

Annual Determination

Report and Determination of additional
entitlements for Members of the
Parliament of New South Wales pursuant
to the Parliamentary Remuneration Act
1989

24 May 2024

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Section 1

Section 1 - Introduction

1. The Tribunal's 2024 annual review commenced in the usual way in September 2023 when it sought submissions from Members of Parliament, including about matters which had been identified in the 2023 Determination as requiring the Tribunal's further consideration.
2. Written submissions were provided by the Presiding Officers, the Opposition Whips and a number of other Members of Parliament. Further information and submissions were later provided when Members met with the Tribunal. The Department of Parliamentary Services also met with the Tribunal and provided other information, including some it had requested. The Tribunal has also considered the Auditor General's December 2023 special report "Members Additional Entitlements 2023", as well as her submission.
3. Information was received in relation to matters such as the conduct of the ongoing trial of satellite offices, which the Presiding Officers continue to support; how the Electoral Allowance and other additional entitlements are administered; the employment of staff; and how staff expenses are being managed.
4. It became apparent that since the Tribunal had considered the making of the 2023 Determination, as then hoped there had been some improvement in what had driven high levels of inflation that year. But not as much as hoped for. The effects of the Covid-19 pandemic had receded, but ongoing waves of infection as the virus continued to evolve were still being experienced in New South Wales. That continued to drive many adverse

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impacts for the community and the State. As did ongoing cost of living pressures and accommodation shortages, to which both Federal and State governments were responding.

5. The State, like other parts of the world, was also not only still being affected by the ongoing war in the Ukraine, but that which had broken out in the Middle East. There had been no further widespread bushfires or floods of the kind which had to be contended with in the recent past, but some effects of that flooding were also still being dealt with in various parts of the State.
6. These and other challenges which the State had to contend with were affecting both Members' constituents, and the work Members were called on to perform as a result. It is in this context that the 2024 Determination was arrived at.

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Section 2 - General review of the Determination and its operation

7. This year, amongst other things, the Presiding Officers proposed that the Tribunal consider undertaking a comprehensive review of the Determination for the first time since the 2000 Determination was made. There having since then been considerable changes of various kinds to the Determination as the result of matters raised in annual reviews and by Ministerial directions. But there has been no review of the Determination's resulting operation as a whole. The Presiding Officers considered such a review now to be necessary, in order that the ongoing effective operation of the Determination as a whole could be considered for the first time in over two decades.
8. The *Parliamentary Remuneration Act* 1989 (NSW) gives the Tribunal power to make determinations of additional entitlements that are to be available to a Member or Recognised Officer: s9. The latter are specified in schedule 1 of the Act. The principles to which the Tribunal must give effect in making its determinations are those specified in s10. There is no provision requiring the regular review of basic salary, which is left to the Tribunal's discretion. But s11 requires the Tribunal to make an annual determination "as regards additional entitlements" on or before 1 June each year, or such later date as the Chief Commissioner of the Industrial Relations Commission directs. The Minister may also direct that a special determination be made as regards additional entitlements: s12.

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9. I am satisfied that under this statutory scheme the Tribunal has the power to undertake the review which the Presiding Officers sought. But given what it would necessarily involve, I consider that it must be undertaken separately from the 2024 statutory annual review of additional entitlements, given all the matters they flagged as requiring the Tribunal's consideration in the proposed review.
10. They included the ongoing effective administrative operation of the Determination by the Department of Parliamentary Services, a matter which has arisen for consideration in some past annual determinations and again in submissions advanced in this review. It was also suggested that there are unintended anomalies, ambiguities and inconsistencies in the Determination, which necessitate its present effective operation to be revisited. That needed to be undertaken in the context of contemporary conditions and of the current regulation of the entitlements of Members of other Australian Parliaments, which have to respond to similar challenges in the performance and administration of their Members' parliamentary duties.
11. It should be observed that such a review is likely to shed further light on provisions of the Act to which the Tribunal has drawn attention in past Determinations, as requiring Parliament's further consideration, given issues which have been raised for its attention during past annual reviews and again in this annual review. It may also shed further light on matters relating to the salary and conditions of employment of Members' staff who are employed by the Parliament, in accordance with the requirements of the Members' Staff Conditions of Employment Determination. They are for the

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Presiding Officers to regulate but are repeatedly raised with the Tribunal in submissions Members advance in annual reviews of the Determination.

12. If the proposed review establishes that changes to the Determination are warranted, in order to facilitate the efficient performance of the parliamentary duties of Members or Recognised Office Holders, the Tribunal will of course consider how the Determination needs to be further amended. That will also require it to have regard to the financial implications of such changes for the State: s12.
13. The Presiding Officers accepted that given what such a review would involve and the issues which will have to be examined, the Parliament would need to consider the provision of appropriate resources to the Tribunal, to permit it to undertake that review efficiently.
14. Such a review would have to involve advice being given to Members about how it is to be conducted, and an invitation that they make submissions about what should be considered in the review. The Tribunal would then consider the problems raised and changes advanced as being necessary or desirable for the Tribunal to consider making, given the overall operation of the Determination, the way in which it is administered and what the Act intends it to provide for.
15. The submissions already received include that while some changes made to the Determination in 2016 in order to introduce desirable administrative simplicity, may have had unintended counterproductive consequences for the efficient performance of some parliamentary duties. With the result that

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it is now desirable for some of the current provisions and their operation to be reconsidered.

