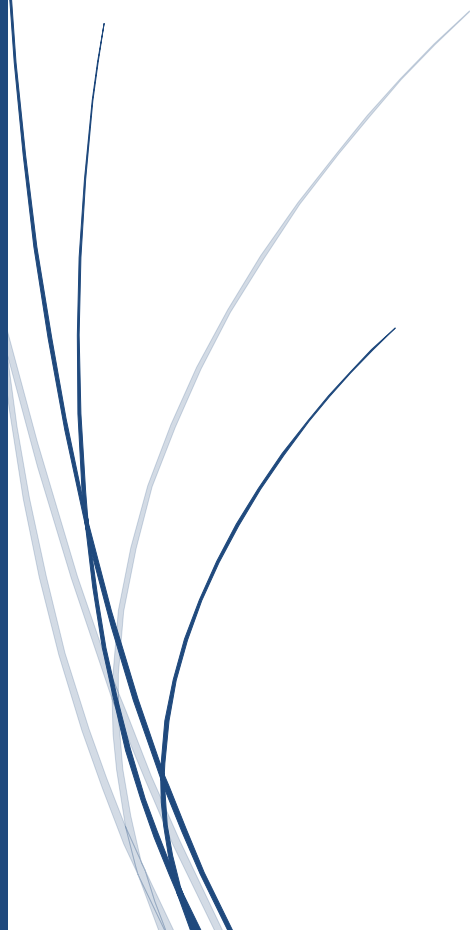




20 November 2019

# **Independent Councillor Remuneration Tribunal**

FINDINGS AND  
RECOMMENDATIONS REPORT



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## **Executive Summary**

On 15 October 2019, Brisbane City Council (Council) approved by Council resolution 225/2019-20 new Terms of Reference (refer Appendix A for the Terms of Reference and Appendix B for the Council resolution) for the independent Councillor Remuneration Tribunal (the Tribunal), which corresponds with Council corporate rule *AP216 Councillor Remuneration Policy* (the Remuneration Policy).

When the Tribunal was originally established and approved by Council on 30 July 2013, provision was also made at this time for the Tribunal to review and, as required, reset the remuneration arrangements applying to Councillors each five years. That is, the Tribunal set the base salary for Councillors, the relativities for officeholders and the Lord Mayor, and reviewed as warranted, associated allowances.

Since that time the Tribunal has met on two occasions (2013 and 2017) and reviewed the relevant remuneration arrangements. In 2013, the Tribunal, acting under the Terms of Reference and applying the Remuneration Policy as it was at that time, provided for an 8% increase to Councillors' salaries. It did so on the basis that in the period between 2008-2013, Councillors' salaries had fallen significantly behind the relevant market salary increases (when compared with Council EBA staff and executive salaries).

In 2017, the Tribunal accorded a 2% increase to Councillor salaries effective from 1 July 2018 and introduced a new conditionally accessible transitional allowance for involuntarily retired members of Council. The Tribunal left the matter of adjustments to Councillors' remuneration in the subsequent years until the next five-year review to the deliberations of the Queensland Independent Remuneration Tribunal.

The 15 October 2019 Council resolution directed the Tribunal to conduct a special sitting within its ordinary five-year cycle of sittings (not otherwise due until 2022) to consider Councillor remuneration anew, and to determine whether any adjustment or change in remuneration arrangements was warranted in the circumstances stipulated in the Terms of Reference.

Importantly in this respect, the Council resolution of 15 October 2019 included in its Terms of Reference Councillor superannuation in the definition of remuneration. Prior to this Council resolution, Councillor superannuation was expressly excluded from the previous Terms of Reference and was therefore outside of the Tribunal's jurisdiction. Changes to Councillor superannuation arrangements were historically determined by a Council resolution.

Thus, the Tribunal has been asked to review the Council remuneration arrangements in the context of the widened Terms of Reference. The Tribunal was asked by Council to deliver its report to the Council's Chief Executive Officer by close of business Wednesday 20 November 2019.

### **Recommendations**

The Tribunal considered whether a general change to the salaries or allowances of Councillors was warranted, taking into account such factors as:

- average national and state wage increases
- Council's obligations to pay superannuation for Councillors
- actual wage increases for Council contributed superannuation contributions for Council staff
- actual Councillor wage increases
- community expectations
- workloads of Councillors
- comparative conditions of employment provided to elected officials at other levels of government.

Putting aside the matter of superannuation, the Tribunal has considered the market and other circumstances relevant to Councillors' remuneration and has determined that no change to the current remuneration arrangement, including salary and allowances, is warranted at this time.

That said, the Tribunal has taken the opportunity of the current review to explore the history of Councillor and respective officeholder relativities as they apply to salary and allowances and has found them to be of questionable value as an indicator of market and/or work value. Some detailed discussion of the history of the development of relativities between Council officeholders is set out in this report.

The Tribunal therefore recommends that in the period prior to the next review, scheduled for 2022, the relativities between officeholders be the subject of a deliberate investigation by the Tribunal and that there be a considered review of officeholder functions and responsibilities in order to properly set relativities on a firm foundation for the future.

The Tribunal also found that the issue of the adequacy or otherwise of the allowances that apply to officeholders should be the subject of direct enquiry by the Tribunal of officeholders themselves. That is, the Tribunal should seek to obtain first-hand data and officeholder experience in respect of the role of allowances in the conduct of their duties and responsibilities, while also taking into account the role of allowances in respect of wider remuneration issues.

The Tribunal accepts that there are sound reasons to consider integrating allowances into Council officeholder salaries but has resisted adopting this option in the current environment for reasons of the impact of doing so on officeholders' superannuation (and the upward pressure it would place on Council superannuation contributions). The Tribunal indicates that this matter should be revisited in the 2022 Tribunal review.

