

NEW SOUTH WALES

REPORT

AND

ANNUAL DETERMINATION

Pursuant to section 11(1) of the

PARLIAMENTARY REMUNERATION ACT 1989

15 December 1999

CONTENTS

	<u>pages</u>
<u>REPORT</u>	1- 2
<u>DETERMINATION</u>	
Electoral Allowances for Members of Both Houses	3
Special Expenses or "Living Away From Home" Allowances	3 - 6
Committee Allowances	7
Travelling Allowances for the Premier, Ministers of the Crown, Other Recognised Office Holders, Committee Members, Spouses or Approved Relatives	7 - 8
Reimbursement of Expenses for Charter Transport of Members of the Legislative Assembly	8 - 9
Reimbursement of Certain Travelling Expenses	9 - 10
<u>APPENDICES</u>	
A Electoral Districts for the purposes of payment of Electoral Allowances	11 - 12
B Electoral Districts included in each Category for the purpose of payment of Living Away from Home Allowance	13

PARLIAMENTARY REMUNERATION ACT 1989
REPORT PURSUANT TO SECTION 13(1) OF THE ACT

1. By instrument of appointment made pursuant to the powers provided by clause 1 of schedule 2 of the *Parliamentary Remuneration Act 1989* (the Act) and dated 25 June 1999 the President of the Industrial Relations Commission of New South Wales appointed me as the Parliamentary Remuneration Tribunal (the Tribunal) for a term of office concluding on 31 December 1999.
2. The *Parliamentary Remuneration Further Amendment Act 1998* requires that the Tribunal make an initial determination relating to additional entitlements on or as soon as practicable after 27 March 1999. The initial determination, so made, has effect as a determination under and for the purposes of the Act and takes effect on and from the date it is made (or a later date specified in or determined under the initial determination in relation to any particular entitlements) (s3(3)).
3. On 26 July 1999 the Tribunal made a Special Determination on Members entitlements. This Determination varied the electoral districts in the groupings appearing in the Appendices to the 1998 Determination so that the electoral districts (and allowances paid in relation to same) corresponded to the electoral districts established by the 1998 electoral redistribution. The special determination operated from 27 March 1999 which was the operative date of the redistribution.
4. The Act also provides for an annual determination by the Tribunal of statutory additional entitlements; the Determination being made, usually, by 1 June each year, with effect from 1 July of that year. Because of the review being undertaken for the initial determination, the Chief Justice extended the date for making the 1999 annual determination to 29 October 1999. This was subsequently extended by the President of the Industrial Relations Commission until 31 December 1999.
5. The Tribunal is in the final stages of preparation of the initial determination which will take effect from 1 January 2000. For this reason the Tribunal now makes the 1999 annual determination on members entitlements to give effect to its statutory obligations.

6. For this annual determination the Tribunal has not reassessed the quantum of and conditions for additional entitlements from those determined in the special determination of 26 July 1999. These are matters that will be addressed in the initial determination. Thus, the quantum of, and conditions for, allowances in this determination will remain unaltered from those contained in the special determination.

7. Pursuant to section 11(1) of the Act, the Tribunal makes the following annual determination. The effective date of determination is on and from 1 July 1999.

PARLIAMENTARY REMUNERATION ACT 1989

DETERMINATION PURSUANT TO SECTION 11(1) OF THE ACT

For the reasons set forth in the above Report, the Parliamentary Remuneration Tribunal hereby makes the following determination of the additional entitlements which should be paid on and from 1 July 1999 to Members, including recognised office holders, in the Legislative Council and the Legislative Assembly of New South Wales, in lieu of the amounts presently payable, for each of the purposes indicated below, and not in addition thereto:

ELECTORAL ALLOWANCES FOR MEMBERS OF BOTH HOUSES

- (1) The electoral allowances payable to Members of the Legislative Assembly whose electoral districts are specified hereunder shall be as follows:

<u>Electoral Districts</u>	<u>Yearly Rate of Allowance</u>
	\$
Group 1	24,400
Group 2	29,200
Group 3	34,200
Group 4	40,300
Group 5	44,000
Group 6	46,800
Group 7	51,300
Murray Darling	60,000

The electoral districts included in each Group are as set out in Appendix A.

- (2) The electoral allowance payable to each Member of the Legislative Council shall be \$34,200 per annum.

SPECIAL EXPENSES OR "LIVING AWAY FROM HOME" ALLOWANCES

Special Expenses Allowances or "Living Away From Home" Allowances are provided to country Members of both Houses towards the cost of overnight accommodation and incidental expenses whilst in Sydney on parliamentary business or in transit to and from Sydney.

The Member may elect to be paid either a daily or annual Special Expenses Allowance on a financial year basis. This election is subject to the following conditions:

election is made for a full financial year;

such election to be received by the Accounts Section within 10 working days of the date of this Determination;

newly-elected Members to make their election from the date of their election until the end of the financial year;

re-elected Members would not be eligible to change their election until the end of the current financial year;

a Member who claims and is paid this allowance must certify that he/she has not so claimed and been paid in respect of any night or nights during which he/she has been accommodated free of charge in government owned and funded overnight accommodation. Any Member who has been so accommodated free of charge is required to make an appropriate, proportionate refund to the legislature.

A Special Expenses Allowance or "Living Away From Home" Allowance shall be payable to country Members for the cost of overnight accommodation whilst in Sydney on parliamentary business or while in transit to and from Sydney. The Allowance is payable when the stay is occasioned by:

- i) sittings of the House of Parliament or direct travel to and from such sittings; or
- ii) meetings of parliamentary committees of which he or she is a member, or direct travel to or from such meetings; or
- iii) other parliamentary business.

SPECIAL EXPENSES ALLOWANCE: DAILY ALLOWANCE

The daily Special Expenses Allowance or "Living Away From Home" Allowance per overnight stay is as follows:

	IN SYDNEY \$	IN TRANSIT TO & FROM SYDNEY \$
Ministers resident in Category 1 or 2.	147.00	114.00
The Leader of the Opposition in the Legislative Council, resident in Category 1 or 2.	147.00	114.00
The Leader of the Opposition in the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Speaker of the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Leader in the Legislative Assembly (other than the Leader of the Opposition) of a recognised political party of which not less than ten members are Members of the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Chairman of Committees in the Legislative Assembly, resident in Category 1 or 2.	147.00	114.00
Members of the Legislative Council and Members of the Legislative Assembly resident in Category 1 or 2.	147.00	114.00

The maximum number of overnight stays per annum is as follows:

	RESIDENCE	OVERNIGHT STAYS p.a.
Minister, Speaker, Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly.	Category 1 or 2	140
Chairman of Committees in the Legislative Assembly,	Category 1 or 2	120 (35)
Parliamentary Secretary	Category 1	90 (35)
	Category 2	120 (50)
Other Assembly Members	Category 1	90 (35)
	Category 2	120 (35)
Other Council Members	Category 1	90 (35)
	Category 2	120 (35)

* The figures in brackets indicate the maximum number of overnight stays that are available on parliamentary business other than sittings of the House or meetings of parliamentary committees. The figures in brackets are not additional to the overall maximum overnight stays allowed.

SPECIAL EXPENSES ALLOWANCE: ANNUAL ALLOWANCE

The annual Special Expenses Allowances or "Living Away From Home" Allowances per overnight stay are as follows:

(1) \$20,580 per annum to :

Each Minister of the Crown who is a Member of the Legislative Council and whose usual place of residence is situated in an electorate specified in Category 1 or Category 2. Each Minister of the Crown who is a Member of the Legislative Assembly and is the Member for, or whose usual place of residence is situated in an electoral district specified in Category 1 or Category 2.

The Leader of the Opposition in the Legislative Council whose usual place of residence is situated in an electoral district specified in Category 1 or Category 2.

The Speaker of the Legislative Assembly, being the Member for an electoral district specified in Category 1 or Category 2.

The Leader of the Opposition in the Legislative Assembly, being the Member for an electoral district in Category 1 or Category 2.

The Leader in the Legislative Assembly (other than the Leader of the Opposition) of a recognised political party of which not less than ten Members of the Legislative Assembly and of which no Member is the holder of any office of profit pursuant to section 13B of the Constitution Act 1902, being the Member for an electoral district specified in Category 1 or Category 2.

(2) \$17,640 per annum to :

The chairman of Committees in the Legislative Assembly, being the Member for an electoral district specified in Category 1 or Category 2.

Each Member of the Legislative Council whose usual place of residence is situated in an electoral district specified in Category 2 and to each Member of the Legislative Assembly for an electoral district specified in Category 2.

(3) \$13,230 per annum to:

Each Member of the Legislative Council whose usual place of residence is situated in an electoral district specified in Category 1 and to each Member of the Legislative Assembly for an electoral district specified in Category 1.

A Member is entitled to only one allowance under paragraphs (1) to (3).

The electoral districts included in each category, are as set forth in Appendix B.

COMMITTEE ALLOWANCES

Members of the Legislative Council and the Legislative Assembly serving as Chairpersons of Joint Committees shall be paid the sum of \$110.00 for each day upon which they attend a meeting or an official visit of inspection if that day is one upon which the Legislative Council (so far as a Member of the Council is concerned) or the Legislative Assembly (so far as a Member of the Assembly is concerned) is not sitting. Members of the Public Accounts Committee, other than the Chairperson, shall each receive a committee allowance of \$2,490 per annum.

TRAVELLING ALLOWANCES FOR THE PREMIER, MINISTERS OF THE CROWN, OTHER RECOGNISED OFFICE HOLDERS, COMMITTEE MEMBERS, SPOUSES OR APPROVED RELATIVES

(a) When travelling on official business the following shall be the travelling allowances per day payable respectively to the undermentioned:

CLASSIFICATION	CAPITAL CITIES (incl. Canberra)	OTHER AREAS	WHERE NO OVERNIGHT STAY IS REQUIRED
Premier	\$337	\$186	\$84
Ministers	\$271	\$154	\$68
President of the Legislative Council and Speaker of the Legislative Assembly	\$271	\$154	\$68
Leader of the Opposition in the Legislative Council	\$271	\$154	\$68
Leader and Deputy-Leader of the Opposition in the Legislative Assembly	\$271	\$154	\$68
Leader and Deputy Leader of a Recognised Political Party of which not less than ten members are Members of the Legislative Assembly	\$271	\$154	\$68
Chairman of Select, Joint Standing and Public Accounts Committees	\$271	\$154	\$68
Members of Select, Joint and Public Accounts Committees	\$203	\$127	\$49

An absence from Sydney for a period in excess of six hours shall be the minimum requirement for the payment of travelling allowance where no overnight absence is involved. Where absence overnight is involved, the absence must extend six hours

beyond the first period of twenty-four hours before a second day's allowance is payable. Therefore, the second day's allowance is as shown in the column headed "Where no overnight stay is involved".

On occasions when the rates of travelling allowance set out above prove to be insufficient, reimbursement of actual and reasonable expenses shall be allowed, subject to the production of receipts relating to accommodation and a statement from the Member concerned outlining other costs such as meals and incidental expenses.

A Minister, whose spouse accompanies him or her to a State or other official function and who consequently incurs expenses in respect of meals and accommodation for self and spouse exceeding the allowance to which he or she is entitled as indicated above, shall be entitled to be reimbursed such excess expenses. This provision applies to the "approved relative" of a Minister in a case where there is no spouse.

REIMBURSEMENT OF EXPENSES FOR CHARTER TRANSPORT OF MEMBERS OF THE LEGISLATIVE ASSEMBLY

For the purposes of this clause "charter transport" means charter transport used within and for the service of the Member's electorate and includes charter aircraft, drive yourself vehicles and any other mode of charter transport which may be deemed appropriate in the circumstances by the Speaker of the Legislative Assembly.

Each accounting year for the purposes of the reimbursement of expenses for charter transport shall commence on 1 July; and

- (1) The Member for the Electoral District of Murray Darling shall be reimbursed to a maximum amount of \$16,092 per annum for charter transport.
- (2) The Members for the Electoral Districts of, Barwon, Murrumbidgee, Lachlan, Upper Hunter shall each be reimbursed to a maximum amount of \$8,716 per annum for charter transport.

- (3) The Members for the Electoral Districts of, Albury, Burrinjuck, Clarence, Dubbo, Monaro and Northern Tablelands shall each be reimbursed to a maximum amount of \$5,362 per annum for charter transport.

While charter transport, reimbursable under this determination, is intended to be used within and for the service of the Member's electorate, where the source of available charter transport is outside the boundaries of the electorate, the reasonable additional expenses consequently incurred may be included in the reimbursement available under this determination.

REIMBURSEMENT OF CERTAIN TRAVELLING EXPENSES

- (1) (a) When a Member of the Legislative Council or of the Legislative Assembly travels by taxi from Sydney Airport to the city for the purpose of attending a sitting of the House of Parliament or any Joint, Select or Standing Committee or the Public Accounts Committee, of which she or he is a member, the Member shall be entitled to be reimbursed the actual cost of the taxi fare incurred for the journey between Sydney Airport and the city. The Member shall also be entitled to be reimbursed the actual cost of the taxi fare incurred for the return journey between the city and Sydney Airport from such a sitting.
- (b) A Member of the Legislative Council or of the Legislative Assembly shall be entitled to be reimbursed the actual cost of the fare incurred on up to thirty-five taxi journeys per annum when travelling in the course of other parliamentary business between Sydney Airport and the city.
- (2) Where the residence of a Member of the Legislative Council is more than 25 kilometres from the airport or the closest practicable railway station from which the Member is to commence a flight or train journey to Sydney for the purpose of attending a sitting of the Council or of a Select, Joint or Standing Committee of which she or he is a member, and travels by private motor vehicle to such airport or railway station, the Member shall be paid an amount equivalent to 51 cents per kilometre for the distance driven in excess of 25 kilometres on each single journey between the Member's place of residence and such airport or railway station. A separate allowance, calculated on the same basis, shall be payable in respect of the return journey.

This allowance is also payable in respect of other journeys between the Member's residence and Sydney on parliamentary business, but excluding party business, provided that, in the case of air travel, the fare is payable by the Government under the air travel entitlement provisions for journeys between the Member's residence and Sydney.

These allowances are payable upon the following conditions:

- (i) that the Member satisfies the President of the Legislative Council as to the existence of the circumstances mentioned above; and
- (ii) that the Member certifies to the President as to the distance driven by her or him to reach the airport or railway station and return home therefrom.

Dated this 15th Day of December 1999.

The Hon (Justice) Michael Walton

THE PARLIAMENTARY REMUNERATION TRIBUNAL

ELECTORAL DISTRICTS**Group 1**

Bligh
Coogee
North Shore

Marrickville
Port Jackson
Vaucluse

Group 2

Auburn
Bankstown
Baulkham Hills
Blacktown
Cabramatta
Campbelltown
Canterbury
Cronulla
Davidson
Drummoyne
East Hills
Epping
Fairfield
Georges River
Granville
Heffron
Hornsby
Kogarah
Ku-ring-gai
Lakemba
Lane Cove

Liverpool
Macquarie Fields
Manly
Maroubra
Menai
Miranda
Mount Druitt
Mulgoa
Parramatta
Penrith
Pittwater
Riverstone
Rockdale
Ryde
Smithfield
Strathfield
The Hills
Wakehurst
Wentworthville
Willoughby

Group 3

Blue Mountains
Camden
Charlestown
Gosford
Heathcote
Illawarra
Keira
Kiama
Lake Macquarie

Londonderry
Newcastle
Peats
Swansea
The Entrance
Wallsend
Wollongong
Wyong

Group 4

Ballina
Cessnock
Coffs Harbour
Hawkesbury
Lismore
Maitland

Myall Lakes
Port Macquarie
Port Stephens
South Coast
Southern Highlands
Tweed

Group 5

Bathurst
Bega
Orange

Oxley
Tamworth
Wagga Wagga

Group 6

Albury
Burrinjuck
Clarence

Dubbo
Monaro
Northern Tablelands

Group 7

Barwon
Lachlan

Murrumbidgee
Upper Hunter

Special Group

Murray Darling

APPENDIX B

ELECTORAL DISTRICTS INCLUDED IN EACH CATEGORYCategory 1

Blue Mountains
Camden
Charlestown
Gosford
Hawkesbury
Heathcote
Illawarra
Keira
Kiama
Lake Macquarie

Londonderry
Newcastle
Peats
Southern Highlands
Swansea
The Entrance
Wallsend
Wollongong
Wyong

Category 2

Albury
Ballina
Barwon
Bathurst
Bega
Burrinjuck
Cessnock
Clarence
Coffs Harbour
Dubbo
Lachlan
Lismore
Maitland
Monaro

Murray Darling
Murrumbidgee
Myall Lakes
Northern Tablelands
Orange
Oxley
Port Macquarie
Port Stephens
South Coast
Tamworth
Tweed
Upper Hunter
Wagga Wagga

THE REPORT

Introduction

The *Parliamentary Remuneration Further Amendment Act 1998* (the 'Further Amendment Act') requires that the Parliamentary Remuneration Tribunal (the 'Tribunal') make an initial determination relating to additional entitlements for Members and Recognised Office Holders on or as soon as practicable after 27 March 1999. The initial determination, so made, has effect as a determination under and, for the purposes of the Act, takes effect on and from the date it is made (or a later date specified in or determined under the initial determination in relation to any particular entitlements) (see s. 3(3) of the Further Amendment Act).

