Australian Capital Territory Remuneration Tribunal

Determination 5 of 2021

Full-time Statutory Office Holders: Chief Executive Officer, City Renewal Authority and Chief Executive Officer, Suburban Land Agency

made under the
Remuneration Tribunal Act 1995, section 10 (Inquiries about holders of certain positions)

ACCOMPANYING STATEMENT

Background

Under section 10 of the *Remuneration Tribunal Act 1995* (the Act), the Remuneration Tribunal (the Tribunal) is required to inquire into, and determine, the remuneration, allowances and other entitlements for certain full-time public offices. Of those offices, this Determination covers the following:

- Chief Executive Officer, City Renewal Authority; and
- Chief Executive Officer, Suburban Land Agency.

Considerations

In September 2020, the Tribunal decided to determine no adjustment to remuneration, allowances or entitlements for the position holders within its jurisdiction.

In April 2021, the Tribunal commenced its Autumn Sitting to consider the remuneration, allowances and other entitlements of the following position holders:

- Members of the Legislative Assembly (including the Chief Minister, Deputy Chief Minister, and other Ministers and Members of the Legislative Assembly holding particular offices);
- the Head of Service, Directors-General and ACT Public Service Executives; and
- Full-time Statutory Office Holders, referred to in Section 10(1) of the *Remuneration Tribunal Act 1995*, including the Clerk of the Legislative Assembly, the Auditor-General and Electoral Commissioner.

The Tribunal advertised its Autumn Sitting on its website and in the Canberra Times on Saturday 20 February 2021. The Tribunal also wrote to the relevant position holders requesting submissions.

At its meeting in April 2021, the Tribunal met with the Chief Minister, ACT Government Treasury officials and officials responsible for the Enterprise Agreement bargaining for ACT Public Sector non-executive employees. The Tribunal reconvened for additional briefings from Treasury officials in June and July 2021, in particular to pay further attention to the economic circumstances of the Territory.

In its deliberations, the Tribunal gave considerable weight to community standards and expectations, in particular in terms of the continuing uncertainty of circumstances currently faced in the Territory by the recent outbreak of the COVID-19 Delta variant across the country.

The Tribunal balanced this consideration with the importance of the Territory providing competitive and equitable remuneration, allowances and other entitlements so that it can continue to attract and retain high calibre individuals to deliver high quality services to the ACT community. In this context, the Tribunal noted the wage policies and recent remuneration determinations by its Commonwealth and State/Territory counterparts.

Consistent with usual practice, the pay increases that were provided to the ACT Public Sector non-executive workforce during 2020 and 2021 under the Enterprise Agreements were considered by the Tribunal. In addition, when considering pay increases for statutory office holders, the Tribunal was guided by the pay increases that were provided to executives in the ACT Public Service.

The Tribunal had regard to the 2020-21 ACT Budget that was released in February 2021 by the Chief Minister which predicted growth in 2021-22 of 1.75 per cent in WPI and 1.25 per cent in CPI[1].

The Australian Bureau of Statistics released the Consumer Price Index June Quarter 2021 on 28 July 2021 which included an increase of 0.8 per cent to the ACT during the June quarter, with a 4.8 per cent increase over the year (June 2020 to June 2021)[2]. Notwithstanding this, the Tribunal notes the national trimmed mean inflation was 1.6 per cent over the year[3].

The Tribunal considered the statements from the Governor of the Reserve Bank of Australia released during April 2021 and July 2021 and noted his views concerning the importance of increasing wages to stimulate consumption.

The Tribunal also noted the outcome of the Annual Wage Review of the Fair Work Commission[4] released in June 2021.