Turning to the issue of superannuation, the Tribunal has given close attention to the current 20% contribution rate made to the respective Councillors' complying superannuation schemes. The Tribunal has investigated in some detail the historical basis to the 20% contribution rate and has set out a summary of the history of the establishment of the contribution rate in this report. That investigation has led the Tribunal to conclude that the current 20% contribution rate does not have a rational foundation and therefore does not represent a reasonable market point.

In the Tribunal's view, the current contribution rate was derived from contribution rates that were required to fund actuarially projected deficiencies in much earlier defined benefit schemes operated by Council and provides no relevant market point in either the contemporary, legislated superannuation system or with respect to public sector contribution levels generally.

After considering the wider market and the likely future of employer-based superannuation, the Tribunal recommends that a new Council superannuation contribution rate (12.0%) apply to all Councillors and take effect from 1 January 2020.

## Chapter 1: Background and Overview

### 1.1 Establishing the Tribunal

On 30 July 2013, Council approved the establishment of a Councillor remuneration policy framework including the establishment of an independent Councillor Remuneration Tribunal (the Tribunal). Two Tribunals have been convened in accordance with this framework, reporting findings firstly on 8 November 2013 with recommendations to take effect from 1 July 2013 and secondly on 24 November 2017 with recommendations taking effect on 1 July 2018.

On 15 October 2019 Council resolved to interpose a special meeting of the Tribunal within the ordinary five-year cycle of sittings as provided for in the approved Terms of Reference.

### 1.2 Role of the Tribunal

Under the Terms of Reference approved by Council on 15 October 2019, the role of this Tribunal is to review and, as required, reset the remuneration for a Councillor. The secondary role is to determine the relativities of remuneration for the following roles:

- Lord Mayor
- Deputy Mayor
- Committee Chairs
- Chair of Council
- Leader of the Opposition.

Remuneration is defined in the Terms of Reference as salary, allowances, Council contributed superannuation and any severance arrangements, but does not include ward related expenditure which falls under the provisions of Council's *AP032 Councillor Expenses Reimbursement Policy*. For the purposes of this special Tribunal's review, motor vehicles, telephone and mobile computing devices are considered Tools of Trade and, accordingly, are also excluded.

### 1.3 Authority

Any determination and recommendations in relation to Councillor remuneration will be compliant with the provisions set out in sections 230-235 of the *City of Brisbane Regulation 2012* and section 210 of the *City of Brisbane Act 2010*.

### 1.4 Tribunal Members

On 16 October 2019, E&C approved the appointment of three persons to constitute the 2019 independent Councillor Remuneration Tribunal.

Mr Peter Richards	Served as Senior Deputy President of the Australian Industrial Relations Commission and the Fair Work Commission and is presently Principal Consultant at Insync IR/HR Consultancy.
Ms Sharon Doyle	Currently holds a number of board roles including Director of Unitywater (Water and Sewerage Distributor/Retailer) and is Managing Director of InterFinancial, a corporate finance advisory firm. Sharon is a member of the QUT Faculty of Law Founders' Scholarship Fund Committee.
The Honourable John Mickel	Former Speaker of the Legislative Assembly and Queensland Government Minister. Recently led the Queensland Government's trading hours review.

## Chapter 2: Councillor Superannuation – Key Considerations

### 2.1 Overview of Councillor Remuneration

In accordance with the Terms of Reference, the Tribunal has been asked to review and, as required, reset the remuneration for a Councillor. The secondary role is to determine the relativities of remuneration for the following roles: Lord Mayor; Deputy Mayor; Committee Chairs; Chair of Council; and Leader of the Opposition.

In fulfilling this task, the Tribunal has been asked to consider a range of factors, including for the period since 1 July 2018:

- average national and state wage increases;
- Council's obligations to pay superannuation for Councillors, and
- actual wage increases and Council contributed superannuation contributions for Council staff,
- actual Councillor wage increases
- community expectations;
- workloads of Councillors
- comparative conditions of employment provided to elected officials at other levels of government.

For purposes of the definition of remuneration, the Terms of Reference refer the Tribunal to salary, allowances, Council contributed superannuation and any severance arrangements (but excluding ward related expenditures, and the provision of motor vehicles, telephones, mobile computing devices and other tools of trade generally).

Councillor salaries and allowances, and the differential rates paid to officeholders, as at 30 June 2019, are set out in Table 1 below. The corresponding figures as at 1 September 2017, are set out in Table 2, and the figures as at 1 July 2013 are set out in Table 3.

Table 1 – Current Salary, Differential Rates & Relativities as at 30 June 2019

Position	No.	Salary	Relativity (Salary)	Allowances	Salary plus allowances (excl. super)
Councillor	17	\$160,938	100%	N/A	\$160,938
Leader of the Opposition	1	\$177,031	110%	\$20,320	\$197,351
Chair of Council	1	\$201,172	125%	\$20,320	\$221,492
Committee Chair	6	\$201,172	125%	\$20,320	\$221,492
Deputy Mayor	1	\$209,218	130%	\$20,320	\$229,538
Lord Mayor	1	\$265,549	165%	\$99,767	\$365,316

Table 2 – Salary, Differential Rates & Relativities as at 1 September 2017

Position	No.	Salary	Relativity (Salary)	Allowances	Salary plus allowances (excl. super)
Councillor	17	\$157,782	100%	N/A	\$157,782
Leader of the Opposition	1	\$173,560	110%	\$19,921	\$193,481
Chair of Council	1	\$197,227	125%	\$19,921	\$217,148
Committee Chair	6	\$197,227	125%	\$19,921	\$217,148
Deputy Mayor	1	\$205,116	130%	\$19,921	\$225,037
Lord Mayor	1	\$260,342	165%	\$97,811	\$358,153