By the time of the appointment of the Tribunal on 25 June 1999, there had been brought into existence by the Tribunal (as previously constituted) a document bearing the description "Initial Determination of Additional Entitlements for Members of the Parliament of New South Wales by the Parliamentary Remuneration Tribunal pursuant to the Parliamentary Remuneration Act 1989 as amended, and the Parliamentary Remuneration Further Amendment Act 1998 - May 1999" ('the draft determination').

The draft determination was made after the Tribunal had received extensive submissions from interested persons including office holders, Members of both Houses of Parliament ('Members') and statutory bodies. It consisted of a draft report and determination. The draft determination was forwarded to the Secretary of the New South Wales Treasury on 30 April 1999. A reply from the Secretary of the New South Wales Treasury was received on 4 June 1999 which attached a document entitled "Statement of the Secretary pursuant to s. 13(5) of the

Parliamentary Remuneration Act 1989" ('the Treasury advice'). The *Parliamentary Remuneration Act 1989* shall hereafter be referred to as 'the Act'.

In light of this background, the Tribunal raised for consideration five issues which, in the opinion of the Tribunal, required resolution prior to the commencement of deliberations with respect to the initial determination. These issues were identified in a statement issued to all interested persons by the Tribunal on 5 July 1999 (the 'Statement'). The issues raised by the Tribunal were as follows:

1. Can the Tribunal take into account the draft report in the preparation of the initial determination?
2. Should the Tribunal, as reconstituted, exercise its own judgement independently of the existence of the draft report having regard to the materials which were produced to the Tribunal for the preparation of a report (and, is it open to the Tribunal to undertake further inquiry for the purposes of making an initial determination)?
3. Is it open to the Tribunal to have regard to the advice received from Treasury in relation to any consideration of the draft report or otherwise in relation to making the initial determination?
4. Is it permissible for the Tribunal to consult with the Treasury for the purposes of forming an opinion as to an initial determination other than the receipt of the written advice of the Secretary of the Treasury pursuant to s. 13(5) of the Act?

5. Having regard to the issues raised by 1 - 4 above, and having regard to the tabling of the draft determination in Parliament, is it appropriate to adopt the draft determination with or without changes reflecting the Treasury advice? Alternatively, and if the Treasury advice were to be applied (in part or in whole) so as to modify the draft determination, is it appropriate to substantially restructure the terms of a draft determination?

After the receipt of written and oral submissions the Tribunal, on 26 July, issued a 'Statement and Findings' in which the Tribunal gave its decision in relation to these questions. These conclusions were relevantly as follows:

"In my view, an initial determination has not been made by the Tribunal pursuant to s. 3 of the *Parliamentary Remuneration Further Amendment Act 1998*. The draft determination is a draft determination prepared by The Honourable Mr Justice *Sully* who constituted the Tribunal until his resignation took effect on 25 June 1999. The form of that document does not appear to indicate an intention by his Honour to make a determination as contemplated by ss. 10 and 13 of the Act (although the document appears to have been referred to the Treasury for advice under s. 13(5)). Furthermore, the Treasury advice is a document brought into existence in response to that draft report but does not otherwise constitute an advice published as an annexure to a determination. No report has been made to the President (or, as appropriate until 25 June 1999, the Chief Justice).

In any event, having regard to the background circumstances earlier described, and in view of the requirements of the Act (which require the Tribunal to exercise an independent statutory function) the Tribunal, as now constituted, should form its own opinion as to the appropriate terms of any initial determination having regard to, but not being bound by the terms of the draft determination.

The Tribunal's conclusions as to the issues raised in the Statement are as follows.

1. Having regard to the provisions of s14(1)(a) of the Act the Tribunal may inform itself as it thinks fit. It is thus open to the Tribunal to have regard to the draft determination prepared for the purposes of making an initial determination.
2. The Tribunal has a statutory duty to exercise its own independent judgement in relation to the initial determination. It should have regard to the draft determination, Treasury advice, materials received by the Tribunal in preparation of the draft determination including submissions received from Members, parties and other bodies, and any additional information which in the opinion of the Tribunal is necessary for the purposes of issuing an initial determination including any further

submissions received from respondents. This may require consideration in whole or in part of the proposals in the draft determination.

3. The 'Treasury advice' is not an advice for the purposes of s13(5) of the Act. The advice does not correspond to a determination made by the Tribunal. In any event, the advice does not in my view conform with the requirements of s13(5) as the advice is not confined to an expression of opinion as to the "financial implications of" the draft determination. Even upon the wide interpretation of the words "financial implications" proposed in the Treasury's submission in response to the Statement, the Treasury advice expresses opinions and gives advice which exceed the statutory authority conferred by s. 13(5), particularly having regard to that component of the advice in which the Treasury petitions the Parliament to overturn by legislation the draft determination.

The Tribunal may, however, have regard to the Treasury advice pursuant to s. 14 of the Act. The Tribunal will take into account the observations by Treasury in its advice in considering the terms of an initial determination.

4. Having regard to the provisions of s 14(1) of the Act the Tribunal may receive submissions, information or advice from Treasury prior to the making of a determination. However it would be inappropriate for the Tribunal to place the Treasury in any special position vis-a-vis other parties in relation to the receipt of such submissions, advice or information.

Further, the information from Treasury can not constitute advice on financial implications as contemplated by s. 13(5). The advice received from the Secretary of the Treasury under s. 13(5) of the Act is separate and distinct from any processes arising from the operation of s. 14 of the Act. The Act makes no provision for a determination to be modified in response to Treasury advice received pursuant to s. 13(5).

It may well be that the purpose and intention of s. 13(5) is directed to informing Parliament and the public of the financial implications of a determination. This is, no doubt, a desirable objective. However, there is no requirement in the Act for Treasury to make submissions as to the financial implications of any determination prior to the Tribunal making its determination. Further, there is no specific requirement under the Act for the Tribunal to consider the financial implications of any determination it proposes to make.

Having regard to these limitations, and the difficulties which have arisen in relation to the present provision (which have been earlier referred to by the Tribunal in the discussion of the third issue) the legislature may consider it appropriate to replace the present provisions in s. 13(5) with provisions which require that:

- I. the Tribunal shall have regard to the financial implications of any decision made; and
- II. the Tribunal shall receive submissions as to those matters, and specifically take into account submissions received by the Secretary of the Treasury in relation to them (which shall be included as an annexure to any determination made or set out, in terms, in any report made)."

It is in this context that the Tribunal commences its deliberations as to an initial determination. However, there is a broader context in which the Tribunal undertakes this task, namely the present unsatisfactory scheme for the regulation of additional entitlements.

The present scheme for the regulation of additional entitlements has developed in an *ad hoc* manner, resulting in both complexity and confusion in the administration of Members' entitlements. It lacks unity and structure. The Tribunal, in its Report and Determination dated 29 May 1998, stated:

- “(a) The Tribunal is concerned that the present non-salary entitlements represent an accumulation of ad hoc decisions reached in past years, the accumulation having grown in such a way and to such an extent that there is no readily discernible logical pattern that might give logical unity of underlying purpose to the accumulation.
- (b) The Tribunal is concerned, also, by what seems to the Tribunal to be the byzantine complexity of the current collection of non-salary entitlements. It is not necessary to do more than consult the current Handbook in order to see the point demonstrated.
- (c) The Tribunal thinks, as at present advised, that so haphazard a scheme of non-salary entitlements is all too apt to give rise to misconceived claims; to conceptual confusion; to practical misunderstandings; and to suspicions in the public mind that there is insufficient transparency and accountability in the handling of large sums of what are, when all is said and done, public monies. The Tribunal is minded, therefore, to consider the desirability of the publication, at an appropriate future time, of a suitable manual of its own which will explain in a public document what non-salary entitlements exist; how they are seen by the Tribunal as being justified; and what guidelines are appropriate in connection with the making of particular claims.”

The draft determination sought to address these issues and plainly this is not only a desirable, but is a necessary approach for any initial determination. However, the draft determination is otherwise a document which must be weighed against the materials and submissions presented to the Tribunal both before and after the tabling of the draft determination in Parliament (including criticisms of the draft determination *per se*).

The Legislative Scheme

The Act provides for the basic salaries of Members of Parliament to bear a fixed relationship to those of Members of the House of Representatives in the Commonwealth Parliament. Recognised Office Holders (being Members holding offices specified in Schedule 1 of the Act) receive an additional salary and an expense allowance at rates bearing a fixed percentage to the rate of basic salary as prescribed in Schedule 1 of the Act.

The Act was amended by the *Parliamentary Remuneration Amendment Act 1998* to expand the statutory role and functions of the Tribunal to make determinations on a full range of Members' additional entitlements.

Section 9 of the Act specifies that the function of the Tribunal is to make determinations of additional entitlements that are to be available to Members or Recognised Office Holders. Section 9 is in the following terms:

- 9(1) *The functions of the Tribunal are:*
- (a) *to make determinations of additional entitlements that are to be available to a Member or recognised office holder, and*
 - (b) *to approve proposed amendments to the Parliamentary Contributory Superannuation Act 1971.*
- (2) *The Tribunal has such other powers, authorities, duties or functions as are conferred or imposed on it by or under this or any other Act.*

The Tribunal may, by determination, fix the classes, terms and other incidents of additional entitlements (see s.10 (2)). The Act does not define the concept of additional entitlements; but sets out, in section 10 of the Act, the following general provisions:

- 10(1) *In making determinations, the Tribunal is to give effect to the following principles:*
- (a) *additional entitlements are to be provided for the purpose of facilitating the efficient performance of the Parliamentary duties of Members or recognised office holders.*
 - (b) *Parliamentary duties of Members and recognised office holders include participation in the activities of recognised political parties.*
- (2) *The Tribunal may by a determination fix the classes, terms and other incidents of additional entitlements.*
- (3) *A determination may provide for additional entitlements in any form, including but not limited to:*
- (a) *the payment of additional allowances in terms of allowances, fees, and other emoluments payable in money (including for example electoral allowances, travel allowances, travel expenses, and committee allowances), and*
 - (b) *the provision of services, facilities and equipment (including for example electorate services, electorate staff, electorate offices, office equipment, travel, and communication equipment).*
- (4) *A Determination may:*
- (a) *fix conditions on which an additional entitlement is to be provided and may specify the form of substantiation (if any) that is required for particular kinds of additional entitlements, and*
 - (b) *involve the reimbursement of the whole or a part of actual expenses, and*
 - (c) *identify an existing entitlement as an additional entitlement, and*
 - (d) *withdraw or alter an additional entitlement.*
- (5) *However, a determination may not grant, withdraw or otherwise deal with entitlements for travel outside Australia.*
- (6) *A determination may amend or revoke a determination that has already been made.*
- (7) *A determination or a provision of a determination may relate to all or any individual Members and recognised office holders or to any class of them.*
- (8) *Members and recognised office holders are entitled to additional entitlements in accordance with the provisions of applicable determinations.*

It is reasonably clear that the additional entitlements consist of, inter alia, monies or services or facilities provided to Members for the purposes of facilitating the efficient performance of

Parliamentary duties including the activities of recognised political parties. The additional entitlement may reimburse expenses but does not form part of a Member's remuneration (see the definition of remuneration in s. 3 of the Act).

The Act provides for an annual determination by the Tribunal of statutory additional entitlements; a determination being made, usually, by 1 June each year, with effect from 1 July of that year. For 1999, the Chief Justice extended the date for making the annual determination to 29 October 1999. The President of the Industrial Relations Commission further extended the date to 31 December 1999.

The Act reserves to the Premier, as the Minister responsible for the Tribunal, a power to direct the Tribunal to make a special determination as to additional entitlements. On 1 July 1999 the Premier of New South Wales directed the Tribunal, pursuant to section 12(1) of the Act, to make a special determination as to Members' additional allowances. The Tribunal made a special determination on 12 July 1999, essentially varying the electoral districts in the groupings appearing in the appendices to the current determination (made in 1998) so as to ensure that the electoral districts corresponded to the electoral districts established in the March 1999 redistribution of electorates. The Tribunal did not, however, reassess the quantum of or conditions for additional entitlements; those considerations were reserved for this initial determination.

On 30 November 1999 the Tribunal submitted its draft annual determination to the Secretary of the Treasury. As with the special determination the Tribunal did not reassess the quantum of or conditions applicable to Members entitlements as they were the subject of the initial determination. The annual determination which took effect from 1 July 1999 preserved identical quantum and conditions for Members entitlements as contained in the special determination.

The expression 'initial determination' arose from the Further Amendment Act. There is no definition of that expression in that Act. However, s. 3(1) of that Act makes clear that the Tribunal's power to make such a determination is restricted to an assessment of 'additional entitlements'.

Section 3 of the Further Amendment Act is expressed in the following terms:

3. *Initial determination of additional entitlements*
 - 1) *An initial determination relating to additional entitlements is to be made by the Parliamentary Remuneration Tribunal on or as soon as practicable after 27 March 1999.*
 - 2) *The initial determination has effect as a determination under and for the purposes of the Parliamentary Remuneration Act 1989, and takes effect on and from the date it is made (or a later date specified in or determined under the initial determination in relation to any particular entitlements).*
 - 3) *So far, however, as it relates to additional entitlements in the nature of additional allowances, the initial determination takes effect as on and from 27 March 1999 (or a later date specified in or determined under the initial determination in relation to any particular entitlements).*
 - 4) *Additional allowances continue to be payable at the rates previously payable as if the Parliamentary Remuneration Amendment Act 1998 had not been enacted, until payment of additional entitlements in the nature of additional allowances can be effected under the initial determination, subject to any necessary adjustments.*
 - 5) *The Parliamentary Remuneration Act 1989 applies, with any necessary adaptations, to the initial determination in the same way as it applies to an annual determination.*
 - 6) *Nothing in this section authorises a person to be paid an allowance for any period for which the person is not otherwise entitled to be paid remuneration under the Parliamentary Remuneration Act 1989.*

Section 3 makes clear that the 'additional entitlements' established under the initial determination are those contemplated under the Act. The Act applies, with any necessary adaptations, to the 'initial determination' in the same way as it applies to an annual determination. It follows that the powers and functions of the Tribunal under the Act, in relation to the determination of additional entitlements, apply to the making of an initial determination.

The Parliament plainly contemplated that the 'initial determination' is a separate and distinct determination to either an annual or special determination under the Act. However, the distinction between the initial determination and other forms of determination is not entirely clear.

The distinction does not, as previously discussed, lie in the nature of the respective determinations. The Tribunal is required, in relation to each form of determination, to assess the appropriate level of additional entitlements. Rather, as is illustrated in the differences between the annual and special determinations, the initial determination may be distinguished from other forms of determinations by reference to the timing and the purpose of the determination.

An annual determination must be made by a designated time each year and requires a consideration of all additional entitlements, whereas a special determination is made only upon direction by the Minister in relation to a nominated additional entitlement. The 'initial determination' is, by its very nature, a determination made at the outset; in this case, at the outset of the amendments to the Act. In other words, the initial determination would give effect to the substantially altered statutory scheme brought about by the 1998 amendments to the Act, at least to the extent of establishing a regime of additional entitlements under that new statutory scheme. The making of an initial determination requires, therefore, the conduct of an overall examination and review of existing additional entitlements and an assessment of an appropriate

regime for such entitlements under the new scheme brought about by the statutory reforms of 1998.

Nature of the Tribunal's Inquiries for the Making of an Initial Determination and Measures for Further Refinement

Having regard to the nature of an initial determination, it has been necessary for the Tribunal to undertake a wide inquiry into existing entitlements for Members and Recognised Office Holders. As described in the Introduction, this process has now taken place over two stages having regard to the tabling of the draft determination before Parliament and reconstitution of the Tribunal. In the result, the Tribunal received, and took into account, a substantial body of material and submissions which included:

- a) extensive historical research conducted by the Tribunal's secretariat;
- b) written and oral submissions from a number of Members including submissions received from representative groups of Members and their professional advisers;
- c) submissions from the Council on the Cost of Government (COCOG);
- d) advice from the Crown Solicitor;
- e) information provided by the Parliament with respect to public expenditure estimates for the 1997-98 financial year in respect of non-salary entitlements for Members;

- f) the draft determination;
- g) The Statement from the Secretary of the Treasury and further submissions from the Treasury;
- h) key economic indicators and other relevant economic and statistical information;
- i) Independent Commission Against Corruption (ICAC) Reports and subsequent correspondence.

It should be noted the ICAC has published three reports resulting from its investigations into Parliamentary and electorate travel. Report No 2 published in December 1998 included 63 Recommendations concerning reform to the Parliamentary administrative systems and the entitlements of and use by Members. The third Report issued in November 1999 provides advice on the steps taken by the Government and the Parliament in implementing the Recommendations.