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[1] ACT Budget 2020-21, Chapter 1, Overview, Table 1.2.1 Economic Parameters, 2020-21 Budget, baseline forecasts, percentage change, p.11

[2] Australian Bureau of Statistics, Consumer Price Index (July 2021), https://www.abs.gov.au/statistics/economy/price-indexes-and-inflation/consumer-price-index-australia/jun-2021

[3] The trimmed mean is designed to remove large, one-off price impacts. Australian Bureau of Statistics Media Release: CPI rose 0.8% in the June 2021 quarter (28 July 2021), https://www.abs.gov.au/media-centre/media-releases/cpi-rose-08-june-2021-quarter

[4] The Fair Work Commission announced a 2.5% increase to the national minimum wage and all award wages, see Annual Wage Review 2021, https://www.fairwork.gov.au/about-us/news-and-media-releases/website-news/annual-wage-review-2021

Decision

The Tribunal has taken a later decision than usual due to the ongoing uncertainty created by both the COVID-19 pandemic and its potential impact on the economic situation of the Territory. The Tribunal acknowledges that there continues to be uncertainty due to the outbreak of the COVID-19 Delta variant. However, the Tribunal believes that it would not be prudent to delay further its decision on the remuneration of the position holders covered by this Determination.

Given the reasons outlined above, the Tribunal has decided to provide an increase of 1.8 per cent to the remuneration of position holders covered by this Determination. The increase is taken to have commenced on 1 July 2021.

August 2021

Australian Capital Territory Remuneration Tribunal

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1 Commencement

1.1 The instrument is taken to have commenced on 1 July 2021.

2 Application

2.1 This Determination applies to the following offices:

- Chief Executive Officer, City Renewal Authority;
- Chief Executive Officer, Suburban Land Agency.

3 Remuneration

3.1 The offices outlined below shall be entitled to the following remuneration per annum:

- Chief Executive Officer, City Renewal Authority: $334,142;
- Chief Executive Officer, Suburban Land Agency: $334,142.

3.2 A person appointed to an office listed above must not receive the remuneration mentioned above if the person is paid a higher remuneration for that office from another source.

3.3 If a person appointed to an office listed above is also appointed to another office under ACT legislation, the person must only receive remuneration for the office that has the highest remuneration.

4 Salary packaging

4.1 A person appointed to an office listed in clause 2.1 of this Determination may elect to take the remuneration outlined in clause 3, as:

a) salary; or

b) a combination of salary and other benefits (a ***salary package***).

4.2 Salary packaging must be consistent with:

a) taxation laws and guidelines issued by the Australian Taxation Office; and

b) any salary packaging policy and/or procedures issued for the ACT Public Service, with up to 100% of the remuneration able to be taken as benefits and related costs such as fringe benefits tax.

4.3 Salary packaging must be administered without additional cost to the employer and any fringe benefits tax associated with the provision of a benefit must be included in the salary package.

4.4 Salary for superannuation purposes is not affected by salary packaging.

5 Employer provided benefits

5.1 A person appointed to an office listed in clause 2.1 of this Determination is entitled to either the employer provided benefits mentioned below or the relevant cash payment in lieu of the benefit mentioned below.

5.2 An employer-provided benefit, or cash payment in lieu of an employer-provided benefit, is in addition to the remuneration specified in clause 3.1 of this determination, and does not affect salary for superannuation purposes.

5.3 For the avoidance of doubt, the value of an allowance or entitlement set out in this Determination is fixed and cannot be transferred to any other component of the total remuneration package.

6 Vehicle

6.1 A person appointed to an office listed in clause 2.1 of this Determination, is entitled to an executive vehicle and associated arrangements, including a parking space. This entitlement is to be determined according to the same entitlements as if the person were a Senior Executive Service (SES) member at the same salary band under the *Public Sector Management Standards 2016* and the *Guidelines for the Management and Use of Executive Vehicles*.

7 Employer's superannuation contribution

7.1 A person appointed to an office listed in clause 2.1 of this Determination is only eligible for the employer's superannuation contribution if their superannuation entitlements are not provided elsewhere.

7.2 For a person appointed to an office listed in clause 2.1 of this Determination who is a member of the Commonwealth Superannuation Scheme (CSS) or Public Sector Superannuation (PSS) Scheme:

a) the person's annual rate of remuneration for the purposes of the scheme is the base remuneration as provided in clause 2.1 of this Determination; and

b) the value attributed to the employer's superannuation contribution is taken to be a notional 16% of the person's base remuneration.