Table 3 – Salary, Differential Rates & Relativities as at 1 July 2013

Position	No.	Salary	Relativity (Salary)	Allowances	Salary plus allowances (excl. super)
Councillor	17	\$136,649	100%	N/A	\$136,649
Leader of the Opposition	1	\$150,314	110%	\$18,268	\$168,582
Chair of Council	1	\$170,811	125%	\$18,268	\$189,079
Committee Chair	6	\$170,811	125%	\$18,268	\$189,079
Deputy Mayor	1	\$177,644	130%	\$18,268	\$195,912
Lord Mayor	1	\$225,470	165%	\$89,693	\$311,719

The Tribunal understands that its amended jurisdiction in respect of superannuation empowers it to:

- make a recommendation bearing on whether, in all the circumstances relevant to the Tribunal's Terms of Reference, the Council contribution to the current superannuation scheme applying to Councillors is set at an appropriate market point (and therefore that it should continue in its current and unamended form); or
- if the Tribunal determines the Council superannuation contribution rate is not set at an appropriate market point, the Tribunal must also recommend (i) a soundly based, alternative contribution rate to apply to Councillors for the future, and (ii) an appropriate commencement date for the amended contribution rate.

A conclusion as to whether the current superannuation contribution is set at an appropriate market point requires an examination of the history of Councillor superannuation schemes and the policy principles, if discernible, upon which each scheme was designed. As is apparent below, this history illuminates the development of the contribution rates.

## 2.2 Historical Context of Councillor Superannuation

Initially, it is important to understand that in the view of the Tribunal, Councillors' superannuation has been historically dealt with as a discrete matter, and not as a component of Councillors' remuneration. This has been evident in more recent times (and up until the operation of the Tribunal's amended jurisdiction) by the exclusion of superannuation from the Tribunal's Terms of Reference in prior Tribunal sittings (in 2013 and 2017).

Therefore, the development of Council superannuation policies did not have particular or stated regard to salary and allowance decisions, and Council does not have a composite remuneration package that has permitted a calculation of total remuneration costs for Councillors or which has allowed for salary sacrificing options (as is common in the private sector). The Tribunal does not have a jurisdiction to make recommendations affecting remuneration packaging or salary sacrificing and has approached the issue of superannuation as a matter requiring discrete attention.

The current superannuation scheme has appeared to evolve into a non-contributory superannuation scheme in which Council, as the nominal employer, contributes 20% of each Councillor's superannuable salary.

Councillors are not required to contribute personally to a fixed or default fund but may exercise choice in respect of the complying fund into which their nominal employer contributions (20% of superannuable salary) are remitted. As a result of a unanimous decision of Council on 31 May 1994, Councillors are classified as employees for income tax purposes, in common with other employees.

There are variable nominal employer contribution rates across the public sector for elected members of other Queensland local governments and Members of the Queensland Parliament, and these are touched on further below.

It is apparent to the Tribunal that the Council scheme exhibits an employer contribution rate that is at the higher end of the employer contributions in the public sector.

Given this, what are the origins in policy or otherwise by which the nominal 20% employer contribution rate was struck? Discussion about the establishment of a Councillors' superannuation fund dates back to 1964. Following discussion over the subsequent three years, Lord Mayor Clem Jones initiated legislative amendments to make provision for a scheme at a future date.

In 1969 the first Brisbane City Council superannuation scheme for Councillors was established: the Brisbane City Council Aldermanic Superannuation Scheme (BCCASS). The BCCASS operated as a defined benefits scheme.

The rules of the BCCASS were amended over time to effect, amongst other things, the adjustment of pensions based on Consumer Price Index (CPI) movements and the entitlements of members who had been in the pensionable phase but had been re-elected to Council at a subsequent time.

Between 1976 and 1986 the BCCASS faced significant actuarial deficiencies, and Council made various efforts to contain these forecast liabilities. Defined benefits schemes commonly generate fluctuating actuarial projections depending on a range of factors, such as the volatility arising from investment strategies and changes in rules and scheme membership.

As a result, by mid-1986, the then BCCASS rules required Councillors to contribute 11.5% of superannuable salary and Council contributed a further 21.36%. Council's contribution increased to 28.36% in 1987 and to further address the fund valuation, the Council contribution reached as high as 33% in the 1980s.

It would appear that by 1987, Council determined that the BCCASS was not sustainable as a growing fund and it was closed to new members as of 1 January 1988. The BCCASS actuarial deficiency was contained for the future and paid down over time (with continuing members paying some 11.5% of salary and the Council contribution falling to around 22.0% by 1988).

As it was clear that the current scheme was not sustainable, a new fund was created, principally for members elected after the 1988 Council election, which once again was a defined benefits scheme. The fund was established for new Councillors from the 1988 local government elections.

Council continued to increase the contributions made to overcome the actuarial deficiencies. In respect of the new scheme, Council resolved that new members were to contribute 7.5% of salary and the nominal employer contribution would be a multiple of 2.3 times the member contribution: 17.25%. The total amounting to an annual contribution of approximately 25% of superannuable salary. The trustees for the new fund were the Town Clerk, and one representative each of the party holding the majority of seats in the Council and the Opposition.

Both the new fund and the closed BCCASS underwent a range of rule amendments to ensure they complied with the Commonwealth Superannuation Guarantee legislation introduced in 1993. In the lead up to these changes, in 1992 Council initiated a review (managed by consultants Noble Lowndes) of the future of Councillor superannuation.

That review culminated in a recommendation that there be a uniform superannuation system in Council with common benefits to all Councillors, that it be an accumulation fund, and that starting benefits were those benefits as had accrued to the point of the commencement of the new scheme. This review also recommended that members contribute 5% of their superannuable salary and Council supplement this with a 20% contribution.



It is reasonably evident that these market points reflected the contribution levels in the then continuing defined benefits fund, which also amounted to 25% (see immediately above).

Similar reviews at this time also took place of defined benefits schemes at the Commonwealth level, with the Commonwealth Superannuation Scheme (a defined benefits fund) closing and a new accumulation fund commencing – the Public Service Superannuation scheme replacing it for new and transitioning Australian Public Service employees.