Sixty-one of the 63 Recommendations were divided by the ICAC into five broad headings viz:

Documentation	Recommendations 3 to 7
Accountability	Recommendations 8 to 15
Administration	Recommendations 16 to 17
Entitlements	Recommendations 18 to 52
Culture	Recommendations 53 to 63

Not all of these Recommendations are applicable to the Tribunal. Those Recommendations which have some applicability to the initial determination are Recommendations 3, 15, 18-30, 33-47 and 62.

The Tribunal will refer to these Recommendations, where appropriate, in various sections of the report. For convenience, the Recommendations and some general observations by the Tribunal in relation to same have been included in Annexure 1 of this Report.

The Tribunal has nominated in this report a number of aspects of the initial determination which should be the subject of further examination and assessment. For example, the Tribunal has adjusted the electoral allowance, in the absence of any submissions as to a review of the quantum of the allowance, merely in conformity with CPI increases. However, it may be that the electoral redistribution requires a more significant adjustment to the allowance having regard to the factors which have been historically taken into account in determining that allowance.

It is intended to undertake an examination of those aspects of this determination which have been nominated for further consideration in this report in the year 2000 annual determination (which must be completed by 31 May 2000). The Tribunal will also have the opportunity at that time to consider the operation of the initial determination and will also receive any submissions relevant to those matters.

Early History of Entitlements

The draft determination provided an historical examination of the development of entitlements for Members. Relevant aspects of that history have been extracted below. The analysis provides a useful starting point to the present deliberations. The Tribunal will consider some particular features of the development of various entitlements when later considering allowances and other entitlements (which consideration will include the subsequent decisions of the Tribunal as to such entitlements).

Prior to 1920

Before 1889, Members of the Legislative Assembly of New South Wales did not receive any salary or allowances in recognition of their Parliamentary and electoral duties. They were provided with passes for free transport on the State's railways and tramways and with the stationery and postage stamps used in Parliamentary correspondence. In 1889, for the first time, and following some years of Parliamentary debate, Members were granted an allowance of 300 pounds per annum, ostensibly as reimbursement for expenses incurred in the discharge of their Parliamentary duties.

From its inception the allowance served, effectively, both as reimbursement of expenses and as a salary for Members, although it was expressed in the 1889 Act as an allowance to reimburse expenses.

The allowance was increased to 500 pounds in 1912 following an increase in payments to Federal Members.

The 1920 Royal Commission

In 1920 Mr Justice Edmunds of the Court of Industrial Arbitration was appointed a Royal Commissioner to inquire into the "*Question of Increasing the Salaries or Allowances to Ministers and Members of the Legislative Assembly of New South Wales*". The evidence presented to the Royal Commission showed that there was no supervision of Members' expenditure. Members received the allowance without any inquiry into the expenses they actually incurred in the discharge of their Parliamentary duties.

The Royal Commissioner found that the allowance was expended on: election expenses; contributions to public charities and other public objects; expenses of attendance at the House during the sittings of Parliament; expenses of assistance in Members' private or Parliamentary work; travelling expenses; and, maintenance of Members' homes.

The Royal Commissioner recommended that the allowance be increased to 875 pounds per annum.

The Royal Commissioner recognised the expenses incurred by country Members through attendance at the House during sittings of Parliament, but noted that during absences to attend Parliament country Members would be relieved of expenditure arising from residence in their electorates. Members for city electorates, by comparison, would incur expenditure throughout the year arising from residence in their electorates. On this basis it was considered the allowances for Members for both country and city electorates should be uniform.

The Royal Commissioner also recognised the substantial costs incurred by Members in visiting the occupied parts of the largest electorates, but took the view that the cost of such visits was not included in the policy of the 1889 Act which first provided the allowance for Members. The allowance recommended by the Royal Commissioner did not, therefore, provide for electoral visits by Members, but did provide for expenditure incurred by all Members in travelling on public business.

It was clear to the Royal Commissioner in 1920 that the allowance had assumed a dual character. It reimbursed Members for expenses incurred in the discharge of their Parliamentary and electoral duties, and served as a salary for those Members who had no other source of income. The Royal Commissioner reported that 60 per cent of Members relied upon their Parliamentary allowance as their sole source of income.

1920 – 1956

In 1922 the allowance was reduced to 600 pounds, and in 1925 restored to its former level.

In response to the depression of the 1930s, the allowance was reduced in 1930, and reduced again in 1931 and in 1932. It was restored to its pre-depression level in 1938.

In 1947 the allowance was increased to 1,275 pounds and increased again in 1952 to 1,875 pounds.

An allowance of 300 pounds was introduced for Members of the Legislative Council in 1948 and increased to 500 pounds in 1952.

The 1956 Wolfenden Inquiry

The principle of remunerating Members for occupancy of their office and performance of their duties, and recouping them for reasonable expenses incurred in performing their essential duties, was established by Mr E S Wolfenden (a consulting actuary and chartered accountant) in his 1956 report entitled "*Report upon Appropriate Salaries and Allowances for Members of Parliament, Ministers of the Crown and the Holders of Parliamentary Office in New South Wales*".

The key features of the scheme recommended by Mr Wolfenden were as follows:

- a) Unavoidable expenses for country Members were recognised as including:
 - i. running a car and car hire;
 - ii. hotel and living away from home expenses in covering the principal centres of the electorate;
 - iii. attendance at various functions;
 - iv. donations;
 - v. subscriptions to functions and various bodies;
 - vi. periodical electioneering expenses; and
 - vii. accompaniment by wives at added expense on some occasions.

- b) No amount should be allowed for electioneering expenses as a Member should not be advantaged as against a prospective opponent for election.

c) The Commonwealth and Victorian schemes appeared to Mr Wolfenden to be the fairest and most reasonable method of assessing reasonable salaries and allowances. Those schemes involved:

- i) first assessing a basic salary payable to all Members;
- ii) granting electoral expenses varying with different electoral groups;
- iii) adding additional salaries justified by extra responsibilities; and
- iv) adding additional expenses necessitated by extra duties.

d) Electorates should be divided into four groups to indicate a fair classification of unavoidable expenses; the expenses in each group being roughly identical. The groupings recommended were as follows:

Group 1 – Metropolitan Electoral Divisions;

Group 2 – Urban Electoral Divisions;

Group 3 – Inner Country Electoral Divisions; and

Group 4 – Outer Country Electoral Divisions.

e) Members of the Legislative Assembly should receive, in addition to a basic salary, an electoral allowance on the basis of electorate groupings as follows:

Group 1 – 400 pounds per annum (increased to 500 pounds per annum at the initiative of the Government);

Group 2 – 600 pounds per annum;

Group 3 – 700 pounds per annum; and

Group 4 – 800 pounds per annum.

- f) Members in Groups 2, 3 and 4, other than Ministers, should be granted a living allowance of 3 pounds 3s. 0d. per day for each day they attend a sitting of the Assembly.
- g) Travelling Allowance of 100 pounds per annum and Stamp Allowance of 8 pounds per month to Members should both be discontinued as these items had been included in other recommendations.
- h) A sufficient living allowance should be provided to encourage able citizens to seek election to the Legislative Council.
- i) Country Members of the Legislative Council should be recouped the extra expense of attendance at sittings of the Council.

The former allowance for Members of the Legislative Assembly (not electoral or living away from home allowances), now treated effectively as salary, was increased in 1956 from 1,875 to 1,975 pounds. There was no change in the allowance for Members of the Legislative Council, but a sitting allowance of 3 pounds 3s. 0d. per day was introduced for non-metropolitan Members of the Upper House.

1956 – 1966

Salary for Members of the Legislative Assembly was increased in 1959 to 2,350 pounds and the electoral allowance was increased from 500 – 800 pounds per annum to 650 – 950 pounds per annum.

In 1963 salary for Members of the Legislative Assembly was set at 2,650 pounds and the electoral allowance at 750 – 1,050 pounds per annum.

At the same time the allowance for Members of the Legislative Council was increased from 500 to 750 pounds per annum and the sitting allowance for non-metropolitan Members of the upper house was increased to 4 pounds 4s. 0d. per day.

The 1966 Matthews Report

The distinction between salary and allowances for Members was reinforced by The Honourable B H Matthews (a retired Judge of the Supreme Court of Queensland and a former President of the Queensland Industrial Commission) in his 1966 *“Report on the Emoluments and Other Benefits of Members of the Parliament of New South Wales”*. He reported that the allowance granted to Members in 1889 had clearly become a salary and in 1956 Members had been granted an electoral allowance to reimburse them for legitimate expenses incurred in connection with their electorate responsibilities.

Mr Matthews recommended that salaries be increased to \$6,840 (from \$5,300) and that electorates be placed in 6 groups for the purpose of setting the electoral allowance at \$1,620 - \$2,400 (from \$1,500 to \$2,100 p.a.).

The level of reimbursement for expenses incurred by Members in the discharge of their Parliamentary and electorate duties had regard to:

- area of electorate, including nature of the terrain;

- size of population and whether scattered or located mainly in a small number of large cities or towns;
- communications, including whether public transport services are available, and if so, the frequency and nature of such services and whether the roads are sealed or unsealed;
- motor car expenses, identified as the greatest individual expense for Members;
- subscriptions, noting that contributions in any way of a political character, or which might be regarded as part of an electoral campaign, had been discounted;
- accommodation within electorates; and
- telephones, recognising the need for Members to communicate in connection with their Parliamentary and electorate duties when away from their homes.

Mr Matthews also recommended improvements in a number of other entitlements for Members, including:

- air transport within the State for all Members;
- air transport between electorate and Sydney for Members representing the country electorates furthest from Sydney;
- air transport for wives of Members;
- cost of telephone rental at the private residence of Members of the Legislative Council;
- issue of postage stamps to Members of the Legislative Council;
- 24-hour personal accident insurance for certain Members of the Legislative Council not already covered;
- typing assistance for Members of the Legislative Council;
- message services at Parliament House;
- setting aside a room in government offices in Members' electorates for use by the Member (an extension of a long-standing arrangement providing Members with access to

accommodation in Court Houses) and part-time services of a public service typist be made available. The expense of providing a telephone, furniture and any additional typing or other assistance was seen as a matter for the Member and should not represent a charge against the State;

- increase in living allowance for Members of the Legislative Council who resided outside the metropolitan area for each calendar day of attendance at sittings;
- payment of full and half day rates, when Parliament was not in session, for Chairmen and Members of select committees.

He noted that for many years Members of the Legislative Assembly found accommodation for themselves in Sydney as required, but during the Second World War, when accommodation was difficult to obtain, the practice developed of some Members being accommodated in their rooms at Parliament House. This practice continued, and while in Sydney, many country Members lived in the accommodation provided at Parliament House.

This report also recommended a basic salary of 1,020 pounds and an expense allowance of 720 pounds per annum for Members of the Legislative Council, in place of the existing allowance of 750 pounds per annum. The sitting allowance for country Members of the Legislative Council was increased to 5 pounds per day.

1966 – 1971

In 1969 the electoral allowance was increased to \$1,945 – \$2,880.

The 1971 Goodsell Report

In 1971 the Committee of Inquiry chaired by Sir John Goodsell, C.M.G. recommended, in the report entitled "*Report by the Committee of Inquiry to Review The Emoluments of Statutory and Other Senior Office Holders and the Emoluments and Allowances and the Facilities and Other Benefits of Members of the Legislature of New South Wales*", that the electoral allowance for Members of the Legislative Assembly be increased to \$2,750 – \$4,100.

The Committee received evidence of increases in the costs of:

- car running;
- travel;
- accommodation;
- subscriptions;
- entertainment; and
- postal and telegraphic charges.

The Committee also reported that there had been "*a marked change in the nature and extent of demands upon Members by the community generally...*" and it was "*clear that in the modern scene, the more adequate and efficient the representational service given by Members the more the community relies upon them and makes demands upon them.*" The Committee accepted representations that the increased demands upon Members "*are leading to increased involvement of the wives of Members, bringing about considerable increases in family costs.*" The Committee recommended that the living away from home allowance paid to Members of the Legislative Council living in the more distant country electorates should be increased from

\$10 to \$20 per day. The Committee also recommended that movements in electoral allowance should be made on 1 January each year based on the Consumer Price Index for Sydney.

The comment by the Committee about increases in family costs echoed the 1920 Royal Commissioner's acceptance that maintenance of Members' homes was an appropriate head of expenditure against the electoral allowance, given the dependence of many Members on the allowance as their sole source of income. By 1971, however, it was well established that Members were entitled to a salary and an electoral allowance, and the Committee's rationale for taking family costs into consideration in connection with the size of the electoral allowance is not clear.

A number of other recommendations were made as follows:

- a) Allowances for chairmen and Members of Select Committees shall be increased to \$23 for the chairman and \$17.25 for Members, for each day on which they attend a meeting of the committee and/or are present at an official visit of inspection (provided that no allowance shall be payable in respect of a day on which the House sits).
- b) The printing allowance should be increased from \$40 per annum (fixed in 1963) to \$75 per annum in respect of Members of both Houses.
- c) The daily allowance for non-metropolitan Members of the Legislative Council should be increased from \$10 to \$20 per day.

- d) There should be established equitable rules for issuing air travel vouchers.
- e) Reimbursement of the cost of the airport bus in respect of official air travel.
- f) A provision should be made for a Member to select the most convenient air service within his own or an adjoining electorate when using air travel vouchers for travel between the Member's electorate and Sydney.
- g) Increases should be made to accident insurance for Members.
- h) There should occur an examination and resolution of inadequacies in the typing service for Members.

1971 – 1975

The electoral allowance was increased in 1974 and again in 1975 to re-establish relativities with Members of the Federal Parliament.

Concerns were expressed from various sources over many years about accommodation arrangements for Members representing country electorates who needed to reside in Sydney during sittings of the Parliament and in the course of other Parliamentary duties. The 1920 Royal Commission accepted that it was appropriate, in the light of evidence on how the allowance had been used, for these Members to meet such expenses from their Parliamentary allowance.

While the original allowance may be regarded as having taken into account the costs faced by Members representing country electorates, the accommodation difficulties faced by such Members remained. Members' offices at Parliament House came to be used for overnight accommodation until 1975, when it became necessary to discontinue this arrangement.

To offset the resulting difficulties for the Members affected, the Government initiated, and the Parliament approved, the payment of a special expenses allowance of \$2,000 – 2,500 per annum depending on the distance of the Member's electorate from Sydney; and \$3,000 per annum for Ministers, the Leader of the Opposition and the leader of any recognised party with more than ten Members in the Legislative Assembly representing non-metropolitan electorates. This decision appears to have recognised the high cost of accommodation in Sydney.

The Tribunal subsequently evaluated entitlements having regard to the nature of those provisions. These determinations will be discussed later in this report.

Existing Entitlements for Members and Recognised Office Holders

Members

Entitlement for Members are generally uniform in nature, however, some are relevant only to Members of the Legislative Council or to Members of the Legislative Assembly.

Members' entitlements generally fall into one of four broad categories. Those categories and the entitlements falling within each (which are not exhaustively defined) are as follows:

1. **Those entitlements and conditions determined by the Tribunal including:**
 - **Electorate allowance**
 - **Living away from home allowance**
 - **Electorate charter allowance**
 - **Committee allowance**
 - **Travel Expenses allowance for certain Recognised Office Holders**

2. **Entitlements and conditions recommended by the Tribunal and approved by the Premier including:**
 - **Air Travel entitlements**
 - **Certain office equipment**
 - **Mobile telephones**
 - **Portable computer equipment**
 - **Stamp allowance**
 - **Printing allowance**

3. **Entitlements and services provided for by the Parliament including:**
 - **Electorate Offices**
 - **Offices and facilities at Parliament House**
 - **Staff**
 - **Office and Computer Equipment**

- Corporate Services support
- Security

4. Entitlements provided from other sources including:

- Travel passes provided by the Minister for Transport pursuant to s. 88 of the *Transport Administration Act 1988*.
- Complimentary admission to certain cultural and sporting venues, including Qantas Chairman's Lounge, Sydney Cricket Ground, NSW Harness Racing Club, Australian Jockey Club, Sydney Turf Club and Royal Agricultural Society of NSW.

Recognised Office Holders

Schedule 1 of the Act stipulates by name certain public offices which are "*recognised offices*" and entitled, as such, to additional salary and to expense allowances.

In addition to those allowances stipulated in the legislation, some Recognised Office Holders also receive additional entitlements either determined by the Tribunal or approved by the Premier.

The level or amount of additional entitlements may differ between office holders depending on the office held. They include but are not limited to:

- Additional living away from home allowance
- Travel allowance
- Additional air travel warrants

- Additional stationery entitlements
- Additional communication expenses.

The Draft Determination

The draft determination represented a substantial departure from previous determinations of the Tribunal. This much is recognised in the preamble to that draft. The draft determination was to prescribe budgets and conditions on all of those entitlements formerly determined by the Tribunal, those previously recommended by the Tribunal and approved by the Premier and many of the entitlements provided to Members by the Parliament itself.