7.3 For a person appointed to an office listed in clause 2.1 of this Determination who is not currently a member of the CSS or PSS but was a member of the PSS Accumulation Plan (PSSap) until it closed to the Territory on 30 June 2006, and has maintained continuous employment with the Territory:

a) the value of the employer's superannuation contribution is a notional 16% of the base remuneration as provided in clause 2.1 of this Determination; and

b) the employer will contribute that amount to an agreed superannuation fund nominated by the person appointed to an office listed in clause 2.1 of this Determination.

7.4 For a person appointed to an office listed in clause 2.1 of this Determination who is a member of any other superannuation fund, the employer's superannuation contribution is to be made at a rate equivalent to the Employer Superannuation Guarantee Charge Percentage as provided by the *Superannuation Guarantee (Administration) Act 1992* (which at the commencement of this Determination is 9.5%).

7.5 A person appointed to an office listed in clause 2.1 of this Determination is entitled to the enhanced employer contribution superannuation arrangements that apply to an SES member in the ACT public sector under associated arrangements.

7.6 The employer provides an additional employer superannuation contribution. The additional employer superannuation contribution is the same rate provided under clause D7 of the ACT Public Sector Administrative and Related Classifications Enterprise Agreement 2018-2021, as follows:

(a) From 1 July 2019: 1.50%;

(b) From 1 July 2020: 2%.

7.7 A person appointed to an office listed in clause 2.1 of this Determination is entitled to the same superannuation entitlements as an SES member under the *Public Sector Management Standards*. This clause takes effect from 1 September 2016.The value of the employer's superannuation contribution must not be paid in cash to a person appointed to an office listed in clause 2.1 of this Determination.

8 Fringe benefit tax – vehicle

8.1 The employer incurs fringe benefits tax liabilities for vehicles provided to their employees. Fringe benefits tax is determined and calculated under the Fringe Benefits Tax Assessment Act 1986. For the purposes of this section, the fringe benefits tax year is 1 April of a year to 31 March of the following year.

8.2 During the fringe benefits tax year, where the office holder elects to receive an employer-provided vehicle instead of a payment, if the employer's liability in relation to the office holder's vehicle provided by the employer for the fringe benefits tax year is less than $7,500, the difference is payable to the office holder as an allowance at the end of the fringe benefits tax year.

8.3 To avoid doubt, if the assessed liability for fringe benefits tax exceeds the $7,500 threshold, the office holder will not be required to pay any component in excess of the $7,500.

8.4 During the fringe benefits tax year, where the office holder elects to receive a payment instead of an employer provided vehicle, the amount of $7,500 per annum is paid as an allowance to the office holder on a fortnightly basis.

8.5 The fringe benefits tax allowance of $7,500 under clause 8.4 is reduced proportionally where the officer holder is engaged for less than a full fringe benefits tax year.

9 Relocation allowance

9.1 In this clause, ***ACT*** means the Australian Capital Territory and its surrounding district, including Queanbeyan.

9.2 Relocation allowance is provided to assist an individual with the costs to relocate from their home location to the ACT in order to take up the appointment as a statutory office holder.

9.3 The person appointed to an office listed in clause 2.1 may be reimbursed an amount of up to $55,000, for receipted, reasonable costs of the following:

a) packing personal effects and furniture belonging to the person and their family;

b) necessary storage of personal effects and furniture;

c) removal costs and associated insurance of personal effects and furniture;

d) unpacking of personal effects and furniture;

e) costs of travel, accommodation and meals between the former location and the ACT;

f) temporary accommodation costs at the former location and in the ACT up to a maximum aggregate period of six months, or, in exceptional circumstances, nine months with the approval of the ACT Remuneration Tribunal (Tribunal);

g) costs of disconnection and reconnection of utilities;

h) cost of stamp duty and legal and professional services associated with the sale of the residence at the former location and/or the purchase of a residence or lease on a block of land in the ACT;

i) subject to the specific approval of the Tribunal, any other reasonable expenses necessarily incurred in relocating to the ACT.

9.4 The Tribunal may decide to reimburse a higher amount of allowance if the Tribunal agrees—

a) there are unusual or exceptional circumstances; and

b) the unusual or exceptional circumstances were unforeseen or unable to be dealt with without exceeding $55,000.