Aspects of the Noble Lowndes review were acted upon three years later, when in 1995 Council acted upon several of its recommendations. For the current purposes of this report the most important of these actions was that the existing two superannuation schemes were merged into a single scheme to create a hybrid superannuation scheme (exhibiting features of both a defined benefits and an accumulation fund). The scheme was based on a member contribution of 5% and an employer or Council contribution of 20%. That scheme was named the Brisbane City Council Councillors' Superannuation fund.

The hybrid nature of the new fund appears to have arisen because the fund had to administer and provide for those members in the former defined benefits scheme in its pensionable phase as well as provide for the accumulation fund structure for new members. Transitional arrangements were put in place to manage shortfalls as they were then understood to be in the accrued benefits arising from the previous schemes cited above. This included placing limits on lump sum payments and providing incentives for taking a pension.

The new, common scheme (the Brisbane City Council Councillors' Superannuation fund) featuring the 25% combined contribution rate came into effect on 1 July 1996. There were various rule changes to the new fund over time. The evident theme over the years was that the defined benefits funds were consistently running a shortfall, requiring significant top-up contributions by Council.

On 4 December 2001, Council resolved to withdraw from the defined benefits Brisbane City Council Councillors' Superannuation fund, with the scheme being taken over by City Super (which in 2011 merged with LG Super to establish the consolidated fund). Councillors unanimously agreed to withdraw from membership of the fund and to have their respective entitlements under the fund transferred to other compliant funds of their individual choice.

The accumulation component of the scheme was distributed over the course of 2002 to various complying superannuation accounts in accordance with member choice of funds preferences. At this time, Council appears to have ceased the member 5% contribution scheme, leaving the matter of personal contributions to individual members. Thus, from this time forwards, the Council superannuation scheme was based on a 20% nominal employer contribution rate alone.

## **2.3 Discussion on Current Superannuation Arrangements**

The current contribution arrangements do not appear to arise from any deliberate decision of Council to provide a prescribed level of retirement income relative to a particular benchmark or identifiable market point.

The fact that Council members receive a 20% employer contribution appears to emerge from decisions taken in much earlier times to identify contribution levels that would constrain actuarial deficiencies, particularly as they arose in respect of the legacy defined benefit schemes.

The contribution rates therefore arose from legacy schemes in different contexts (such as the need to ensure former defined benefits schemes met actuarial projections) than currently exists. The

contribution rates do not have the character of a deliberate policy rationale or a deliberate market point that is relevant to the modern superannuation environment.

As suggested in the discussion above, the 20% contribution rate (to what are currently accumulation schemes) appears to the Tribunal to be no more than a roll-over of the nominal employer contribution rate required to fund the defined benefits schemes in the 1990s.

That contribution rate (20%), has not been struck with any regard to the concessional superannuation cap, which was effectively halved in 2012. For the 2019-20 financial year the concessional cap is \$25,000. Because of the operation of the cap, a significant component of contributions above the cap are “lost to” taxation. At a 20% nominal employer contribution rate, all Councillors would be in breach of the concessional cap, and the assumed benefit of the contribution rate is being reduced markedly by the effect of the applicable marginal taxation rates.

In the Tribunal’s view, there is very limited scope to alter this situation because neither the *Local Government Act 2009* (see Chapter 7) nor the *City of Brisbane Act 2010* make provision for Brisbane City Councillors to enter into alternate arrangements (even assuming any such arrangements represented a desirable policy outcome – see discussion below).

That said, the public sector generally (at Federal, State and local government levels) has provided higher contribution rates than the broader community standard Superannuation Guarantee rates set out above. This may reflect a combination of factors, including fund capitalisation levels which are supported by centrally determined contribution rates; fund investment management strategies; the outcomes from industrial bargaining; and the perceived priority accorded to employee recruitment and retention incentives.

Members of the Queensland Parliament receive a nominal employer contribution of 12.75% and make a required personal contribution of 5.0%, which is the same as for Queensland public servants. Federal Members of Parliament receive a nominal employer contribution of 15.4% and do not appear to be required to make a personal contribution.

Based on a review of some other local Queensland councils, Councillors generally receive nominal employer contributions ranging between 9.5% and 12.0%, with varying arrangements relating to personal contributions (if any). The executive staff of the Brisbane City Council receive an employer contribution reflecting the Superannuation Guarantee (9.5%).

The Tribunal also accepts that unlike the past (when Aldermen made careers around their Council roles and the Council offices they held), there is now some volatility in membership of the current superannuation scheme in the contemporary political environment. Consequently, in more recent times, Councillors are not necessarily long-term beneficiaries of the 20% employer contribution.

## **2.4 Recommendations for Councillor Superannuation**

The Tribunal considers that the current nominal employer 20% contribution rate should be re-set at a market point more relevant to the contemporary superannuation system. This market point must have closer regard to rate payer expectations, represent more effective use of Council funds (noting the impact of the concessional superannuation cap) and take account of the circumstances of elected public office.

The Tribunal notes (see Table 4 below) that the Superannuation Guarantee legislation projects a superannuation contribution market rate of 12.0% by 1 July 2025.

Table 4 – Australian Taxation Office – Super Guarantee Percentage

Period	General super guarantee (%)
1 July 2019 – 30 June 2020	9.50
1 July 2020 – 30 June 2021	9.50
1 July 2021 – 30 June 2022	10.00
1 July 2022 – 30 June 2023	10.50
1 July 2023 – 30 June 2024	11.00
1 July 2024 – 30 June 2025	11.50
1 July 2025 – 30 June 2026	12.00

The Tribunal considers this market point (12.0%) to reflect an appropriate superannuation contribution rate for Brisbane City Councillors, and a rate that generally does not generate excess losses to taxation (through exceeding the concessional contribution cap) and does not otherwise provide a benefit to superannuation recipients. The 12.0% rate also reflects the direction of the statutory Superannuation Guarantee contribution rates in the coming years.