Generally speaking the draft determination proposed the following changes to that scheme:

- All classes of additional entitlements were to be provided to each Member in the form of an annual allocation distributed into a number of capped budgets.
- The allocations were divided into two broad areas - the Individual Electorate Related Account and the Overhead and Capital Account.
- Expenditure against the Individual Electorate Related Account would be approved by the Parliament's authorised accounting officer following certification by the Members that the expenditure was for Parliamentary duties. Expenditure from the Overhead and Capital Account would be approved by the Presiding Officers.

- Members were to be permitted to carry forward any unspent parts of their entitlements into the next financial year.

These proposals will be discussed more fully in later sections dealing with electoral allowance and capital item allocations.

It is reasonably clear that the Tribunal had originally intended to introduce a scheme that would allow each Member, in the case of operating expenses, to decide how the capped funds should be expended as between the various categories of expenditure as identified in the draft determination. This may have provided Members with the flexibility to determine their expenditure in accordance with their needs. For example, a Member with little or no need to travel could have re-directed funds allocated for that purpose to areas where they had a greater need, for example, in additional printing or postage.

The Crown Solicitor, in correspondence with the Tribunal regarding aspects of the draft determination, considered that the approach described above:

"...does not constitute the determination of additional allowances as required by the Act."

In subsequent correspondence on this matter the Crown Solicitor explained how he had come to this view;

"These doubts and perception of risk were based on the view there would be insufficient certainty in relation to each entitlement to enable it to be said it had been "determined" or "fixed" within the meaning of the Act and that was because the size or amount of each entitlement during the period of the determination was left to the discretion of Members in the case of the operating entitlements..."

It was the Crown Solicitor's view that if the determination fixed the amounts for each of the additional entitlements then the risk, as perceived by the Crown Solicitor, would be eliminated. As a result of this advice the Tribunal then specified in the draft determination how the funds were to be apportioned amongst the heads of expenditure.

One consequence of this approach was that Members lost the flexibility to tailor their additional entitlements to meet their individual needs.

The initial determination has fixed the amounts for each of the additional entitlements and is thus in accordance with the Crown Solicitor's advice. However, the Tribunal has, within the parameters of the advice, provided for some flexibility in relation to a restricted class of additional entitlements. This will be discussed more fully in the section of the report dealing with the overall restructuring of the existing system of additional entitlements. Notwithstanding this approach, the Tribunal strongly urges the Government to amend the legislation to the extent necessary to provide greater flexibility for Members to apportion entitlements determined by the Tribunal to meet their individual needs, provided they do not exceed the overall allocation determined by the Tribunal.

CONSIDERATION

The changes contemplated in the draft determination were such as to alter root and branch the system of additional entitlements for Members. Whilst it is not proposed to review the draft determination in the sense of an appeal, in the light of the nature of changes proposed, the starting point of any consideration of an initial determination should entail an assessment of the overall structure of Members entitlements having regard to the existing scheme of additional

entitlements and the changes proposed in the draft determination. Broadly speaking then, the Tribunal will consider at the outset what would constitute the system for additional entitlements (before turning to the components of any particular entitlements).

Given the fundamental and significant changes proposed in the draft determination, it is perhaps not surprising that the draft determination attracted a wide variety of reactions ranging from acceptance to substantial criticism. Most submissions received in relation to the draft determination proposed some form of change to the terms of the draft determination.

The Treasury advice criticised the draft determination. It was contended that the determination would lead to a significant increase in overall Member related expenses and would impose an excessive administrative burden on both the Parliament and the Members. It was also contended that the carry forward provisions would technically breach section 23 of the *Public Finance and Audit Act 1983*.

The Secretary of the Treasury was also critical of the Overhead and Capital Account and the Members individual electorate related accounts both of which contained items of recurrent and capital nature. It was submitted that this was contrary to normal financial accounting and financial management practices. The Secretary also criticised the methodology used by the Tribunal in determining the Member's Individual Electorate Related Accounts. The Secretary concluded that the draft determination would increase budget costs by \$12.7 million.

The Chairman of COCOG was critical of the Treasury response to the draft determination. In particular he questioned some of the assertions made by the Treasury. The Chairman noted that contrary to the statement made by the Secretary, the *Public Finance and Audit Act 1983* does

make provision for funds to be carried over from one financial year to the next, which is a standard feature of accrual accounting practices. He observed that such a scheme already exists for some existing Parliamentary entitlements, such as printing and postage which are cumulative over the life of the Parliament.

The Chairman also noted that the draft determination would remove much of the flexibility that existed for Members and would impose a considerable administrative burden on them and staff of the Parliament. The Chairman was critical of the changes proposed for the electoral allowance. He considered that it would not be a cost effective use of Members' time to have them compile detailed records about minor matters of expenditure on a day to day basis. The Chairman also expressed concern that the audit requirements, as expressed in the draft determination, fell short of what the Council was advocating in this area.

Overall the Chairman felt that the administrative arrangements contained in the draft determination, requiring Parliamentary staff to approve individual items of expenditure, would cement those very arrangements that the Council had criticised in its report on this matter.

The ICAC also criticised aspects of the Treasury's response, particularly concerning the carry forward comments. ICAC was generally supportive of the broad thrust of the draft determination, "*... it is gratifying to see that the (draft) determination embraced many of the Commission's recommendations, if not fully then in spirit.*"

Submissions were received from political parties and individual Members. Generally speaking, they were critical of the draft determination, particularly the reimbursement nature of the scheme and the additional administrative burden this would place on Members, their staff and the Parliament's accounts section.

Members expressed concern about the viability of such a proposal. It was suggested that it was unreasonable to expect Members to outlay large cash advances, then seek reimbursement. Members were also concerned that if receipts could not be produced for any reason, reimbursement of legitimate expenses would not become available. This proposed change was described by Members as 'unnecessarily complex.' There was also concern about the effectiveness of a system that relied upon the opinion of an individual Parliamentary officer to determine what is a reasonable claim. The Financial Controller of the Parliament also expressed concern regarding the administrative workload that the draft determination would impose on staff in Parliament House.

As noted, with the introduction of this report, there is clearly a need to reform the system of additional entitlements. Under the existing scheme Members' entitlements are derived from a variety of sources and determined by a variety of differing agencies. It was developed on a largely ad hoc basis without any process of considering the inter-relationship of benefits, or more particularly whether the entitlements were internally consistent. There was also the risk of double-counting of benefits. This environment was least conducive to considering the reforms sought by ICAC and COCOG.

The Tribunal embraces the approach contained in the draft determination of restructuring the entitlements of Members so as to provide, as far as practicable, a common source for additional entitlements. This approach permits an overall assessment of the appropriate standard of benefits for a Member and maximises the prospect for appropriate assessment of the entitlements and provision of flexibility in the application of them. This approach should also enhance the auditing of such benefits.

The restructuring of entitlements so as to reduce the multiplicity of discrete categories allocated to Members is also desirable. The broad-banding of allocations allows greater flexibility in the expenditure of the entitlements which may result in a better utilisation of the grant and savings (in the case of unexpended funds).

In reviewing the current scheme of allowances and entitlements provided to Members, the Tribunal was conscious of the need to, firstly, simplify the system that was in place and, secondly, to provide clear rules and guidelines relating to the use of the entitlements.

Underpinning this approach was the Tribunal's clear intention to provide Members with the necessary flexibility to manage their own entitlements to meet their particular needs.

The Tribunal considers that expressing entitlements in monetary terms meets these objectives while at the same time maintaining the necessary transparency and accountability demanded by the community of its elected representatives.

Providing fixed monetary amounts will allow Members to budget expenditure to meet their particular needs. Whilst the legislation limits the degree of flexibility that may be provided to Members, nevertheless it is a significant improvement on the system as it currently operates.

This essentially was the approach adopted in the draft determination. There was no criticism of it by the Treasury and was supported by the COCOG and the ICAC (Recommendation 25). Members also did not criticise this aspect of the draft determination.

The methodology used by the Tribunal in converting non-monetary benefits to a monetary value will be described later in this report. The Tribunal's calculations have tried to ensure that, as far as practicable, Members will have sufficient funds to meet their travel and other needs. The budgets were based on the best available data at the disposal of the Tribunal. With time, the expenditure patterns of Members will become clearer and the Tribunal will be able to fine tune its determinations to those expenditure patterns.

However, there are considerable difficulties associated with the extent of the restructuring proposed in the draft determination, both with respect to the scope of proposed 'global budgeting' and the proposed allocation of entitlements to an Individual Electorate Related Account and an Overhead and Capital account (the latter account containing funds which replaced the existing system of specific provisions of office equipment and the like). Excepting for a special group of allowances which may be appropriately grouped to provide greater flexibility, the Tribunal considers that it is inappropriate at the present time to combine all existing allowances into an Individual Electorate Related Account, and in particular, to merge electoral allowances and special expense allowances into a common account. The creation of the Overhead and Capital account is also undesirable and raises a number of additional and perhaps even more substantial issues (which will be discussed later).

In the discussion of the existing additional entitlements, the Tribunal will provide some particular reasons for this approach. However, it is suffice for present purposes to note some general reasons as follows:

1. There is presently insufficient basis to warrant such a substantial change. Having regard to the materials and submissions, reform of the existing system is appropriate, however, such reform should be introduced gradually, to the extent appropriate, of familiar procedures.
2. In particular, the system of approvals of individual expenditure may well be unmanageable; particularly when introduced as part of a substantial overall change to the system of entitlements (including the introduction of a global budgeting system).
3. In making this decision the Tribunal has noted, in particular, the concerns of the COCOG who considers that the scheme as outlined in the draft determination would impose a "... *considerable administrative burden on both the Members and the staff of the Legislature.*" The COCOG also expressed concern at the proposal to have Parliamentary officers approve expenditure as it would place undue pressure on them.
4. The scheme proposed in the draft determination is hampered by a number of legislative restraints. Consequently, the introduction of such a scheme without first seeking legislative amendment may be disadvantageous to both Members and the Parliament. This limitation presently robs the global budgeting system proposed in the draft determination of much of its vitality.

As previously mentioned, another aspect of the draft determination was the provision allowing entitlements to be carried forward from one financial year to another. The Secretary of the Treasury was critical of this approach. Having regard to this critique, and noting the financial management systems adopted in this determination, the Tribunal has determined not to allow Members to carry forward their entitlements into the next financial year.

However, the Tribunal has, in the light of advice received from the Crown Solicitor, determined to require monies, not expended in each allocation of additional entitlements, to be refunded to the Consolidated Fund. This will be discussed later in this report.

The draft determination's system of accountability and accounting involving prior approval of all expenditure above an initial allocation drew the harshest criticism because of the administrative and other problems associated with the scheme. The Tribunal has decided not to implement this aspect of the draft determination although the Tribunal has accepted the ICAC recommendation with respect to auditing.

Both COCOG and ICAC have commented on the need for transparency and accountability in the expenditure of public funds by Members and have both recommended the auditing of Members' entitlements. The Tribunal supports these views and has made it a general condition of Members' entitlements that they be independently audited regularly to ensure financial and performance compliance.

As to the structure of entitlements, the Tribunal has determined:

1. The Tribunal considers that the electoral allowance and living away from home allowance should be retained. They are discrete provisions which are capable of being audited against the specific purposes for which they are intended. They also offer a reasonable level of flexibility for Members. However, some modest alterations to the present electoral allowance provisions will be introduced in the initial determination. Both allowances will be paid directly to Members.

2. Members will also receive other entitlements as determined by the Tribunal. These entitlements are similar in nature and are administered in a similar manner. The entitlements will be expressed in monetary terms and will be held by Parliament on behalf of each Member in an account called the Additional Entitlements Account.
3. Each such account will comprise four sub-accounts to reflect the four broad categories of entitlements determined. The four sub-accounts will be Transport, Communication – electronic, Communication – non-electronic and Printing and Stationery. To conform with the legal advice, previously mentioned, the Tribunal has fixed the amount for each sub-account.
4. The Financial Controller of the Parliament will establish the Additional Entitlements Account for each Member. This Account will be managed by the Member and maintained by the Financial Controller of the Parliament. Members will have the flexibility to determine their own expenditure needs within each sub-account. Members, however, must ensure that they have sufficient funds to meet the necessary costs related to each sub-account. Each sub-account is established for a specific purpose and the additional entitlements credited into that account shall only be used for that purpose. Members may not, therefore, transfer funds between sub-accounts or use funds from one sub-account to meet expenditure which is relevant to another sub-account. For example, a Member may not draw on the printing and stationery account in order to pay for transport costs.

5. Accounts will be paid either directly by the Parliament and debited to a Members account or paid in the first instance by the Member who would then seek reimbursement from the Parliament. Members are to be advised by the Financial Controller at regular intervals as to the balance of their Additional Entitlements Account and each sub-account. All procurement by Members will be in accordance with the Parliament's purchasing policies and practices.
6. The guidelines and most conditions for the additional entitlements contained in the draft determination are nonetheless appropriate. They are more appropriate than those applicable under the current scheme, and arise from substantial assessment and recovery, and are appropriate for adoption in the initial determination.
7. Recognised Office Holders receive an additional entitlement over and above that provided to them as Members. This is discussed in a later section of this report.
8. At the end of each financial year, Members will be required to certify to Parliament the amount expended for each allowance; certify that all expenditure was incurred in connection with the performance of a Member's Parliamentary duties; and that the unspent portions of each allowance are returned to Parliament for reimbursement to the Consolidated Fund.
9. This determination is firmly based on the clear requirement, as outlined in the legislation, that the Tribunal only determine additional entitlements for use in connection with Parliamentary duties. The Tribunal interprets this to mean that Members cannot use the entitlements determined by the Tribunal to gain private

benefit although, because of the nature of the duties of Members, they may incur some incidental private benefit.

10. To assist Members further, the Tribunal has provided guidelines in the Determination as to what constitutes Parliamentary duties.

11. It will be a requirement that Members' entitlements be audited by independent auditors at regular intervals to ensure compliance with the above principles.

12. The electoral groupings proposed in the draft determination, as will be later discussed, should be adopted.

13. There will be no Overhead and Capital Account as proposed in the draft determination. The Tribunal considers that the equipment services and facilities should be actually provided to Members (as opposed to an allocation being provided in an Overhead and Capital Account for such items as envisaged in the draft determination). This is a far simpler approach avoiding substantial costing or accounting difficulties and removing the need for the Tribunal to involve itself in the detailed budgeting deliberations and negotiations for capital items between the Treasury and the Parliament. It is also desirable from an auditing viewpoint.

14. The Tribunal will broadly specify the type and nature of the office equipment and services which shall be provided to a Member. However, any other facilities or services provided to Members within Parliament House will be left in the hands of the Presiding Officers. The Tribunal is prepared to further consider this matter upon any representations by the Presiding Officers.

In the light of this overall structure it is now necessary to evaluate the terms and conditions applying to existing entitlements, where retained, and to assess the conditions applicable to any newly created allowance. This will be undertaken in the following headings corresponding to existing entitlements.

Electoral Allowance

Members of the Legislative Assembly were first granted "electoral allowances" in 1956 in consequence of the recommendations made by Mr E S Wolfendon in his 1956 report.

Mr Wolfendon was provided with evidence which showed that when the unavoidable expenses associated with the duties of being a Member were deducted from Members' salaries they were left "out of pocket." Mr Wolfendon further noted that these unavoidable expenses "*press more heavily*" upon country Members whose electorates were large and whose expenses would include:

- Running a car and car hire
- Hotel and living away from home expenses in covering the principal centres of the electorate
- Attendance at various functions
- Donations
- Subscriptions
- Accompanied to official functions by wives
- No amount allowed for electioneering expenses.

He considered that it had been clearly established that electorate expenses amounted to a considerable sum. He grouped electorates into four Groups and determined an electoral allowance for each Group. His report makes clear that that electoral allowance should not be used for electioneering purposes "*... because under a true democracy a Member should not be advantaged as against a prospective opponent for election.*"

Electoral allowances were reviewed in The Matthew Report in 1966 and the Goodsell Report in 1971. Their recommendations suggested that electoral allowances should also have regard to:

- Area of electorate, including nature of terrain
- Population and population density
- Communication and transport
- Increased community expectation
- Increased family costs.

The Tribunal has had responsibility for determining electoral allowances since 1975. The Tribunal maintained the principle that electoral allowances were provided to Members in order to assist them in meeting their responsibilities to the electorate.

Under the current methodology the Tribunal determines electoral allowances based on two components – a ‘car allowance’ component and an ‘other factors component’. The car allowance component recognises the considerable cost to Members in maintaining/leasing motor vehicles for use in servicing their electorate. The other factors component is intended to meet all other out-of-pocket expenses incurred by Members in the course of their duties.

As with Members’ salaries, the electorate allowances are paid on a calendar monthly basis in arrears. The amount payable each month is one-twelfth of the annual allowance. These allowances are not taxed at the time of payment unless requested by the Member. Members must acquit their expenditure to the Australian Taxation Office (ATO). If a Member has not spent all of his/her electorate allowance on expenditure as assessed by the ATO, the Member may pay tax upon the residual.