9.5 If a person appointed to an office in listed clause 2.1 thinks that unusual and exceptional circumstances exist, they may ask the Tribunal to consider the matter and determine whether the maximum relocation allowance can be exceeded. A request must be in writing and must include—

a) details of the unusual or exceptional circumstances; and

b) details of the relocation; and

c) expenses incurred by the executive; and

d) the expected total relocation expenses of the executive; and

e) the level of assistance the executive considers should be provided; and

f) any other relevant information.

9.6 If the person appointed to an office listed in clause 2.1 terminates their employment with the Territory within twelve months of the date of their engagement, the person may be required to repay the following amount:

a) If the person terminates employment within six months from the date of their appointment—100% of the amount reimbursed under section 9.3;

b) If the person terminates employment more than six months and less than twelve months from the date of their appointment—50% of the amount reimbursed under section 9.3.

Note: Relocation allowance does not apply to any expenses incurred at the conclusion of employment with the Territory.

10 Other entitlements

10.1 For the avoidance of doubt, under section 115 of the *Public Sector Management Standards 2016*, the following provisions of the *Public Sector Management Standards 2006 (repealed)* continue to apply in relation to a person appointed to an office in clause 2.1 of this Determination:

a) part 3.6 (recognition of prior service on appointment or engagement);

b) part 4.1 (continuity of service);

c) part 5.5 (payment in lieu of entitlements on cessation of employment or death);

d) part 9.4 (statutory office-holder financial entitlements); and

e) part 9.6 (executive employee and statutory office-holder leave and other entitlements).

10.2 Leave entitlements, salary sacrifice arrangements and vacation childcare subsidy are provided to executives under Division 5.6 of the Public Sector Management Standards 2016, as amended from time to time.

11 Travelling arrangements

11.1 In this clause:

home base means the town or city in which the traveller's principal place of residence is located.

domestic travel means official travel to a destination within Australia.

international travel means official travel to a destination outside Australia.

reasonable expenses means legitimate work-related expenses incurred while conducting official business efficiently and effectively.

traveller means a person, appointed to an office listed in clause 2.1 of this Determination, who is travelling away from their normal place of work for official purposes.

11.2 If a traveller is required to travel for official purposes, the employer must pay the cost of the transport and accommodation expenses outlined below. The reasonable

amounts set out in the relevant Australian Taxation Office Determination[5] relating to meal and incidental expenses will be paid to the traveller as a reimbursement. These expenses are not to be paid to the traveller where their home base is within the ACT or surrounding districts and the travel for official purposes is within the ACT or surrounding districts.

11.3 All reasonable expenses incurred by a traveller can be reimbursed. It is the intention of these travel arrangements that no traveller who travels for official purposes should be out of pocket, however they must be reasonable expenses.

12 Travel

12.1 All official travel is to be appropriately authorised prior to travel and must not be authorised by the traveller under any circumstances. This includes all official travel paid for privately or by the Territory.

12.2 A traveller may travel by one or more of the following:

a) commercially provided road or rail transport;

b) commercially provided flights;

c) private motor vehicle.

12.3 Commercially provided travel should be selected on the basis of—

a) what is most convenient to the person; and

b) seeking the most reasonable costs.

12.4 If a traveller travels on commercially provided road or rail transport the employer will pay the fares for that travel.

12.5 A traveller must use the Territory's travel manager, which has been procured through a competitive process, as a preferred provider of travel and related services. The travel manager has been instructed to book all travel at the lowest logical fare.

12.6 If a traveller travels on commercially provided flights, the employer will pay the fares to the following standard:

a) for domestic flights less than 4 hours—economy class;

b) for domestic flights of 4 hours or more—business class;

c) for international flights—business class.

12.7 If a traveller has approval to travel by private motor vehicle, the employer will pay the owner of the vehicle an allowance calculated in accordance with the Motor Vehicle Allowance set out in the *ACT Public Service Administrative and Related Classifications Enterprise Agreement 2018-2021*, or its replacement.