The Tribunal considered whether the 8% reduction in the nominal employer superannuation contribution should result in an increase to the existing Councillor remuneration by an equivalent amount, but considered (i) this approach was inconsistent with the historical separation of the superannuation contribution structure from the wider remuneration arrangements, (ii) any upward adjustment to salary consequentially may arguably have an upward effect on the employer contribution and give rise to taxation implications (which the Tribunal has sought to limit); and (iii) any increase in salary outside of any annualised adjustments should be on a work value review conducted by the Tribunal each five years.

The Tribunal has considered phasing the new rate in over time, utilising the financial year, and/or creating tiers of contribution rates for existing and new Councillors. But these options have not demonstrated real benefits, appear only to increase transaction costs for Council, and do not address concessional superannuation cap issues (or the best use of ratepayer revenues).

The Tribunal considered the merit of implementing the changes to superannuation after the Councillor Declaration of Office following the completion of the 2020 Brisbane City Council quadrennial elections. This approach, in the view of the Tribunal, would have allowed all current Councillors and prospective Councillors a more complete understanding of their future remuneration package prior to the election. Further, the Tribunal considered changing current Councillors' remuneration arrangements to their detriment mid-term, as it were, would not be an act of good conscience.

However, the Tribunal is bound by the Terms of Reference as resolved by Council, and which provide the authority for the Tribunal's jurisdiction to make mid cycle review recommendations about Councillor remuneration. The Terms of Reference stipulate that the implementation date for the Tribunal's recommendation must be 1 January 2020. This recommendation therefore will be implemented at that time, and no other.

The Tribunal recommends as follows:

That the new Council superannuation contribution rate (12.0%) apply to all Councillors at the same time and take effect from 1 January 2020.

## **Chapter 3: Councillor Salary and Allowances – Key Considerations**

### **3.1 Background and Problems with Remuneration Relativities**

Brisbane City Council has a unique position amongst local government in Australia. This arises from the unusually large local government area for which the Council is responsible. The Council's responsibilities in this regard are a function of the *City of Brisbane of Act 2010*. Brisbane City Council is the largest provider of local government services in Australia, its wards are of equivalent population to electorates of Members of the Queensland State Parliament, and its budget of around \$3 billion (combined capital and operational expenditures) per annum is three times that of the Gold Coast City Council, and dwarfs that of any other local government.

Council has therefore stood outside the regulatory framework for much of the Queensland local government jurisdiction, including the arrangements for the determination of the appropriate remuneration for members of the Brisbane City Council. Given the similarity in electorate size and elected member responsibilities with the Queensland State Parliament, the salary of the Lord Mayor, Deputy Mayor, Leader of the Opposition and Chairs (also referred for the purpose of this report as officeholders) and Councillors was for some time linked to that of Queensland Members of Parliament.

Throughout the 1980s, Council took various decisions in relation to the relativities between officeholders and Queensland State Members and Ministers. In 1986, for example, the base Councillor rate was 80% of that of a State Member of Parliament, and the Deputy Mayor and various Chairs of Committees and Council salaries were set at 62% of that of a State Minister.

By 1988-89, Council had determined an amended suite of relativities for Councillor and officeholder salaries referable to those accorded to State Members of the Queensland Parliament. The base Councillor (Aldermanic) salary was set at that of a State Member of Parliament less \$500. The base salary of the Lord Mayor was set at 192% relativity to the base rate of the State Member, the Deputy Mayor was set at 130% relativity, whilst the various Chairs of Committee and Council roles were set at a 125% relativity.

In 1991 the Lord Mayor's salary relativity was abolished and that role was accorded a salary commensurate with that of a State Minister. This resulted in a reduction in the Lord Mayor's salary. By 1992-93, the Council had amended the relativities once again. The Councillor salary rate became 100% of that of a State Member, the Leader of the Opposition was set at 103.95%, the various Chairs of Committees and the Chair of Council increased to 128.18%, the Deputy Mayor was re-set at 133.03% relativity, and the Lord Mayor's salary remained that of a State Minister.

By the following year, the relativities were again amended. The Leader of the Opposition role was taken to constitute a 103.8% relativity to the base Councillor rate or salary. The positions of Chair of Committees and Council were set at 127.4%. The Deputy Mayor's position was set at 132.1% and the Lord Mayor's position remained at the salary of a State Minister (with no relativity to other Council positions).

By 2013, the relativities had again moved. The Leader of the Opposition was designated as having a 110% relativity to the base Councillor salary. The Chair of Council and the Committee Chair roles were all considered to have a 125% relativity to the base Councillor rate. The Deputy Mayor was designated a 130% relativity whilst the Lord Mayor was designated a 163% relativity to the base Councillor rate.

The Lord Mayor's relativity (163%) appears to have been set by reference to a salary indicative of a State Minister and reflected the position taken by Council in the 1980s (rather than a genuine comparative analysis of the role against that of a Councillor).

From 2013, however, decision-making in respect of Councillors' remuneration (as defined at various times) was vested in the Tribunal. The Tribunal handed down its first report in November 2013. But for one change, it applied a percentage increase to the salaries at the time and did not alter or amend the pre-existing base rate or the relativities. The one change made by the 2013 Tribunal was that the 163% relativity for the Lord Mayor was increased to 165%. This step appears to have been taken to sever the Lord Mayor's remuneration from its nexus with a State Minister.

The Tribunal remuneration review of November 2017 also provided a salary increase based on the same relativities as set by the 2013 Tribunal. The current Tribunal is unaware of any particular role evaluation that was carried out to derive the relativities set out above.

There is a strong probability the relativities were set by reference to the State Member salary for Councillors and the State Minister salary for the Lord Mayor. The relativities between these top and bottom salaries (for the Chairs of Committees, the Chair of Council and the Deputy Mayor, and the Leader of the Opposition) are likely to be percentages which were derived only to reflect a particular salary increase in a given year. That is, they had no conventional work value relativity as such.