Under the 1999 special determination of the Tribunal, Members of the Legislative Assembly receive allowances ranging from \$24,000 for electorates closest to the Sydney CBD to \$60,000 for the Murray Darling electorate. Members of the Legislative Council all receive the same allowance of \$34,200 per annum because their electorate is considered to be the whole State. However, as noted in the report of the Tribunal accompanying the special determination, the Tribunal did not review the electoral districts or allowances payable in such districts in making the special determination.

Draft determination

The draft determination proposed a radical departure from the current arrangements for electoral allowances. Members were no longer to receive a separate electoral allowance paid to them in regular monthly instalments. Electorate related expenses were identified as part of a Members Individual Electorate Related Account. This account specified categories of expenditure with capped budgets. All Members were required to seek reimbursement from the Parliament for electorate related expenses, which were to be offset against the electoral expenses component of their Individual Electorate Related Account. The draft determination allowed Members to draw against their Individual Electorate Related Account one advance of \$2,000. Thereafter, any expended portion of that advance would be replenished after expenditure from the advance has been approved by the Parliament.

The draft determination also proposed that Members be able to carry forward during the four-year term of the Parliament the unexpended portion of any operating expenses entitlement to the corresponding entitlement for the next financial year. This condition was subject to the

requirement that there be no monies carried forward at the end of each four-year Parliamentary term at which time any unused entitlement would be forfeited.

In submissions to the Tribunal, Members identified a number of concerns regarding the treatment of electoral allowances under the draft determination. The requirement that Members seek reimbursement from the Parliament for all expenditure associated with their electorate and Parliamentary business, it was submitted, was unworkable and would create an “administrative nightmare” for both Members and the Parliament.

Consideration

The Tribunal has determined that a component of additional entitlements for Members should consist of a discrete payment in the nature of the traditional electoral allowance. The reasons for this approach have been earlier identified.

However, there does appear, upon submissions received, to be reasonable grounds for some change to the existing system of electoral allowances (noting that the Tribunal will discuss electoral groupings separately). The initial determination will provide:

1. Members will continue to receive electoral allowances to assist them to meet their responsibilities to the electorate.
2. The new scheme retains Members’ autonomy in the expenditure of electoral allowances.

3. A major departure from current arrangements for the expenditure of this allowance has resulted from advice received from the Crown Solicitor which stipulates that Members may not receive any private benefit from entitlements or allowances. The initial determination, therefore, requires that Members use their electoral allowance only on expenditure associated with electoral and Parliamentary business. Any portion not expended on Parliamentary business is to be returned to the Parliament at the end of the financial year. The monies will be paid into the Consolidated Fund.
4. Members will need to acquit actual expenditure to the Australian Taxation Office.
5. There will be no carry over of these allowances as proposed in the draft determination.
6. The Tribunal has adjusted the current electoral allowance to reflect the movements on the cost of living as measured by the Consumer Price Index since June 1997.

The electoral redistribution resulted in a reduction in the number of electorates from 99 to 93 effective from 27 March 1999. As discussed previously, the Tribunal has determined that electorates will be grouped, for the purpose of determining allowances, into eight groups as outlined in Schedule 1 of this determination.

The total electoral allowance allocated for the 1998 Annual Determination was \$3,421,100. The total annual allocation on electoral allowances as determined in 1999 Special Determination was \$3,218,600 (based on 93 electorates). This was a reduction of approximately \$200,000 or 6% on the annual expenditure on electoral allowances as determined in the Tribunal's 1998

Determination (based on 99 electorates). This is not surprising as in the special determination the Tribunal, for reasons stated in the report, did not consider the quantum of the allowances.

For the initial determination the Tribunal used the electoral allowances as determined in the 1999 Special Determination, reassigned them to the new electorate groups and increased them by 2.1 percent to reflect the CPI movements since June 1997.

The following table (Table 1) provides a comparison of electoral allowances as determined in the 1998 Annual Determination, the 1999 Special Determination and electoral allowances as determined in this initial determination.

Table 1

Former Electoral Group	1998 Annual Determination (based on 99 electorates)	1999 Special Determination (based on former electorate groupings)	Initial Determination (Group No) (See Schedule 1)
Group 1	\$24,400	\$24,400	(Former groups 1 & 2 combined)
Group 2	\$29,200	\$29,200	\$29,815 (1)
Group 3	\$34,200	\$34,200	\$34,920 (2)
Group 4	\$40,300	\$40,300	\$41,150 (3)
Group 5	\$44,000	\$44,000	\$44,925 (4)
Group 6	\$46,800	\$46,800	\$47,785 (5)
Group 7	\$51,300	\$51,300	\$52,380 (6)
			\$55,000 (7)
Group 8	\$60,000	\$60,000	\$61,260 (8)
Total Cost for all Members	\$3,421,100	\$3,218,600	\$3,310,230

Members of the Legislative Council are eligible for electoral allowances equivalent to those received by Members representing Group 2 electorates in the Legislative Assembly, ie \$34,920.

As a result of this determination there will occur a modest increase in costs from the special determination. Overall, there will be a cost saving upon the 1998 Annual Determination, that is, an overall reduction in costs associated with such allowances arising from the 1998 annual determination. This assessment incorporates the impact of changes in electoral groupings which shall be dealt with in the next section. The redistribution may have resulted in changes in electorates which warrants a more substantial adjustment that arises from a CPI increase in the allowance. However, no submissions were received by the Tribunal in relation to that matter. Further, the Tribunal has partly compensated for the effects of the redistribution by some alterations in electorate groupings.

The Tribunal will reconsider the quantum of the electorate allowance, having regard to particular impacts of the redistribution or other factors in its deliberations for the year 2000 annual determination. The Tribunal will ensure in this review that no double counting occurs as a result of the changes in groupings of electorates. Any submissions going to the quantum of the allowance should be received by 1 April 2000.

Grouping of Electorates

Historically, the Tribunal has, for reasons of equity and administrative convenience, grouped electorates for the provision of various allowances. These groupings have reflected a variety of considerations over time including geographic and demographic conditions, size of electorate and distance of each electorate from Sydney. Whilst each electorate has different features the Tribunal has consistently taken the view that there are sufficient similarities between electorates using the above criteria to allow groupings.

The eligibility for certain allowances is determined on the basis of electorate groupings. The allowances payable differ depending upon which group the electorate is in. The allowances currently determined on the basis of electorate groupings are:

- Electoral allowance
- Living away from home allowance
- Charter transport allowance.

Accordingly, the Tribunal has, by means of the classification of electorates by groupings, comprehended differences between electorates over time and compensated Members accordingly. The groupings recognised the relative disabilities experienced as a result of remoteness, area and other factors which may be associated with the cost of servicing an electorate. The arrangement of electorates into groups was originally proposed by Mr E S Wolfendon in his 1956 report. Mr Wolfendon's recommendations included four geographical groups as follows:

- Group 1 Metropolitan Electoral Divisions
- Group 2 Urban Electoral Divisions
- Group 3 Inner Country Electoral Divisions
- Group 4 Outer Country Electoral Divisions.

The groupings of electorates were further reviewed by the Hon B Matthews in his 1996 report. Mr Matthews found that a greater number of groups would provide the opportunity for more equitable treatment. He recommended that electorate groupings be increased from four to six.

Electorate groupings were then increased to eight in the Tribunal's report and determination of 23 May 1980. Following a redistribution of electorates, electoral districts were divided into seven groups plus the electoral district of Broken Hill for which a separate rate of allowance was prescribed.

The factors which were identified at this time as being relevant to the assessment of the placement of electoral districts in groupings were as follows:

- The size of the electorate
- Topographical features
- Population densities
- Distance from Sydney
- Transport facilities
- General nature of the ethnic background and occupations of constituents
- A comparison between electorates.

Electorate groupings were further reviewed in 1987 and 1991. During those reviews the Tribunal concluded that eight groups of electorates, with different electorate allowances, should be maintained.

A redistribution of electoral districts in accordance with the *Parliamentary Electorates and Elections Act 1912* was proclaimed on 10 July 1998 (the Redistribution). The result of this Redistribution was to reduce the number of electorates from 99 to 93. The new electorates came into effect from 27 March 1999.

The earlier 99 electorates were grouped in accordance with the groupings determined in 1991 which broadly adopted those previously determined by the Tribunal in 1980.

The Tribunal's special determination 1999 varied the electoral districts in the groupings so that the electoral districts (and allowances paid in relation to same) corresponded to the electoral districts established by the Redistribution. The Tribunal did not, at this time, reassess the quantum of, and conditions for, additional entitlements in the light of the restructuring of the electoral districts. Nor did the Tribunal formally assess the appropriate grouping of the various electorates.

However, it is clear that the electoral redistribution affected electorates by the alteration of boundaries. The question arises as to whether any particular adjustment in boundaries warrants redistribution in the groupings.

Draft Determination

Whilst the draft determination proposed a number of changes to electorate groupings, the rationale for determining those groups was the same as that used in previous determinations.

The Tribunal examined a number of factors to determine the groupings recommended in the draft determination. Data provided by the Australian Bureau of Statistics allowed the Tribunal to undertake a thorough statistical analysis of the demographic characteristics of each electorate. As with previous electorate grouping reviews, the Tribunal closely examined the issues of ethnicity and the occupations of constituents.

In addition to the demographic analysis, the Tribunal examined the geographic characteristics of each electorate. These included size of electorate, distance from Sydney, topographical features, transport infrastructure and numbers of urban centres. These factors were also used in determining population densities and population distribution.

The Tribunal found that:

"Because of the distribution of the population of NSW, the geographic size of electorates becomes progressively larger as the distance from Sydney increases. Investigations throughout this century, including by the Tribunal since its establishment in 1975, have established that there is a correlation between the size of the Member's electorate and the Member's operational expenses. A similar correlation can be seen between electorate size, the Member's operational expenses, and the distance from Sydney to the electorate."

The most significant change proposed in the draft determination involved the merging of former group 1 and group 2 electorates. These electorates are all within the Sydney metropolitan area. Historically, it can be assumed that inner metropolitan electorates were differentiated from the

other metropolitan electorates on the basis of their large population densities, the diversity of population and higher levels of urban infrastructure. Statistical analysis undertaken by the Tribunal showed that there no longer exists a significant difference in electorate characteristics to warrant the differentiation of electorates for the purpose of groupings within the Sydney metropolitan region. The Tribunal decided that the electorates in groups 1 and 2 be combined to create a new Group 1. The financial impact of combining these two groups was minimal given the relatively small difference in the allowances between the former groups 1 and 2 and the small number of electorates in former group 1.

In addition, the draft determination proposed that six other electorates be moved from one electorate group to another. These were Hawkesbury, Albury, Dubbo, Lismore, Barwon and Murray-Darling. These changes were made on the basis of significant changes in population density and size of electorate. For example, the electorate of Albury was substantially altered by the electoral redistribution. Following the redistribution the electorate of Albury almost halved in size while simultaneously doubling its population density from approximately five to ten persons per square kilometre. The electorate of Albury no longer bore any similarity to other electorates within the former group 6 (new Group 5). Based on this evidence the Tribunal decided that Albury was geographically more similar to electorates in the former group 5 (new Group 4). The electorates in this group included Wagga Wagga, Dubbo, Bega, Orange, Bathurst, Tamworth, Oxley and Lismore.

Another significant change made by the Tribunal in the draft determination was the creation of a new group for the electorate of Barwon. After the redistribution the electorate of Barwon increased in size from 58,950 sq km to 116,930 sq km, resulting in a significant reduction in population density. While Barwon is less than half the size of the electorate of Murray-Darling,

it is now more than three times the size of other electorates with which it was formally grouped; these included Murrumbidgee, Upper Hunter and Lachlan. As such, the Tribunal decided that a new group (Group 7) be created for the electorate of Barwon for the purpose of determining allowances.

The electoral redistribution also had a significant impact on the more remote areas of the State. Under the redistribution, parts of the former electorates of Broken Hill (which was treated as a separate group for the purpose of determining allowances) and Murray (former Group 7) were merged to form the new electorate of Murray-Darling. The electorate of Murray-Darling is the largest in the State, comprising an area of 344,642 sq km, and is nearly three times the size of the next largest electorate of Barwon. Given its unique characteristics, the Tribunal decided that Murray-Darling continue to be considered as a separate group (Group 8) for the purpose of determining allowances.

Overall, the changes to electorate groupings proposed in the draft determination were as follows:

1. The old Group 1 and Group 2 electorates were to form a new Group 1.
2. Hawkesbury (old Group 4) was included in the new Group 2.
3. Albury and Dubbo (old Group 6) have been included in new Group 4.
4. Lismore (old Group 4) was included in new Group 4.
5. Barwon (old Group 7) was to form a new Group 7.
6. Murray-Darling was to form a new Group 8 in place of Broken Hill.

These changes, when applied to the 1999 special determination, are described in Table 2 below.

The numbers in brackets refer to the number of electorates in each grouping.

Table 2

Redistribution of Electoral Groupings as proposed in the Draft Determination	
1999 Special Determination	Draft Determination
Group 1 (6)	Group 1 (47)
Group 2 (41)	
Group 3 (17)	Group 2 (18)
Group 4 (12)	Group 3 (10)
Group 5 (6)	Group 4 (9)
Group 6 (6)	Group 5 (4)
Group 7 (4)	Group 6 (3)
	Group 7 (Barwon)
Group 8 (Broken Hill)	Group 8 (Murray-Darling)

Consideration

The Tribunal has reviewed the grouping of electorates as proposed in the draft determination. The Tribunal examined the original research and undertook some additional analysis of the data available. Having regard to the reasoning underpinning the draft determination, the material upon which those conclusions have been based, submissions received by the Tribunal in the current round, and the Tribunal's analysis of the available data, the Tribunal has decided to

adopt the groupings proposed in the draft determination. These groupings can be found at Schedule 1 of the determination.

The draft determination contained a series of detailed maps which showed clearly the changes envisaged by the Tribunal. These were contained in Schedules 6A to 6F of the draft determination. As the initial determination has, for the reasons outlined above, adopted the groupings developed in the draft determination, these maps will be reproduced at the end of this report as they were originally intended to be published.

Schedules 6A and 6B show in map form the location and grouping of the 93 electorates after the 1998 electoral redistribution.

Schedules 6C and 6D show in map form the location and grouping of the 99 electorates as they existed prior to the 1998 electoral redistribution.

Schedules 6E and 6F show in map form the location and grouping of the 93 electorates for the purpose of specifying the electorate groups in which the principal places of residence of Members of the Legislative Council are located.

Following the publication of the Special Determination the Tribunal received a submission from Ms Diane Beamer MP, Member for Mulgoa. Ms Beamer sought a review of her electorate grouping.

Ms Diane Beamer, Member for Mulgoa, has requested that the Tribunal reconsider its classification of Mulgoa for electorate and living away from home allowances. Ms Beamer has

advised that Mulgoa was established from the former seat of Badgery's Creek which was classified a Group 3 electorate (for electorate allowance purposes) and a Category 1 electorate (for living away from home allowance purposes). In its special determination, the Tribunal classified Mulgoa as a Group 2 electorate, the result of which was that the Member has not been eligible to receive the living away from home allowance. Ms Beamer considered that, as Mulgoa comprises the former seat of Badgery's Creek, it should retain its former classification.

The Tribunal has given careful consideration to Ms Beamer's request. The Tribunal notes that the former seat of Badgery's Creek was classified as a Group 3 electorate because of its size (approximately 612 square kilometres) and because of its large rural area. The main population areas were in the north of the electorate. The new electorate of Mulgoa is much smaller in size (196 square kilometres) and is basically comprised of the northern section of the former electorate of Badgery's Creek and parts of the former electorate of St Mary's (which as a group 2 electorate did not attract this allowance).

These changes suggest that Mulgoa has now become a predominantly outer metropolitan electorate rather than a rural electorate as was the case with Badgery's Creek. For this reason the Tribunal considers the existing classification of Mulgoa to be appropriate.

It is proposed that these new groupings will come into effect from 1 January 2000, but the Tribunal is prepared to consider any further submissions in respect of particular electorates or groupings during the year 2000 annual determination process.

Living Away from Home Allowance

The special expense or living away from home allowance is provided to country Members for the cost of overnight accommodation whilst in Sydney on Parliamentary business or in transit to and from Sydney. The allowance is payable when the stay is to attend;

- sittings of Parliament or direct travel to and from such sittings; or

- meetings of Parliamentary committees of which they are a Member or direct travel to and from such meeting; or

- other Parliamentary business.

The decision to grant these allowances predates the creation of the Tribunal. Special expense allowances as fixed annual rates were first introduced for country Members of the Legislative Assembly, including Ministers and other Office Holders, on 1 July 1975 pursuant to the *Parliamentary Allowances Salaries (Amendment) Act 1975*. In his Second Reading Speech the then Premier and Treasurer, the Hon Mr Tom Lewis MP, stated the rationale for introducing this allowance in the following terms:

"The Government has given consideration to the difficulties of Members and Ministers representing outlying electorates who are involved in substantial additional expenditure because of the need for them to be away from their homes regularly to attend Parliament or for other Parliamentary duties."