13 Accommodation

13.1 It is standard practice that where an executive traveller must stay overnight while on official travel, the employer will pay for commercial accommodation to the following standard:

a) for domestic accommodation—4.5 stars;

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[5] Australian Taxation Office – Taxation Determination 2021/6 Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2021-22 income year?

b) for international accommodation—4.5 stars.

13.2 The employer will pay for a traveller to stay in commercial accommodation above the 4.5 star standard and the amounts set out in the relevant Australian Taxation Office Determinations, if—

a) the cost is reasonable; and

b) to do so would better enable business objectives to be met.

Examples where business objectives may be better met:

- to allow a traveller to stay in the commercial accommodation where a meeting, conference or seminar they are attending is being held;
- to allow a traveller who is traveling with the Speaker or a Minister to stay in the same commercial accommodation as that Speaker/Minister if they are entitled to a higher standard of accommodation.

14 Meals

14.1 If a traveller is absent from their home base for more than ten hours while on official travel, the employer will reimburse actual, reasonable expenses for meals up to the amounts set out in the relevant Australian Taxation Office Determinations.

15 Incidental expenses

15.1 The employer will reimburse all reasonable and legitimate expenses directly related to official travel up to the amounts set out in the relevant Australian Taxation Office Determinations, including—

a) taxi, ridesharing service (such as uber) or bus fares to or from an airport; and

b) taxi, ridesharing service (such as uber) and public transport costs at a temporary location; and

c) airport taxes or charges.

16 Frequent Flyer Program

16.1 Frequent flyer points cannot be accrued or used by a traveller as a result of travel and accommodation paid for by the employer for official travel.

17 Incidental travel in conjunction with official travel

17.1 Authorised travellers wishing to take personal leave during, or at the conclusion of official travel should obtain the appropriate prior approval consistent with the agreed travel arrangements.

17.2 Travellers may combine incidental personal travel with official travel, provided there is no additional cost to the Territory. Expenses incurred during leave are at the traveller's own cost. If the period of such incidental travel is greater than 40% of the period of official travel, a pro rata contribution must be made to the overall cost of the travel.

17.3 If insurance has been obtained for official travel at official expense, such insurance must not cover the traveller for the duration of the personal leave.

18 Travel insurance

18.1 Travel insurance decisions should be based on risk management principles and include factors such as the nature and destination of the trip.

18.2 International travel will normally require travel insurance.

18.3 If necessary, the cost of travel insurance will be met as a reasonable work related expense by the Territory.

18.4 All legitimate and reasonable work related claims will be covered by the Territory.

19 Definitions

19.1 In this Determination:

agreed superannuation fund means a fund complying with the requirements of:

- the *Income Tax Assessment Act 1936* (Cth); and
- the *Superannuation Industry (Supervision) Act 1993* (Cth).

CSS means the Commonwealth Superannuation Scheme.

domestic travel means official travel to a destination within Australia.

employer means the Australian Capital Territory and includes any person authorised to act on behalf of the Australian Capital Territory.

fringe benefits tax means the tax assessed under the *Fringe Benefits Tax Assessment Act 1986*.

home base means the town or city in which the traveller's principal place of residence is located.

PSS means the Public Sector Superannuation Scheme.

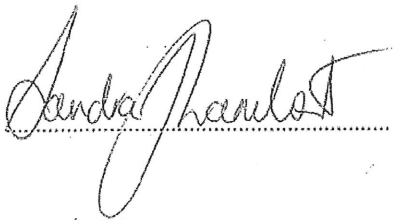
PSSap means the PSS Accumulation Plan.

Senior Executive Service (SES) Member means a member of the service in the senior executive service under the *Public Sector Management Act 1994*. A person, appointed to an office listed in clause 2.1 of this Determination, has a number of the same entitlements as an SES Member.

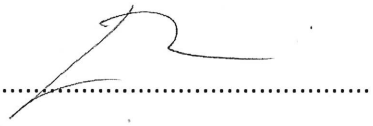
20 Revocation of previous Determination

20.1 Determination 5 of 2020 is revoked.

Ms Sandra Lambert AM
Chair



Dr James Popple
Member



Mr Dale Boucher PSM
Member

August 2021