The Tribunal does not question that the salary for a Councillor should reflect that of a Queensland State Member, given the similarities in roles and size of the wards/electorates. This appears to be a reasonable anchor point for Councillor remuneration, and any other critical examination of the work value of the role is unlikely to yield a materially different salary outcome.

However, the Tribunal considers that the jobs value relativity between a Councillor and the Lord Mayor is unlikely to be 165%. Further, the Lord Mayor's role, in the view of the Tribunal, is not comparable to that of a Queensland State Minister, noting the all-of-Council executive level accountabilities, the responsibility to provide strategic direction to Council, and Council-wide representation functions inherent to the role. The Lord Mayor's role is more closely related or bears closer approximation to the roles and accountabilities of the Queensland State Premier (rather than a Queensland State Minister).

Further still, the functions and responsibilities of particular committee Chairs have changed over time (since the mid-1990s) in terms of financial and budgetary, strategic and risk management skills and accountabilities (in particular), and may warrant differentiation and recalibration (noting the comment above that the relativities are unlikely to have been set by a comparative jobs analysis in any event). Support is implied for this concern in the decision of the (differently constituted) 2013 Tribunal.

As mentioned earlier, the 2013 Tribunal applied the relativities as they were set in the much earlier period, and recommended a salary increase for Councillors and officeholders in the circumstances of the time. However, in doing so the Tribunal questioned the manner in which officeholders' remuneration was set. The 2013 Tribunal, acting under its specific terms of reference, considered that the salary of officeholders, including that of the Lord Mayor, were insufficient in their own right without allowances included.

That said, considering this summary exploration of the history of job relativities in the Council, this Tribunal considers there would be considerable merit in reviewing officeholder salary relativities (excluding the Councillor 100% rate) in the near future and the relationship to the officeholder allowances.

This would ensure that the nexus between remuneration and relative responsibility and accountability (or work value) are rationally set and provide a sound benchmark for the long term, as well as a sound basis on which to amend the future relativities in accordance with changes in function and responsibility in those respective roles.

It has not been possible for this Tribunal within its reporting timeframe to conduct such an exercise, which would involve interviewing a sample of Councillors and Council staff to develop a detailed job analysis of each officeholder related role.

The Tribunal suggests that the resolution of appropriate relativities between officeholding positions in the Council, if the Council approved, might form part of the Tribunal's terms of reference in advance of the 2022 Tribunal session.

### **3.2 Discussion on Salary and Allowance Arrangements**

The salary awarded to Councillors and officeholders has been adjusted by the Tribunal twice since its instigation in 2013; once in 2013 and again in 2017. On the most recent occasion, the Tribunal increased the salaries of Councillors by 2.0%, with adjustments in out of session years required to reflect decisions of the Queensland Independent Remuneration Tribunal, which sets the salaries for Queensland State Members of Parliament. The current salaries of Councillors are set out at Table 1.

Salaries are but one component of the remuneration of Councillors. Some comment on the history of officeholder allowances is also warranted.

There are varying allowances made available to officeholders and these are referred to as expense of office allowances. These allowances were put in place in the 1960s and have been updated over many years by decisions of Council. The current allowances are paid with salary, and they are subject to ordinary Pay As You Go (PAYG) taxation. These allowances are also set out above at Table 1.

On the historical materials available to the Tribunal, it appears that allowances were carried over into the officeholder roles in an approximate equivalence with those expense of office allowances available to Queensland State Members of Parliament.

In the case of the Lord Mayor, in 1991 Council approved that the allowance would reflect the expense of office allowance provided to a Queensland State Parliament Minister. At that time, the expense of office allowance was in the order of \$6,000.

Prior to the early 1990s, Lord Mayoral expenses were reimbursed on the basis of having been appropriately vouched and presented for payment and meeting Council guidelines for expenses. However, with changes to the fringe benefits tax arrangements in 1994, the cost to Council for reimbursing expenses was said to have effectively doubled the tax rate to 93.8% of the expense reimbursement. Accordingly, it was considered to be more tax efficient for the Council to pay an officeholder an allowance equal to the estimated expenses incurred plus the income tax cost to the individual. Thus, the Council determined that the projected, reasonable expenses would be grossed up and paid directly to the relevant officeholder, including the Lord Mayor.

At this time, the then Town Clerk noted that by managing the expense of office allowance in this manner (and based on some assumptions about tax deductibility of expenses) there would be savings to ratepayers and reductions in transaction costs for Council.

In 1994, Council also resolved that officeholders' expense of office allowances would be paid through the payroll system thereafter. In this same period, Council identified that State Ministers also received as part of their remuneration an electorate allowance (the quantum of which was subject to their location). In May 1994, Council appears to have resolved that the Lord Mayor should receive an electorate allowance, expense of office allowance, and salary relative to that of a State Minister.

The Lord Mayor's allowance rates were set with reference to the *Legislative Assembly of Queensland Members' Remuneration Handbook*. It would appear that in 1994 Council determined that amount to

be the sum of the minimum electoral allowance and the expense of office allowance for a Queensland State Minister (which amounted to \$30,921 net). For the reasons given above, the Lord Mayor's allowance was grossed up (to the top marginal taxation rate) for taxation purposes. By 2006, the expense of office allowance was \$7,515 and the minimum electorate allowance was \$42,538. In 2006, the expense of office allowance for the Leader of the Opposition and the various Chair positions in Council was set at \$15,753.

From these allowances, the Lord Mayor, along with other officeholders, are required to meet expenditures relating to their office, with any deductions for business purposes being a matter for the officeholder and the Australian Taxation Office. In 2013, in respect of the Lord Mayor's remuneration, the Tribunal recommended amalgamating the minimum electoral allowance and the expense of office allowance into a single line expense of office allowance, and further recommended it be adjusted by increases awarded by the Queensland Independent Remuneration Tribunal in the Tribunal's out of session years.