Prior to 1975 there was no specific provision to assist Members of the Legislative Assembly with living away from home expenses. Members of the Legislative Council, however, were provided

with a daily "living away from home" allowance presumably in recognition of the relatively low level of remuneration Members of the Legislative Council received at the time. Ministers in the Legislative Council who resided in country electorates were entitled to the annual rate of allowance.

The Tribunal first considered special expense allowances in its report and determination of 3 November 1975 where it was decided to maintain the existing structure of the allowances. Members who resided in those electorates closest to Sydney received a lower allowance than those residing in electorates further away from Sydney. The Tribunal was later to distinguish these electorates as Category 1 and Category 2 electorates.

In 1979 the Tribunal removed the distinction between annual "special expense allowances" payable to Members of the Legislative Assembly and daily "living away from home allowances" paid to Members of the Legislative Council. All Members received the annual rate (although the rates between the Legislative Council and Legislative Assembly differed). This position remained until 1985 when the Tribunal determined that Members of both the Legislative Council and the Legislative Assembly should receive the same rate of special expense allowances.

The purpose of the allowance, as stated by the Tribunal in its various reports over the years has been to assist Members with the cost of overnight accommodation whilst in Sydney or whilst in transit to and from Sydney. For this reason the Tribunal determined that this allowance would not apply to those Members who were accommodated at Parliament House.

Because country Members would be spending a considerable amount of time in Sydney it was expected that they would make longer term accommodation arrangements at presumably cheaper rates. Indeed in 1979 the Tribunal noted that:

“... it appears that it was envisaged that the Members would rent or buy permanent accommodation rather than stay at hotels and the allowance may have been pitched below the likely hotel, motel charges for this reason.”

Consistent with this assessment the rate of this allowance has consistently been struck at a significantly lower rate than the normal capital city travelling allowance rate available to public servants where the full cost of commercial and/or hotel/motel accommodation is included. This approach is also adopted by the Federal and other State/Territory Remuneration Tribunals.

In 1991 the Tribunal determined that Members could choose between receiving special expense allowances on an annual or daily rate. An upper limit was placed on the number of occasions which a Member could claim the daily rate of allowance. The annual special expense allowance was calculated by multiplying the daily rate of allowance by the upper limit on the number of overnight stays per annum that may be claimed by the Member.

The structure of the “special expense allowances” to Members has remained unchanged since 1991. The Tribunal’s special determination of 1999 provides the current special expense allowances available to Members and Recognised Office Holders although without any review or reconsideration of the allowances.

Special Determination

Country electorates (ie Groups 2 to 8) were divided into two Categories based on distance from Sydney. Category 2 Electorates, because of their greater distance from Sydney, received a higher allowance based on a higher number of overnight stays. Recognised Office Holders also received additional overnight stays as Table 3 shows.

Table 3: Category of Electorates

	RESIDENCE	OVERNIGHT STAYS p.a.
Minister, Speaker, Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly.	Category 1 or 2	140
Chairman of Committees in the Legislative Assembly.	Category 1 or 2	120 (35)
Parliamentary Secretary	Category 1	90 (35)
	Category 2	120 (50)
Other Assembly Members	Category 1	90 (35)
	Category 2	120 (35)
Other Council Members	Category 1	90 (35)
	Category 2	120 (35)

- ◆ The figures in brackets indicate the maximum number of overnight stays that are available on Parliamentary business other than sittings of the House or meetings of Parliamentary committees. The figures in brackets are not additional to the overall maximum overnight stays allowed.

The current daily rates for this allowance for Members and Recognised Office Holders are:

Overnight Stay in Sydney	\$147.00
In transit to and from Sydney	\$114.00

As stated above, Members may elect to receive an annual rate of allowance. The annual rate is calculated by multiplying the number of overnight stays by the daily rate. It should be noted that

whereas Members in receipt of the daily rate may, if they exhaust their entitlement, receive additional daily rate (subject to production of receipts), Members electing to receive the annual rate have no additional entitlement.

It is a condition of this allowance that Members must reimburse the Legislature for any nights that they are accommodated in Government owned or funded accommodation.

The allowances are not subject to income tax assessment. The daily living away from home rates are deemed by the ATO as being within their prescribed reasonable daily travel allowance and do not require substantiation for taxation purposes.

Draft Determination

The draft determination proposed that Members would no longer receive a separate living away from home allowance. Living away from home expenses were identified as a category of expenditure and incorporated into the Members' electorate related account.

As with arrangements proposed in the draft determination for electorate allowances, all Members were required to either seek reimbursement from the Parliament for special expense related allowances or have expenditure charged directly to the sub-account. Either way all expenditure was subject to production of receipts.

The draft determination also proposed that Members would be able to carry forward unexpended portions of any electorate related account to the corresponding entitlement for the next financial

year. This condition was subject to the requirement that there be no monies carried forward at the end of each four-year Parliamentary term when any unused entitlement was to be forfeited.

Consideration

In submissions to the Tribunal, Members identified a number of concerns regarding the treatment of special expense allowances under the draft determination. The draft determination's requirement that Members seek reimbursement from the Parliament for all expenditure associated with their living away from home expenses, it was submitted, was unworkable and would create an "administrative nightmare" for both Members and the Parliament.

The COCOG also expressed concern about the cost effectiveness of requiring Members to compile details about minor matters of expenditure on a day to day basis.

In addition, NSW Treasury expressed a general concern over the notion that unexpended funds be carried over to the next financial year, deeming the scheme incompatible with the provisions under section 23 of the *Public Finance and Audit Act 1983*.

The Tribunal has decided to retain the living away from home allowance with a number of modest changes. The initial determination will provide:

1. The current title of the allowance is cumbersome and does not adequately identify its purpose. The Tribunal therefore will change the title from Special Expenses (Living Away from Home) Allowance to "Sydney Allowance." This change more clearly articulates the scope of the Allowance.

2. Members will continue to receive the Sydney Allowance towards the costs associated with living away from home whilst in Sydney on Parliamentary business or in transit to and from Sydney.
3. The new scheme retains a Member's discretion as to how this allowance is expended provided always that it is used to meet the additional costs associated with travelling to and staying in Sydney for sittings of Parliament, participation in Parliamentary committees or other Parliamentary business.
4. Members will still have the option of receiving either a daily rate (up to a maximum number of days) or the annual equivalent thereof. Where a Member chooses to receive the daily rate of allowance, the Member is not required to substantiate to the Parliament expenses up to the daily rate. Where daily costs exceed the daily rate full substantiation will be required for each such occasion.
5. When in receipt of the annual allowance Members are required to certify at the end of the financial year the number of occasions they were in Sydney and that on each occasion the stay was for Parliamentary business.
6. Irrespective of which allowance is received, Members will have to substantiate the receipt of this entitlement. In addition to certifying the purpose of the visit to Sydney, it will be necessary for Members to retain boarding passes or other documentary evidence for the occasions they are staying in Sydney for Parliamentary business.

7. Those in receipt of the annual allowance also need to retain such documentary evidence. Those Members whose overnight stays are less than the number provided for by the annual allowance will be required to reimburse the difference to Parliament for the re-credit of the Consolidated Fund. This is consistent with the recent ATO Ruling on Members' entitlements. Members will not be required to acquit expenditure except to the ATO.

8. The ICAC has recommended (recommendation No 15) that the Auditor General be given statutory jurisdiction to audit the accounts and the systems of Parliament. Whilst the Tribunal does not express a view as to who should audit Members' entitlements (provided that such a person is suitably qualified and experienced), it is a condition of all entitlements, including the Sydney Allowance, that they be audited to ensure compliance.

9. Recognised Office Holders will be provided with additional overnight stays as outlined in the determination.

10. Given that other Parliamentary business now includes the activities of recognised political parties the Tribunal will remove the restriction of 35 overnight stays for "other Parliamentary duties." The Guidelines attached to the Determination will provide assistance as to the types of activities that can appropriately be classed as other Parliamentary business (this is consistent with ICAC recommendation 24). The Tribunal, however, does not expect that Members will exceed their overall allocation of overnight stays and will be monitoring the number of occasions Members stay overnight in Sydney for other Parliamentary business.

The Tribunal now turns to consider the quantum of the allowance:

Historically this allowance has been determined in a number of ways involving reviews of movements in accommodation for a sample selection of hotels and motels in Sydney; using consumer price index data for cost of living increases in Sydney as well as looking at movements in similar allowances in other jurisdictions.

In the absence of any submissions directed to the issue, the Tribunal considered that it was inappropriate to simply apply previous methodologies used in assessing the allowance (which methodologies in any event appear to have varied over time). The Tribunal will review both the methodologies for assessing the allowance and the quantum of the allowance in the year 2000 annual determination. Submissions should be received in relation to those matters (and other matters concerning the Sydney allowance) by 1 April 2000.

The Tribunal notes that the Sydney Allowance has not been increased since 1997. For this determination the Tribunal has examined the movements in the CPI data for cost of living increases in Sydney since 1997 (June Quarter) and has determined that these allowances will be increased by 2.1%. This will allow a basic cost of living adjustment to the allowances.

The overnight rate for the Sydney allowance is to increase from \$147 to \$150 per night.

The maximum annual amount available to each Member in category 1 electorates shall be \$13,500 (based on a maximum of 90 nights at \$150 per night).

The maximum annual amount available to each Member in category 2 electorates shall be \$18,000 (based on a maximum of 120 nights at \$150 per night).

Following the publication of the Special Determination the Tribunal received a submission from Mr Paul Gibson MP seeking the inclusion of his electorate of Blacktown in Category 1 for the purposes of this allowance.

Prior to the 27 March 1999 election, Mr Gibson was Member for Londonderry. Because of its location the Tribunal had determined that this electorate should receive the living away from home allowance. Following the 1999 election Mr Gibson became the Member for Blacktown, an electorate which historically has not met the requirements for its Member to be eligible to receive this allowance.

Mr Gibson has argued that as his new electorate office is only three and a half minutes from his old one, and that he is still required to travel the same time and distance between his electorate and Parliament, he should continue to be eligible for the special expense allowance.

Whilst altered by the redistribution, the electorate of Blacktown has remained, on the whole, geographically in the same location as it existed prior to the redistribution. The former Member for Blacktown was not eligible to receive the special expense allowance, nor are current Members in electorates adjacent to Mr Gibson's. Under these circumstances the Tribunal sees no need for the existing arrangements to be altered.

Committee allowances

The chairpersons of Joint and Select Committees are paid an allowance for each day that they attend a meeting or an official visit of inspection, provided that such days are not those on which Parliament sits.

Members of such committees do not receive any allowance in addition to their Parliamentary salaries. The distinction between chairpersons and Members of committees is based on the following:

- * committee work can be regarded as part of the ordinary work of a Member, and
- * committee work is more onerous for chairpersons in that they are involved in committee administration and the preparation of reports.

There is a single exception to this approach, namely the annual rate of allowance which applies to Members of the Public Accounts Committee. Because of the statutory nature of the Committee and its role in Government activities, the Tribunal introduced a Members' allowance for this committee.

Chairpersons of the Public Accounts Committee and several other major committees receive a salary of office but are not entitled to the daily rate of allowance.

These allowances were first determined by the Tribunal in 1975 and have existed in the current format since 1985. Committee allowances were most recently determined by the Tribunal in the Special Determination of 26 July 1999 and are as follows:

- a) The Chairperson of Joint and Select Committees receive a committee allowance of \$110.00 per day.

- b) Members of the Public Accounts Committee receive a committee allowance of \$2,490 per annum.

Historically the Tribunal has given consideration to changes in Members' salaries when determining these allowances. New South Wales Parliamentarians, in accordance with Section 4 of the Act receive similar increases to Federal Parliamentarians. There have been recently approved salary increases for Federal Parliamentarians. These have not yet flowed to NSW Members. These will be considered during the year 2000 annual determination process.

Draft determination

The draft determination did not address the issue of additional allowances or entitlements for committee Members. It is understood that the Tribunal intended to review the topic of additional entitlements for Recognised Office Holders, including committee Members, during the Tribunal's annual determination review process.

Consideration

The Tribunal maintains the long held view that Chairpersons of Joint Select and Standing Committees (not otherwise remunerated by additional salary of office and expenses of office allowance pursuant to Schedule 1 of the Act) should receive committee allowances.

During this review process the Tribunal did not receive submissions relating specifically to committee allowances. As such, the Tribunal is of the opinion that, without sufficient justification, it is not prepared to change the existing arrangements at this time.

The Tribunal has determined that committee allowances will continue to be awarded in the same manner that existed prior to this initial determination. The Tribunal makes no change in these allowances for the year 1999/2000, however, will re-address the issue of committee allowances during its year 2000 annual review process and will seek submissions from Members on this issue at that time.

Other Additional Entitlements (Additional Entitlements Account)

Introduction

After the removal of the electorate allowance and the living away from home allowance from the Members' individual electorate related account (as proposed in the draft determination), there remains a group of other entitlements either in the form of allowances or non-monetary benefits. An example of a monetary allowance falling into this category is the printing allowance payable to Members. An example of a non-monetary benefit is the provisions for air travel.

The question which arises for consideration at this point in the report is whether this remaining group of entitlements can be combined as part of a single account for the purposes of providing a global budget to Members in the manner contemplated in the draft determination. Whilst for reasons earlier advanced it has not been appropriate at this stage to create a single account incorporating the electoral allowance and living away from home allowances, if the remaining benefits could be consolidated then benefits would accrue similar to those initially envisaged by the Tribunal in the draft determination, namely flexibility in the utilisation of budgets, simplicity in the administrative and other processes employed by Members and efficiencies in the utilisation of allocations.

The Tribunal considers that the various entitlements included in this section are capable of assessment on this basis, noting some limitations in the combination of such entitlements arising from the advice received from the Crown Solicitor (which has been earlier referred to in this report). The grouping of such entitlements is appropriate because many of the allocations are similar in nature, they are sometimes interrelated in their operation and the allocations are relatively small in magnitude (excepting for travel).

Having regard to these considerations the Tribunal will now identify the particular entitlements which are the subject of the above considerations, the existing arrangements for such allocations, the approach to those matters in the draft determination and responses and submissions received in relation to the draft determination. It should be noted at the outset, that the adoption of this approach will require, in some cases, an assessment of how non-monetary benefits can be appropriately converted to an equivalent monetary allowance.

Existing Entitlements

Air travel

All Members are provided with air travel entitlements for electorate and Parliamentary business only. These entitlements are extended to spouses and/or approved relatives of Members.

The current air travel entitlements for Members of the Legislative Assembly are as follows;

LEGISLATIVE ASSEMBLY (expressed in number of single journeys)

Office Holder	Electorate to Sydney	Intrastate	Interstate
Member	104	12	4
Members Spouse	20	4	1
Speaker	104	20	4
Speaker's spouse	20	6	1
Minister	136	12	4
Minister's spouse	32	4	1
Chair of Committees	136	12	4
Chair of Committee's spouse	20	4	1
Leader of the Opposition	104	6	4
Leader of the Opposition's spouse	32	4	1

Party Leader	104	30	4
Party Leader's spouse	20	10	1
Deputy Party Leader	104	22	4
Deputy Party Leader's Spouse	20	4	1
Electorate Officers	2		

LEGISLATIVE COUNCIL (expressed as single journeys)

Office Holder	Home to Sydney	Intrastate	Interstate
Member	104	12	4
Member's spouse	20	16	4
President	104	22	4
President's spouse	32	4	1
Minister	116	22	4
Minister's spouse	32	4	1
Party leader	104	36	4
Deputy party leader	104	22	4

It should be noted that only Members residing non-metropolitan (in Group 2 or higher electorates in the current scheme) are eligible for electorate to Sydney travel warrants.

The air travel entitlements have the following features:

- All entitlements are expressed as single journey trips.
- For simplicity interstate and intrastate entitlements are expressed as annual amounts whereas the actual approval is for the life of the Parliament (ie Members have an entitlement to 48 interstate flights for the life of the Parliament).
- Members have the option of using 2 intrastate entitlements for one interstate trip and vice versa.

Air travel entitlements for all Members of the Legislative Assembly are provided in the form of air travel warrants. Members of the Legislative Council are issued with an Air Travel Card to

book flights. The card includes the individual's photograph and an identification number, and is issued for the life of each Parliament.

Members may use their air travel entitlements to hire charter aircraft to fly to destinations not normally serviced by commercial airlines. Members surrender air travel entitlements equivalent to the cost of the air charter.

Other travel entitlements

Members, spouses or approved relatives may choose to use rental or private vehicles in lieu of air travel from the electorate to Sydney, or any other intrastate journeys, including travel to Canberra and Coolangatta. However, Members, spouses or approved relatives are not able to use private or rental vehicles in lieu of interstate air travel.

Taxi entitlements

Members are entitled to reimbursement of taxi fares between Sydney Airport and the city to attend sittings of Parliament or Committees of which they are Members. They are also entitled to reimbursement of the return taxi fare. Members are also entitled to be reimbursed the actual cost of taxi fares for up to 35 occasions per annum when travelling from Sydney airport to Parliament House on other Parliamentary duties.

