 August 2008	Cr Pino Giandomenico, Mayor	Hinchinbrook Shire Council
11 September 2008	Mr Lee Robertson, CEO	Hope Vale Aboriginal Shire Council
29 September 2008	Mr Carl Wulff, CEO	Ipswich City Council
23 September 2008	Mr John Japp, CEO	Kowanyama Aboriginal Shire Council
24 September 2008	Mr Alan Evans	Kowanyama Aboriginal Shire Council
26 September 2008	Cr Griffith Patrick, Deputy Mayor	Kowanyama Aboriginal Shire Council
29 September 2008	Cr Thomas Hudson, Mayor	Kowanyama Aboriginal Shire Council
29 September 2008	Cr Michael Yam	Kowanyama Aboriginal Shire Council
30 September 2008	Cr Walter Parry	Kowanyama Aboriginal Shire Council
30 September 2008	Cr James Dick	Kowanyama Aboriginal Shire Council
18 August 2008 (phone)	Ms Darlington, Member of the Public	Lockyer Valley Regional Council
14 September 2008	Mr Lance Barrett, Member of the Public	Logan City Council
23 September 2008	Mr Alex McDonald, Member of the Public	Logan City Council
30 September 2008	Mr Simon Benham, Governance Manager	Logan City Council
1 October 2008	Mr Clive Beilby, Member of the Public	Logan City Council
7 October 2008	Ms Elaine Catlin, Member of the Public	Logan City Council
27 August 2008	Ms Michelle McFadyen, CEO	Longreach Regional Council
23 September 2008	Anonymous	Longreach Regional Council
10 August 2008	Mr Paul Church, Member of the Public	Moreton Bay Regional Council
02 September 2008	Mr Tom McLoughlin, Member of the Public	Moreton Bay Regional Council

30 September 2008	Mr John Rauber, CEO	Moreton Bay Regional Council
04 August 2008	Cr Paul Lobegeier	North Burnett Regional Council
30 September 2008	Cr Faye Whelan	North Burnett Regional Council
23 September 2008	Mr Gary Stevenson, CEO	Redland City Council
26 September 2008	Mr Peter Courtney, Member of the Public	Redland City Council
30 September 2008	Cr Helen Murray	Redland City Council
14 November 2008	Ms Michelle Clarke, CEO	Richmond Shire Council
23 August 2008	Cr Rosemary Swadling, Deputy Mayor	Rockhampton Regional Council
7 September 2008	Cr Jan Chambers	Roma Regional Council
30 September 2008	Ms Margie Jackson, Governance & Executive Support Officer	Scenic Rim Regional Council
30 September 2008	Mr Chris Payne, Manager, Corporate Services	Somerset Regional Council
05 August 2008	Cr Cheryl Dalton	South Burnett Regional Council
22 August 2008	Ms Trudy Fraser, Manager, Executive Services	Southern Downs Regional Council
29 September 2008	Mr Anthony Barry, Executive Member Caloundra City Ratepayers & Residents Association Inc.	Sunshine Coast Regional Council
24 September 2008	Mr Norm Garsden, Manager, Governance & Administration	Toowoomba Regional Council
22 September 2008	Ms Sandie Edwards, Rebel Marine	Torres Shire Council
29 September 2008	Cr Fred Gela, Mayor	Torres Strait Island Regional Council
2 September 2008	Cr Dale Last	Townsville City Council
4 August 2008	Cr Sandra Houghton, Deputy Mayor	Yarrabah Aboriginal Shire Council
8 October 2008	Cr Percy Neal, Mayor	Yarrabah Aboriginal Shire Council

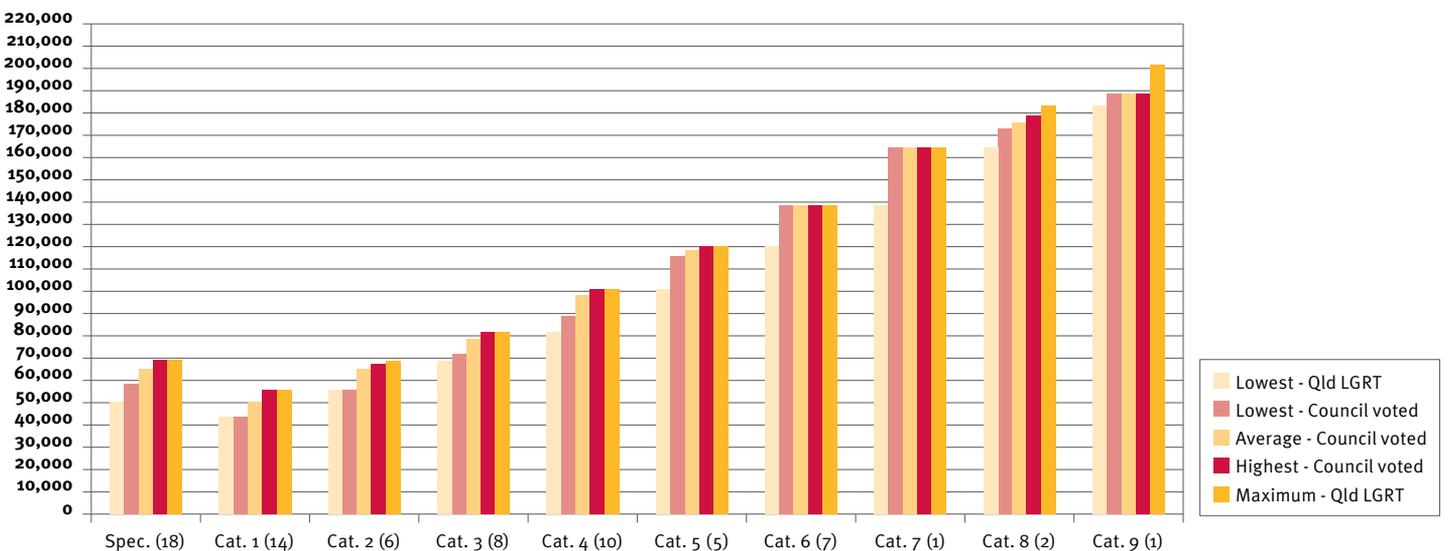
Appendix C – Councillor Remuneration Levels



Appendix D – Deputy Mayor Remuneration Levels



Appendix E – Mayor Remuneration Levels





**Local Government
Remuneration Tribunal**
Queensland Government