Having set out this brief history of the structure of salary and allowances, it turns to the Tribunal to query whether the remuneration arrangements currently in place warrant reconsideration and adjustment.

### **3.3 Consideration of Current Councillor Remuneration Arrangements**

As discussed earlier, the Tribunal has identified that the salary-point for a non-office holding Councillor is set at a market point which is appropriate in all the circumstances. No change in that salary point is warranted outside the normal adjustment processes.

In its 2013 report, the Tribunal stated as follows: "With respect to office holders other than the Lord Mayor, the Tribunal is of the view that, when viewed in isolation, the percentage salary loading appeared insufficient to compensate for the additional responsibilities." The Tribunal as then constituted was of the view that salary alone was insufficient for Council officeholders unless the expense of office allowance was incorporated into officeholders' compensation.

The 2013 Tribunal went on to comment in respect of the position of Lord Mayor: "With respect to the office of the Lord Mayor, the Tribunal noted the salary for the office is currently equal to that of a Queensland Cabinet Minister. The Lord Mayor also receives an Expense of Office Allowance and Electorate Allowance, set by reference to the Expense of Office Allowance and minimum Electorate Allowance set out in the Queensland Government's Members of the Legislative Assembly handbook, and grossed up for taxation purposes. The Tribunal considers this nexus should be severed, and accordingly, recommends the establishment of a salary for the Lord Mayor at 165% of the salary of a Councillor. Further, the Tribunal recommends the Lord Mayor be paid an Expense of Office Allowance, the amount being equal to the current gross amount of the Expense of Office Allowance and Electorate Allowance combined. The Tribunal considers that this aggregate of salary and allowances provides appropriate remuneration for the very demanding nature of the duties of the office." The 2017 Tribunal Report repeated this observation.

As mentioned in the discussion above, the Tribunal is of the view that the relativities for officeholder positions in Council have a dubious foundation and the position of Lord Mayor had been under-valued over time. These relativities can be re-set only upon the completion of a specific work program, perhaps in advance of the next remuneration review, scheduled for 2022.

That said, the Tribunal does not consider that any adjustment at this time should be made to Councillors' remuneration, or in respect of allowances attaching to Council officeholder roles, including that of the Lord Mayor. The relevant salary ranges and allowances have been derived (at least in their early history) from the Queensland State Parliament entitlements and remuneration system, which arises

from the similarity in function and electoral responsibilities between State Members and Brisbane City Councillor roles.

Further, the Tribunal does not consider that there are any movements in living costs, wages growth (in either the public or private sectors), changes in work value or any other relevant indicators that might warrant any adjustments in Councillor remuneration in this out of session review.

The Tribunal considers that there may be sound reason, however, to survey officeholders from time to time about the adequacy of the expense of office allowances attached to their positions in respect of the discharge of their responsibilities. It is helpful for purposes of decision making for the Tribunal to have a closer understanding of the demands made upon officeholders by virtue of their positions in Council.

Again, as with the complementary issues around relativities, it has not been possible to conduct such a communication exercise within the time frame accorded to the Tribunal in respect of this between session review. That said, an examination of *Legislative Assembly of Queensland Members' Remuneration Handbook* shows that at this time Councillor remuneration remains in tolerable equivalence with that of State Members and Chairs of Committees, in respect of their overall remuneration.

On this basis, the Tribunal does not discern any reason to recommend any change to the remuneration arrangements in respect of either salary or allowances that are currently available to Councillors, Council officeholders and the Lord Mayor. For purposes of clarity, the Tribunal indicates the Transitional Allowance provided by way of its 2017 decision has been reconsidered by the Tribunal and is intended to remain in place.

The Tribunal notes that the 2013 Report considered amalgamating the expense of office allowance into the salary of Councillors: "The Tribunal considered there could be merit in removing allowances altogether and rolling them into salary for office holders. The Tribunal has not made a specific recommendation in this regard because of the complexities with such an approach. However, given the further work into salary and allowances by the Queensland Government's Queensland Independent Remuneration Tribunal, the Tribunal suggests Council consider a review of the remuneration structure for Council officeholders after the completion of that work."

With regard to the 2013 Report consideration noted above, irrespective of any work the Queensland Government's Queensland Independent Remuneration Tribunal may conduct in relation to these matters, in the prevailing circumstances, the current Tribunal considers that the impact on Councillor superannuable salary and Council finances of rolling allowances into salary for officeholders would be contrary to the rationale of the decisions taken by this Tribunal in respect of superannuation. The Tribunal, however, will reconsider the matter once again at its next review in the light of any changed circumstances.

### **3.4 Recommendations for Councillor Salary and Allowances**

The Tribunal recommends as follows.

1. There be no change outside of the remuneration review cycle to the salary or allowances payable to Councillors.
2. Council give consideration to inviting the Tribunal in the period prior to the 2022 Tribunal remuneration review to investigate and re-set as necessary officeholder salary relativities (including that of the Lord Mayor's position).
3. Council give consideration to inviting the Tribunal in the period prior to the 2022 Tribunal review to survey officeholder experiences as to adequacy or otherwise of their expense of office allowances for purposes of fulfilling their roles, and to make recommendations it considers appropriate.



## Chapter 4: Appendices

### 4.1 Appendix A – Terms of Reference – Independent Councillor Remuneration Tribunal 2019

#### Document Purpose

1. The purpose of this document is to clearly define the Terms of Reference (ToR) for the 2019 independent Councillor Remuneration Tribunal.

#### Context

2. On 30 July 2013, Council approved the establishment of a Councillor remuneration policy framework including the establishment of an independent Councillor Remuneration Tribunal (the Tribunal).
3. Two Tribunals have been convened in accordance with this framework, reporting findings firstly on 8 November 2013 with recommendations to take effect from 1 July 2013 and secondly on 24 November 2017 with recommendations taking effect on 1 July 2018.
4. On 15 October 2019 Council resolved to interpose a special meeting of the Tribunal within the ordinary five-year cycle of meetings as provided for in the Councillor Remuneration Policy.