All Members are provided with Cabcharge vouchers for travel between Parliament House and their Sydney residences on occasions where Parliament rises late at night.

It should be noted that Members of the Legislative Council whose residence is more than 25 kilometres from the nearest airport or railway station from which they commence their trips to Sydney for sittings of Parliament, sittings of Committees on which they are Members or for other Parliamentary business, are entitled to receive a mileage allowance for that distance beyond the 25 kilometres.

Airport parking

Members flying into Sydney Airport may surrender taxi entitlements to cover the cost of parking at Sydney Airport.

Bus and rail travel entitlements

All Members are issued with a free Gold Pass for use on all government rail services throughout Australia, as well as a State Travel Card for unlimited use on State rail, bus and ferry services. These entitlements are provided by the Minister for Transport.

Rail concessions for intrastate and interstate travel are provided by Parliament to spouses or approved relatives of Members.

Bass Strait travel entitlement

Members, spouses or approved relatives are entitled to one return trip from Melbourne to Tasmania per annum. Members may elect to sail on the 'Spirit of Tasmania' or fly business class.

Telephone/Telecard/facsimile costs

All Members are entitled to reimbursement of 90% of all home telephone and facsimile calls within Australia, with the exception of 0055, 1900 and reverse charge calls. Recognised Office Holders receive 100 percent reimbursement.

Members are also entitled to use telecards in connection with their home telephones. Telecards should only be used for Parliamentary business and only when access to electorate office, home or mobile telephone is not available.

Mobile telephones

Members are each provided with a mobile telephone and the Parliament reimburses all Members a maximum of \$2,000 for mobile phone charges each financial year.

All electorate and Parliamentary office telephone and facsimile charges are paid for by the Parliament, except for overseas, 0055 and 1900 calls.

Stamp Allowance

Members are entitled to receive a postage stamp allowance for Parliamentary and electorate office use. The allowance is based on a quantity of stamps at the current ordinary letter rate as shown in the following table.

Legislative Assembly	Stamps per month	Value per month
Leader of the Opposition	3,720	\$1,674.00
Speaker	2,370	\$1,066.50
Leader of the National Party (in Opposition)	1,740	\$783.00
Member (incl. Minister)	1,580	\$711.00
Legislative Council	Stamps per month	Value per month
President	1,240	\$558.00
Leader of the Opposition	1,240	\$558.00
Deputy Leader of the Opposition	500	\$225.00
Whips	500	\$225.00
Member	450	\$202.50

Cheques are issued each month to all Members made payable to Australia Post A/c payee only for their stamp allowance.

The State Mail Service provides delivery of correspondence to and from Parliament House, electorate offices, Government departments and statutory bodies. Whilst this service attracts a charge, the cost is currently borne by the Parliament.

Facsimile or express post

Members wishing to send congratulatory or urgent messages to constituents may use fax post or express post services. Members are reimbursed 90 percent of the costs upon the production of receipts.

Printing Allowance

A printing allowance of \$700 per annum (cumulative over the life of the Parliament) is provided to each Member to meet the costs for all non-standard printing requirements which are not available through the usual Parliament House services, eg. small item purchases including Acts, Regulations, non-standard Christmas cards etc.

Parliament printing entitlement

Members are also provided with an annual printing entitlement for in-house printing services provided by the Parliament. This entitlement is in the form of a points allocation for standard items, which is cumulative over the life of the Parliament. One point is equivalent to one dollar. The entitlement is as set out hereunder.

OFFICE	ENTITLEMENT (per annum)
Members	2,000
Leader of Party (not less than 10 Members)	2,500
Office Holders	3,000
Independent Members	3,000

The transfer of points from printing to stationery and vice versa is not permitted

Stationery entitlement

Members are provided with an annual stationery entitlement by the Parliament as follows.

OFFICE	ENTITLEMENT (per annum)
Members	2,300
Leader of Party (not less than 10 Members)	2,500
Office Holders	3,000

These conditions are similar to the in-house printing entitlements. All stationery stores are provided internally by Parliament House. Members request their individual stationery needs and their accounts are debited accordingly.

Members can purchase non-standard stationery/stores using their printing allowance subject to certification that the purchase is required as part of their Parliamentary duties (excluding electioneering) or as a consequence of their position as a Member.

Electorate Office Photocopy Charge

The Parliament meets the costs of the all inclusive maintenance fee and the supply of toner for each photocopier in every electorate office. This fee is calculated on a cost per impression basis.

There is currently no upper limit on this cost.

Draft Determination

The draft determination proposed to incorporate these additional entitlements within a Member's Individual Electorate Related Account. The expenditure was capped.

Members would make payment of all expenses in these specific classes of entitlements in the first instance, then seek reimbursement from the Parliament. Members were to provide relevant substantiation of their claims to an authorised accounting officer of the Parliament. It was imperative that Members certify that all claims were for Parliamentary duties and that such claims were deemed to be reasonable by the officer.

Claims would be made against nine classes of entitlements, including transport, accommodation, electorate expenses, additional office equipment, renewable office supplies, communications from electorate office, communications from Parliament, cost of spouse or approved relative and printing and publication. Members would be able to carry forward any unspent funds from their allocation to the following year.

The Tribunal considers that the submissions and reports of the ICAC and the COCOG warrant particular consideration in this area.

ICAC

Recommendations 34 to 47 of the ICAC's second report deal specifically with air travel in various forms. Annexure 1 of this report contains the recommendations.

The Tribunal has, in its initial determination, in this area, substantially embraced the ICAC's recommendations. In one instance the Tribunal has substantially not followed a specific recommendation of the ICAC, namely recommendation 34 under which the ICAC recommends that the Legislative Assembly adopt the photo identification air travel card currently used by the Legislative Council (and that payment of air travel only be made after travel has been completed).

In adopting this approach to recommendation 34, the Tribunal has had regard to the Third Report of the ICAC in which ICAC states:

"The Commission accepts the Parliament's position that a deeper consideration of all the issues surrounding the adoption of the Legislative Council system of travel has not convinced the Parliament that it is desirable to adopt this system for the Legislative Assembly."

The Tribunal has determined an annual fixed amount to meet the travel needs of each Member and the conditions relating to the appropriate use of that expenditure. Provided the accounts are maintained properly and the conditions applicable to travel are adhered to, then the Tribunal has decided not to alter existing booking arrangements. This matter will, however, be revisited (if necessary, as part of the 2000 annual determination).

Council on the Cost of Government

The Council on the Cost of Government (COCOG) recommended an increase in flexibility within the current system in a way which will allow Members to make resource trade-offs to suit individual priorities. It was suggested that to achieve this, consideration should be given to providing Members with a notional budget and the flexibility to trade-off expenditure for travel,

for example, with their budget for other items such as postage and printing. Noting the limitations arising from legal advice received by the Tribunal, which is earlier referred to in this report (and discussed extensively in the draft determination), the Tribunal has made determinations in this section broadly consistent with this submission.

It would, however, be desirable that determinations could be made in the absence of such limitations. The Tribunal therefore urges the Government to amend the legislation to allow the Tribunal to make determinations in such a way so as to provide the necessary flexibility for Members to set their own budgets from allocations determined by the Tribunal.

Consideration

Having regard to legal advice received, the approach of the draft determination and the submissions received, the Tribunal considers that it would be inappropriate to establish a single account of global budget for the abovementioned additional entitlements.

However, the Tribunal considers that it is appropriate to group these additional entitlements into four broad categories. Each such grouping shall operate on a global budgeting basis. The Tribunal considers that these groupings are both logically consistent and achieve many of the advantages which were envisaged for such global budgeting arrangements in the draft determination without infringing on the limitations referred to above. The four broad categories and their constituent elements are as follows:

1. Transport

- **Electorate to Sydney travel for Parliamentary business (any mode)**
- **All interstate and intrastate travel for Parliamentary business (any mode)**
- **Taxi travel**
- **Spouse/approved relative travel costs**
- **Staff travel costs**
- **Airport parking**

2. Communication – electronic

- **Telecard for official business**
- **Home telephone and facsimile call charges for official business**
- **Mobile telephone call charges**

3. Communication – non-electronic

- **Delivery of correspondence through the State Mail Service from Parliament House**
- **Delivery of correspondence through the State Mail Service from Electorate Office**
- **Fax Post, Express Post and Lettergram Services**
- **Postage stamps**

4. Stationery and Printing

- all stationery costs
- Courier and freight charges for delivery of stationery to electorate office
- Electorate office photocopier copy charge
- Printing (both Parliament house and external providers)
- Publication services at Parliament House.

Whilst Members will not be able to transfer money between the four sub-accounts of the additional expenses account, they will have the flexibility, subject to the conditions outlined in the determination, to incur expenditure based on their own priorities within each sub-account.

As with electoral allowances, the Tribunal has decided that the additional expenses account should be the same for all electorates within a group.

Tables 4 and 5 outlines the special expense budgets, including sub-categories of expenditure for each electoral grouping.

Table 4

Legislative Assembly

Electorate Group	Communication - electronic	Communication- non-electronic	Printing & Stationery	Transport	Total
Group 1	\$3,000	\$9,400	\$5,000	\$3,500	\$20,900
Group 2	\$3,500	\$9,400	\$5,000	\$7,100	\$25,000
Group 3	\$3,500	\$9,400	\$5,000	\$17,000	\$34,900
Group 4	\$3,500	\$9,400	\$5,000	\$17,000	\$34,900
Group 5	\$3,500	\$9,400	\$5,000	\$22,000	\$39,900
Group 6	\$3,500	\$9,400	\$5,000	\$22,000	\$39,900
Group 7	\$3,500	\$9,400	\$5,000	\$30,000	\$47,900
Group 8	\$3,500	\$9,400	\$5,000	\$30,000	\$47,900

Table 5

Legislative Council

Electorate Zones	Communication - electronic	Communication- non-electronic	Printing & Stationery	Transport	Total
Zones 1	\$3,500	\$2,800	\$5,000	\$3,500	\$14,800
Zones 2	\$3,500	\$2,800	\$5,000	\$3,500	\$14,800
Zones 3	\$5,500	\$2,800	\$5,000	\$22,000	\$35,300

In order to calculate individual additional entitlements accounts for Members of the Legislative Assembly and Legislative Council the Tribunal has used actual expenditure information provided by the Parliament for 1997-98 and, in some instances, the former maximum value of non-monetary entitlements provided to Members.

In the case of transport, Members were formerly provided with travel warrants. These warrants had no monetary value and were formerly used in exchange for journeys, usually air travel. It was not possible to assign a maximum value to the allocation of warrants. The value of a warrant could vary depending on the destination and which mode of transport was used. As such, the Tribunal has used only actual expenditure by Members and their spouses/approved relatives on transport related items during 1997/98.

The Transport sub-account provides that Members in group or zone 1 will receive the lowest transport allowance. The figures reflect that under the former scheme these Members were not eligible for electorate to Sydney travel warrants. Members from non-metropolitan areas receive higher allowances. These allowances are based on actual expenditure and reflect the increased costs associated with travel from the more remote areas of the State.

While the allowances have been calculated on the former electoral groupings they have been adjusted to reflect expected costs in the new groups. For example, the expenditure in the former groups 1 and 2 has been combined to calculate costs and new allowances in the new group 1. Similarly, adjustments have been made to reflect expected costs in the electorates of Murray-Darling and Barwon.

In determining the Additional Entitlements Accounts the Tribunal needed to decide on representative figures as the base for each new group of electorates. In determining these entitlements the Tribunal has adopted an approach similar to that proposed in the draft determination. Instead of using the average expenditure for a group, which was seen as unrepresentative of actual expenditure, the Tribunal has determined that allowances are most fairly represented by taking, in the case of each electorate group, the lowest figure in that group for non-salary entitlements and adding to it a figure which is 65% of the difference between the highest and lowest figure in the range for the group.

Once determined, the base figures for special expense allowances were increased by 2.1%. This figure represents the increase in the consumer price index (CPI) since 1997.

The Additional Entitlements Account, once determined for each group, was then apportioned into the four sub-accounts. To do so, the total expenditure calculated for each group of electorates was apportioned into sub-groups based on the distribution of actual expenditure. Where necessary, adjustments were made to give effect to judgements by the Tribunal about the overall distribution of resources and to minimise the impact of reductions on particular expenditure items.

In determining these entitlements the Tribunal has tried to ensure that, on the whole, Members would not receive less than the value of entitlements awarded under the previous scheme. The graphs in Annexure 3 illustrate the difference between actual expenditure in 1997-98, average expenditure in 1997-98 and the entitlements determined by the Tribunal in this determination.

In all instances the additional entitlements determined by the Tribunal are greater than the average actual expenditure in any one group. In most instances the majority of Members in any one group will receive more than actual expenditure recorded in 1997/98.

In the case of Group 2 electorates for the Legislative Council, all Members will receive more than the actual expenditure recorded in 1997/98. In this instance the Tribunal observed that the actual transport expenditure by Members in this group was unusually low. Given the limitations of the data and the patterns of travel observed by other Members from the same electorates in the Legislative Assembly, the Tribunal determined that the travel component of this entitlement be increased to the same as that determined for Group 1 electorates of the Legislative Council.

The following general conditions will apply

- All procurement by Members will be in accordance with the Parliament's purchasing policies.
- Members must ensure that they have sufficient funds to meet the necessary costs. Members cannot use funds from an additional entitlement budget which does not relate to the item/service being purchased, ie stamps cannot be purchased from a Member's transport entitlement. The divisions between the four categories of the expense account are to be strictly observed – no Member shall draw funds from one category for utilisation or application in another sub-category of the account.
- All accounts must be submitted to the Parliament for payment within 30 days of receipt.

- All Members accounts should be audited annually for compliance.
- The Financial Controller of the Parliament will provide each Member with a monthly expenditure report.
- Management of the funds in each additional entitlement sub-account is the sole responsibility of the Member.
- Expenditure is only to be incurred in connection with the Parliamentary duties of Members.

In addition to the general conditions specified above the following specific conditions apply to the categories of expenditure:

Transport

The Tribunal has provided each Member with a Transport allocation to meet the cost of their travel needs. Members representing those electorates, or whose principal place of residence is in those electorates which are eligible for electorate to Sydney transport costs, **must** ensure that there are sufficient funds in their budgets at all times to meet the cost of such transport to Sydney and return to attend sittings of Parliament and other Parliamentary business.

Communication

Members will receive an allocation for all communication expenses. Members will be able to manage their own requirements within the limits of the fixed entitlement. Accounts should be forwarded to Parliament House so that payment can be deducted from the Member's individual allocation.

Printing and Stationery

Members will now be able to engage the most competitive printing and stationery suppliers. Presently, Members are restricted to using such services that are provided by the Parliament. Under this determination, Members will be able to tender these requirements to the most cost effective provider. Members will only be limited by the budget on this entitlement

The draft determination proposed to allow Members to carry forward each year, during the four year term of the Parliament, any unexpended monies in each specific account. The Tribunal has accepted Treasury's concern about such a scheme. Consequently, any monies not expended will now be returned to the Consolidated Fund.

Offices, Staff and Ancillary Equipment

Members of both the Legislative Assembly and the Legislative Council are provided with an office, office equipment, other capital items and staff to assist in the fulfilment of their electoral and Parliamentary duties. The majority of these entitlements have either been provided for by the Parliament itself or were recommendations made by the Tribunal and adopted by the Premier. These entitlements are managed and administered by the Parliament and are a mixture of capital and recurrent items.

These entitlements are generally uniform in nature for all Members of Parliament, however, some are relevant only to Members of the Legislative Council or Members of the Legislative Assembly. The Tribunal shall fully describe the existing entitlement.

Existing entitlements

Electorate Office

Members of the Legislative Assembly are provided with an appropriately located electorate office within, or geographically relevant to, their respective electorate or at Parliament House. Members of the Legislative Council are not provided with an electorate office as they do not represent individual areas of the State, but the State as a whole.

The Legislative Assembly's Members Handbook ('the Handbook') specifies the Members' entitlements in regard to the provision of an electorate office. The Handbook specifies the conditions applying to the supply of an office, including size, condition, rent, maintenance, fit

out, leasing, air-conditioning, security, electricity, cleaning, standard furniture and other related office equipment.

The Handbook specifies that electorate offices cannot be used as campaign offices during an election and electorate staff should not be employed by Members in their campaign offices.

Electorate Offices are leased by the Crown and are administered by the Parliament. The Speaker determines office fitouts and relocations.

Ordinarily, Members are entitled to one electorate office and in the past the Tribunal has not generally supported requests for additional offices.

Parliament House Office

Members of the Legislative Assembly and the Legislative Council are provided with an office at Parliament House. For Members of the Legislative Assembly, this office is in addition to their electorate office. Each office is furnished and contains equipment in accordance with the Handbook. Ongoing costs associated with the running of each office are also met by the Parliament, including electricity, telephone, rent, cleaning charges, etc.

Staff

Legislative Assembly

Electorate

All Members are entitled to the services of an electorate secretary and an assistant electorate secretary. Independent Members are also provided with the services of a research assistant. Electorate office staff are, for certain purposes, employed by the Speaker of the Legislative Assembly.

Parliament House

Members of the Legislative Assembly are not provided with individual staff at Parliament House. Parliamentary stenographers are available to provide secretarial assistance to Members. Of the seven stenographers employed by the Speaker, four are allocated to the Government and three to the Opposition Members. Independents are serviced from both allocations.

Legislative Council

Parliament House

Members of the Legislative Council are provided with one secretary/research assistant. Independent Members are provided with an additional officer at the equivalent level of the secretary/research assistant. All staff, employee relations and personnel matters are administered by the Parliament.

Communications Equipment

Home Telephone

Members of both the Legislative Assembly and Legislative Council are entitled to reimbursement of rental costs on a single telephone line with a standard handset and one additional extension. Parliament reimburses the Members 90% of home telephone and facsimile calls within Australia, with the exception of 0055, 1900 and reverse charge calls.

Home Facsimile machines

Members of the Legislative Assembly are provided with a home facsimile machine, if they do not have their own machine or access to one through their Ministerial office, and the Parliament reimburses 90% of call charges. Members of the Legislative Council are provided with a home facsimile machine, an additional facsimile line with the cost of calls within Australia being met by the Parliament.

Mobile Telephone

Each Member of Parliament is entitled to one mobile telephone. In addition, Members are also supplied with a car kit or alternatively a portable hands-free unit. In accordance with the Tribunal's recommendation an overall limit of \$2,000 has been placed on call and network charges per financial year per Member.

Electorate Telephone

All Members' electorate offices (Legislative Assembly) are provided with five telephone lines, namely, three for phone, one for facsimile and one for ISDN computer network. All call costs, with the exception of overseas, 0055 and 1900 numbers, are met by the Parliament. Telephone

accounts are normally forwarded directly to the Financial Controller, Parliament House, for payment.

Parliament House

Members are provided with one telephone extension and one facsimile extension within their Parliament House office. All call charges within Australia, except 0055 and 1900 numbers, are paid for by the Legislature.

Computer Equipment

Parliament House Office

A computer and laser printer have been provided for Members own use located in Members' Parliament House offices. All computers are provided with software and connected to the Parliament House network.

Electorate Office (Legislative Assembly only)

Each electorate office has been allocated two personal computers and two laser printers. All computers are provided with software and connected to Parliament House via digital communication line.

Notebook Computers

All Members (except Ministers) are provided with a notebook computer. The notebook computer can be used to access the Parliament House network via remote access.

Maintenance, software support, help desk functions and the training for Members and staff are provided for by Parliament House.

Security

The Parliamentary security services section is responsible for the monitoring of the return-to-base security alarm systems to which the majority of electorate offices are connected.

Insurance

Members and electorate offices are covered by insurance arranged with the NSW Treasury Managed Fund which includes travel insurance, liability insurance, property and contents insurance, personal accident insurance and workers compensation insurance.

Draft Determination

The treatment of these entitlements under the draft determination proposed a significant departure from the previous arrangements.

Under current arrangements Members' entitlements of this nature are only specified by way of number and type of entitlement, not in actual dollar terms. The draft determination proposed that these entitlements be given a dollar value and that the Parliament be provided with a budget, as determined by the Tribunal, to resource these entitlements.

Members' entitlements in regard to office, equipment and staff were to be provided for from the Members Overhead and Capital Account. This Account was to provide sufficient funds to cover the cost of recurrent expenditure, including staff salaries, rent and capital expenditure. The

Overhead and Capital Account for Members of the Legislative Assembly and Members of the Legislative Council was to be apportioned into sub-categories of expenditure. These sub-categories were proposed as follows:

1. For each Member, a fitted out, equipped and maintained office at Parliament House and the cost of electronic communications originating from Parliament House.
2. For each Member of the Legislative Assembly, a fitted out, equipped and maintained Electorate Office.
3. Equipment and ancillary services for each Member in the Member's private residence or, if the Member has more than one private residence, then in the Member's principal private residence, for the efficient performance by the Member of Parliamentary duties.
4. Portable equipment.
5. Staff.

The draft determination specified capped budgets for each of these expenditure categories. The recommended funds were based on figures for the 1997-1998 financial year supplied by the Parliament. The Tribunal's figures included a replacement value component for all capital items.

As specified in the draft determination, the Legislative Assembly and the Legislative Council were to be allocated, in total, \$28,329,000 in 1999/2000 for capital and overhead expenditure. In the draft determination the Tribunal stated that:

"in a strict sense the estimates used by the Tribunal overstate actual expenditure on capital in 1997-98. The Tribunal considers that the provision for capital in 1999-2000 should include necessary new expenditure following the electoral redistribution; expenditure on replacement of dated equipment and facilities; and additional equipment to assist Members to improve the productivity of their offices."

As with existing arrangements, the draft determination provided for the Presiding Officers to approve particular items of expenditure from the capped budgets apportioned by fixed classes of additional entitlements as determined by the Tribunal. The following condition on capital and overhead expenditure was stipulated thus:

"expenditure from the overheads and capital account should be approved by the relevant Presiding Officer of the Parliament; and only after that Presiding Officer has certified that the expenditure is for Parliamentary duties and in accordance with this Determination; and the amount so certified is, in that Presiding Officer's opinion reasonable;" (draft determination p. 30)

It seems that the Tribunal had initially intended to introduce a scheme that would allow the Presiding Officers to determine how the capped funds should be expended between the various categories of entitlement. For example, the Speaker would have decided whether to spend more or less on office fitouts or communications. Based on advice from the Crown Solicitor such an approach could not be adopted without further Legislative amendment. The Tribunal, as with operating expenses, had to specify how the funds were to be apportioned amongst the categories of expenditure.

The Treasury, in its advice in relation to the draft determination, was highly critical of the methodology used, particularly its treatment of items contained in the overhead and capital account and Members individual electorate related account. The Secretary of the Treasury stated:

"Contrary to established national and international financial management conventions, these two sub-accounts contain items of both recurrent and capital nature. This is clearly problematic from a financial management perspective as funds appropriated for recurrent expenditure are not permitted for use in capital purchases or vice versa without the prior approval of the Treasurer."

In addition, the Treasury was critical of the amount of funds allocated in the draft determination for overhead and capital expenditure. The calculation of capital expenditure was based on estimated replacement costs and did not accurately reflect the annual cost of providing for these items. The draft determinations allocation for capital and overhead expenditure exceeded the 1997/1998 actual costs by approximately \$10 million.

The draft determination was to provide the Parliament with a capital and overhead budget of approximately \$28 million for 1999/2000. This figure compared unfavourably with the Parliament's actual capital and overhead expenditure for 1997-98. The Treasury provided data which indicated that actual expenditure on overhead and capital items was approximately \$18,391,550, of which \$0.791 million was directed towards capital purchases for Members in 1997-98.

Consideration

The system proposed in the draft determination offered a number of advantages, not the least of which was flexibility in administration. However, the Tribunal has decided not to introduce that system in the initial determination for the following reasons:

1. The scheme involved considerable financial management problems particularly in relation to recurrent and capital expenditure.

2. The costings underpinning the scheme were problematic particularly given that the existing Parliamentary system did not offer an accurate basis on which to make an estimate.
3. There was, therefore, a real risk of over estimating costs.
4. Such changes are, perhaps, more appropriately introduced on a phased in basis, after more extensive research as to the allocations which are to be provided.
5. In that event, there has not been an application or submission contending for this substantial change.

In all the circumstances, the Tribunal considers that it is appropriate to retain the existing system whereby specific allocations of offices, office equipment, staff, services and other related matters are made for Members. However, contrary to past practice, the Tribunal considers that it is appropriate, as part of its initial determination (and the overall regulation of additional entitlements), to specify the allocations to Members, although at this stage the Tribunal will only generally determine the amount or standard of such facilities.

The Tribunal has determined that the Member for Murray-Darling should be provided with an additional electorate office.

As noted earlier, Murray-Darling was established from the former electorates of Broken Hill and Murray. The electorate now comprises nearly half of the State with a total area of 364,000 square kilometres. It borders Victoria in the south and Queensland in the north (see Annexure 2

Map Schedule 6A) and has main population centres not only east of Broken Hill, eg Cobar and Bourke, but also to the south, eg Balranald, Wentworth and Hay.

The Tribunal considers that the new configuration of the electorate supports the proposal put to the Tribunal that the Member should have an additional electorate office. The Tribunal does not intend to specify where this new office should be located as this is best resolved between the Member, his constituents and the Speaker.

Further, offices at Parliament House are administered by the Speaker for the Legislative Assembly or the President for the Legislative Council. For this reason the Tribunal does not intend to make determinations in respect of these matters. Moreover, the Tribunal will only determine, at this time, the appropriate amount and standard of equipment and facilities to be provided to Members in general terms. The Presiding Officers should determine the standard and provision of these items and will be responsible for their financial management.

However, the Tribunal will revisit the level of expenditure on and standard of these entitlements in future determinations, particularly if it is demonstrated to the Tribunal that the allocations made are inappropriate, inadequate or unfair.

The Tribunal determines that Members will be provided with equipment, services and facilities. The Parliament will continue to negotiate directly with NSW Treasury for appropriate financing of these entitlements.

Recognised Office Holders

Schedule 1 of the Act provides a list of office holders whose duties, over and above those duties as a Member, attract an additional salary and an expense of office allowance.

Remuneration Tribunals across Australia have also recognised the additional duties and responsibilities of Recognised Office Holders by providing them with additional entitlements. In NSW, Recognised Office Holders receive the following additional entitlements:

- a) Additional travel entitlements
- b) One hundred percent reimbursement of home telephone/facsimile charges
- c) Additional stamp allowance
- d) Additional number of overnight stays for Living Away from Home Allowance
- e) A travelling allowance
- f) Additional printing and stationery entitlements.

One complicating factor when considering this issue is that the additional entitlements are not applied uniformly to all Recognised Office Holders across the various entitlements. This, coupled with grouping of these entitlements for Members in the initial determination, will also require a different approach to specifying entitlements for Recognised Office Holders.

Draft determination.

The draft determination did not make any provision for the additional entitlements of Recognised Office Holders, preferring to receive submissions from Members after the determination had been published.

Consideration

The Tribunal accepts that Recognised Office Holders have additional duties and responsibilities of office over and above those required of a Member of Parliament. These additional duties and responsibilities vary from office to office.

As all entitlements are now expressed in monetary terms and because the entitlements for Recognised Office Holders are additional to those received by Members they will be expressed as a percentage of the basic amount.

Travelling Allowance for Recognised Office Holders

When travelling on official business the following Recognised Office Holders are eligible to be paid travelling allowances. These allowances were last determined in the special determination.

Recognised Office Holder	CAPITAL CITIES (incl. Canberra)	OTHER AREAS	WHERE NO OVERNIGHT STAY IS REQUIRED
Premier	\$337	\$186	\$84
Ministers	\$271	\$154	\$68
President of the Legislative Council and Speaker of the Legislative Assembly	\$271	\$154	\$68
Leader of the Opposition in the Legislative Council	\$271	\$154	\$68
Leader and Deputy-Leader of the Opposition in the Legislative Assembly	\$271	\$154	\$68
Leader and Deputy Leader of a Recognised Political Party of which not less than ten Members are Members of the Legislative Assembly	\$271	\$154	\$68
Chairman of Select, Joint Standing and Public Accounts Committees	\$271	\$154	\$68
Members of Select, Joint and Public Accounts Committees	\$203	\$127	\$49

In order to be eligible for travelling allowance, Recognised Office Holders will need to be absent from Sydney for a period in excess of six hours where no overnight absence is involved. Where absence overnight is involved, the absence must extend six hours beyond the first period of twenty-four hours before a second day's allowance is payable. If not, the second day's allowance is as shown in the column headed "Where no overnight stay is involved".

On occasions when the rates of travelling allowance set out above prove to be insufficient, reimbursement of actual and reasonable expenses shall be allowed, subject to the production of receipts relating to accommodation and a statement from the Recognised Office Holder concerned outlining other costs such as meals and incidental expenses.

A Minister is entitled to claim for excess expense incurred for meals and/or accommodation for his/her spouse or approved partner if they accompany them to a State or other office function.

Those Recognised Office Holders for whom non-Parliamentary funded budgets are provided are to meet travel allowance costs from those budgets and not from the Parliament's budget.

Draft determination

The draft determination did not address the issue of entitlements, including travelling allowances, for Recognised Office Holders. It is understood that the Tribunal intended to review the topic of additional entitlements for Recognised Office Holders during the Tribunal's annual determination review process.

Consideration

The Tribunal maintains the long held view that Recognised Office Holders should continue to receive Travelling Allowances.

During this review process the Tribunal did not receive submissions relating specifically to Recognised Office Holders' travelling allowances. As such, the Tribunal is of the opinion that, without sufficient justification, it is not prepared to change the existing arrangements at this time.

The Tribunal has determined that Recognised Office Holder travelling allowances will continue to be awarded in the same manner that existed prior to this initial determination. However, the Tribunal will address the issue of travelling allowances during its annual review process in the year 2000 and will seek submissions from Members on this issue at that time.

Reimbursement of Expenses for Charter Transport for Members of the Legislative Assembly

Members from the largest electorates are reimbursed for the costs incurred in the use of charter transport services within their electorates. For the purposes of this entitlement "charter transport" refers to charter transport used within and for the service of the Member's electorate and includes charter aircraft, drive yourself vehicles and any other mode of charter transport which may be deemed appropriate in the circumstances by the Speaker of the Legislative Assembly.

Members eligible for the charter transport entitlement do not receive the entitlement by way of an allowance but are reimbursed, up to the maximum determined amount for each group, for the expenses incurred. Eligible Members are to meet the cost of the charter transport and seek reimbursement from the Financial Controller with appropriate certification as to the purpose of the charter.

The Tribunal first determined the charter transport entitlement in its 1981 Annual Determination for electorates in Group 7 and the electorate of Broken Hill. The allowance was extended in 1987 to include all electorates in Group 6.

Charter transport entitlements were most recently determined by the Tribunal in the Special Determination of 26 July 1999 and were as follows:

1. The Member for the electoral district of Murray-Darling was reimbursed to a maximum amount of \$16,092 per annum for charter transport.

2. The Members for the electoral districts of Barwon, Murrumbidgee, Lachlan and Upper Hunter were reimbursed to a maximum amount of \$8,716 per annum for charter transport.

3. The Members for the electoral districts of Albury, Burrinjuck, Clarence, Dubbo, Monaro and Northern Tablelands were reimbursed to a maximum amount of \$5,362 per annum for charter transport.

These entitlements, as proposed in the 1999 special determination, would cost the Parliament a maximum of \$83,128 per annum.

Draft Determination

The draft determination proposed to retain the provision for Members in the largest electorates to receive reimbursement for charter transport. The electoral redistribution and the new grouping of electorates, as proposed in the draft determination, resulted in a reduction in the number of electorates for which Members would be eligible to receive the entitlement. In the 1998 annual determination 12 electorates were eligible to receive the entitlement at a maximum cost of \$95,532. The draft determination proposed that 9 electorates (electoral Groups 5 to 8) would be eligible to receive the charter transport entitlement at a maximum cost of \$82,798.

In calculating the proposed maximum entitlements, the Tribunal used the total entitlement available for each eligible Member, according to the 1998 annual determination and grouping of electorates, and apportioned these entitlements amongst the new electorates in accordance with information published by the State Electoral Office on how electors were moved from old to

new electorates. This established a notional figure for the charter transport entitlement for each of the new groups of electorates.

Consideration

For this review the Tribunal has not received any submissions on the issue of charter travel reimbursement from either Members or other interested bodies.

For the 1999 special determination the Tribunal did not alter the electoral groupings for the determination of this entitlement, excepting in the case of Murray-Darling which was abolished. Hence, eleven electorates were eligible for the entitlement at a total cost of \$83,128.

For this determination the Tribunal has adopted the grouping of electorates as proposed in the draft determination (as discussed previously). In doing so, the Tribunal has thereby determined that only those electorates in Groups 5 to 8 will be eligible for reimbursement of the entitlement (9 electorates).

The Tribunal has not adopted the method of determining these entitlements as proposed in the draft determination. In this instance the Tribunal has considered the maximum entitlements which could have been paid under the 1999 special determination and included a factor of 2.1% to represent the general increase in the Consumer Price Index since 1997. However, the entitlement will be revisited as part of the year 2000 annual determination.

The maximum amount for the reimbursement of charter transport costs will be \$75,850 per annum. This is a reduction of approximately \$20,000 on the maximum entitlements payable to

Members under the 1998 annual determination and a saving of almost \$7,000 on the entitlements proposed in the draft determination.

With effect on and from 1 January 2000, the Members of electorates in the following electorate groups shall be entitled to the charter transport allowance up to the maximum amount shown below:

Electorate	\$
Group 8	16,450
Group 7	10,900
Group 6	8,900
Group 5	5,450

The conditions applying in respect of the charter transport allowances are specified in the initial determination.