#### Authority

5. Chapter 8, Part 1, Division 1 of the *City of Brisbane Regulation 2012* provides Council with the authority to determine Councillor remuneration.
6. This determination will be undertaken in accordance with *AP216 – Councillor Remuneration Policy*.

#### Definition

7. Remuneration is defined as salary, allowances, Council contributed superannuation and any severance arrangements.
8. Remuneration does not include ward related expenditure which falls under Council's *AP032 – Councillor Expenses Reimbursement Policy*, and which is excluded from consideration by this special Tribunal.
9. For the purposes of this special Tribunal's review, motor vehicles, telephone and mobile computing devices are considered Tools of Trade and, accordingly, are also excluded.

#### Role of the Tribunal

10. The Tribunal's role is to:
  - (a) review and, as required, reset the Remuneration for a Councillor
  - (b) determine the relativities of remuneration for the following roles:
    - (i) Lord Mayor
    - (ii) Deputy Mayor
    - (iii) Committee Chairman
    - (iv) Chairman of Council
    - (v) Leader of the Opposition.

#### Tribunal Considerations

11. The Tribunal's considerations are to include, but not be limited to, the following factors:
  - a) average national and state wage increases
  - b) Council's obligations to pay superannuation for Councillors
  - c) actual wage increases and Council contributed superannuation contributions for Council staff
  - d) actual Councillor wage increases

- e) community expectations
  - f) workloads of Councillors
  - g) comparative conditions of employment provided to elected officials at other levels of government.
12. The factors detailed in section 11(a) to (d) above are to be for the period since 1 July 2018.
  13. The Tribunal will not award back-pay prior to 1 January 2020.

#### **Ward Funds**

14. Ward funds are not provided as part of a Councillor's remuneration, cannot be used as salary, may only be spent on specific ward related purposes and must be fully acquitted. As such, the allocation of ward funds is not to be included in the Tribunal's deliberations.

#### **Timings**

15. The Tribunal's report is to be delivered to the CEO of Council by 5pm Wednesday 20 November 2019.
16. The Tribunal's determinations will be effective 1 January 2020.

#### **Secretariat Support**

17. The Divisional Manager's Office, City Administration and Governance, will provide secretariat support (the Secretariat). The Secretariat will facilitate request and information exchange between Council and the Tribunal. The Secretariat will be responsible for the preparation and distribution of meeting papers prior to each Tribunal meeting.
18. Funding requests for activities in support of the Tribunal's deliberations may be made to the Secretariat.

## 4.2 Appendix B – Decision of the Brisbane City Council – Resolution 225/2019-20

### DECISION OF THE BRISBANE CITY COUNCIL

Council meeting dated 15 October 2019

#### **MOTION – INDEPENDENT COUNCILLOR REMUNERATION TRIBUNAL AND REVIEW OF COUNCILLOR SUPERANNUATION BENEFITS:**

**225/2019-20**

The Chair of Council (Councillor Andrew WINES) then drew the Councillors' attention to the notified motion listed on the agenda, and called on the LORD MAYOR, Councillor Adrian Schrinner, to move the motion. Accordingly, the LORD MAYOR moved, seconded by Councillor Adam ALLAN—

*That this Council:*

*Resolves to review and approve the Terms of Reference for the Independent Councillor Remuneration Tribunal related to Council contributed superannuation for Councillors and subject to that review and approval to convene the Independent Councillor Remuneration Tribunal to interpose a special meeting of the Tribunal within the ordinary five year cycle of meetings as provided for in the Councillor Remuneration Policy to review Councillor superannuation benefits as introduced by the former Labor administration in 1995 and finalise a report within the current Council sitting period.*

*Reaffirms its support for elected officials' remuneration being determined by an independent body.*

Upon being submitted to the Chamber, the amended motion was declared **carried** on the voices.

Thereupon, the DEPUTY MAYOR and Councillor Adam ALLAN immediately rose and called for a division, which resulted in the motion being declared **carried**.

The voting was as follows:

AYES: 24 -

The Right Honourable, the LORD MAYOR, Councillor Adrian SCHRINNER, DEPUTY MAYOR, Councillor Krista ADAMS, and Councillors Adam ALLAN, Lisa ATWOOD, Fiona CUNNINGHAM, Tracy DAVIS, Fiona HAMMOND, Vicki HOWARD, Steven HUANG, James MACKAY, Peter MATIC, David McLACHLAN, Ryan MURPHY, Angela OWEN, Kate RICHARDS, Steven TOOMEY, Andrew WINES, and the Leader of the OPPOSITION, Councillor Jared CASSIDY, and Councillors Kara COOK, Peter CUMMING, Steve GRIFFITHS, Charles STRUNK, Jonathan SRI and Nicole JOHNSTON.

## **Chapter 5: References**

- *Australian Government Remuneration Tribunal (various determinations)*
- *Australian Taxation Office – Key super rates and thresholds (Super guarantee percentage)*
- *Brisbane City Council – Annual Report 2018-19*
- *Brisbane City Council – AP216 Councillor Remuneration Policy*
- *Brisbane City Council – AP032 Councillor Expenses Reimbursement Policy*
- *Brisbane City Council – Enterprise Bargaining Agreements – EBA 9*
- *City of Gold Coast – Annual Report 2018-19*
- *City of Brisbane Regulation 2012 (Qld)*
- *City of Brisbane Act 2010 (Qld)*
- *Independent Councillor Remuneration Tribunal – Findings and Recommendations Report – 8 November 2013*
- *Independent Councillor Remuneration Tribunal – Findings and Recommendations Report – 24 November 2017*
- *Legislative Assembly of Queensland – Members’ Remuneration Handbook*
- *Queensland Independent Remuneration Tribunal (various determinations)*