16. That and other submissions which Members advance will be considered in the proposed review, as will one submission belatedly made about a change to the General Travel Allowance conditions to permit more efficient country travel and accommodation by use of caravans.

Problems with compliance with the Determination

17. The Auditor General's submission was that in her Members' Additional Entitlements 2023 special report, it was found that increased departures from Members' proper compliance with the Determination had been identified, such departures having also consistently been found in her earlier reports. This drove the recommendation that the Tribunal provide greater clarity on current processes and implications of Members' departures from applicable guidelines.
18. Members' compliance with the Determination is audited both by the Parliament and the Auditor General, apart from the Electoral Allowance.
19. It may of course be that the identified increase in non-compliance reflects both retirements in 2023 of a number of experienced Members and the election of new Members, understandably unfamiliar with the Determination and the Guidelines. The Guidelines are provided to assist Members' understanding of the obligations which the Determination imposes and how it is administered. They are, it must be accepted, of some complexity,

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reflective of the history of the Determination and the problems the Presiding Officers have raised.

20. It is the Department of Parliamentary Services which seeks to assist Members' understanding of the operation and enforcement of the Determination and what it requires them to do, in various ways. But ongoing and increasing problems with compliance must be accepted as being of real concern. This no doubt helps explain the Presiding Officers' pursuit of a general review of the Determination.
21. The Auditor General's report and submission have helped persuade me that this review should be undertaken and include consideration of the Guidelines and that the Members' Handbook should also sensibly be revisited. The aim being that they all be made simpler and clearer, so that compliance will be enhanced.
22. Further, I consider that the Department could also sensibly review the training and education it makes available to Members and their staff, in light of the Auditor General's critical findings, in the hope that this can also help improve compliance.
23. The Members, the Department and Auditor General will also be invited to make submissions in the general review about these and other steps which might be taken to improve compliance.

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Section 3 – Parliamentary Remuneration

Increases in the Basic Salary

24. Consistent with s4A there were no increases in salary sought in 2024, with only one submission exploring the inadequacy of Members' remuneration, given the years in which it was not increased, as well as the claimed inadequacy of the Electoral Allowance, despite the significant increase in 2023 which resulted from the then high levels of inflation. That inadequacy was submitted to be the result of increased costs over recent years.
25. Although it has long been the Tribunal's practice to annually review both Members' basic salary and additional entitlements, as the 2023 Determination explained, the Parliament took steps that year to amend the Act to preclude any increase in the basic salary until 2025. Section 4A now provides that until 30 June 2025, the Tribunal must not make a determination fixing the basic salary of Members to an amount that would increase it to more than that determined to have effect from 1 July 2022.
26. Member's basic salary will thus remain unchanged in 2024. It should be noted that the result will be that by June 2025 there will have been a substantial effective decrease in Members' salary.
27. Given the positions which Members are elected to and the work which they and those appointed as Recognised Office Holders are then required to do in the Parliament they serve, this is of real significance to our society.

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28. Not only should Members of Parliament be fairly remunerated for their important and challenging work, within the State's means, but it must also be remembered that such remuneration and the other conditions and entitlements provided by the Determination play a real role in attracting people of high intellect, integrity and vigour to stand for election to the Parliament. People who have the necessary skills to perform such work well and who are prepared to devote their time to serving the public interest, rather than only their own interests. Appropriate salary and conditions also help to ensure that such people are also prepared to continue seeking re-election in order to continue performing the important work of their offices.
29. Despite this, the Parliament has decided that in this Determination, the Tribunal cannot make changes to Members' basic salary, which will thus not be adjusted in 2024.

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Section 4 – Additional Entitlements

The adjustment of other additional entitlements

30. In the draft General Summary sent to the Secretary of the Treasury in 2024, regard was paid to the national CPI, at 3.6% through the twelve months to the March quarter 2024, with the Sydney CPI figure slightly different at 3.8%.
31. The 2024 advice of the Secretary is attached to the Determination. The Secretary advised that the basic salary for Members will remain unchanged and additional costs arising from the Determination are expected to be sought via a Parameter and Technical Adjustment (PTA) in the 2024-25 Budget.
32. For the reasons that follow, I have determined to adjust additional entitlements by 3.6%.
33. The following additional entitlements will thus be increased by that percentage in order to help ensure that these allowances continue to facilitate the efficient performance of Members' and Recognised Office Holders' parliamentary duties:
 - Electoral Allowance
 - Communications Allowance: Base Allocation
 - General Travel Allowance: Base Allocation and Additional Allocation

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- Sydney Allowance (daily rate)
- Skills Development Allowance.

34. The Communications Allowance: Additional Allocation has been adjusted to account for constituent numbers only, based on the original costing factor which was adjusted in 2020, as there explained: 2020 Determination at p10.
35. The Committee Allowance will not be increased in 2024 because, as also explained in the 2021 Determination, this allowance has historically been increased in line with Members' salary increases: at [28].

Adjustment of the Electoral Allowance

36. The term "additional entitlements" is defined in the Act to mean "the electoral allowance and other additional entitlements under Part 3": s3.
37. In the 2023 Determination, the Tribunal raised the question of how additional entitlements should be adjusted in future, particularly in the case of the Electoral Allowance, given its purpose and what Members may use it for. That was at a time when the Electoral Allowance and some other additional entitlements were increased significantly by 7%, as the result of increases in the CPI: 2023 Determination from [70].
38. When submissions were invited for the 2024 Determination, Members were asked to address this issue.
39. While the written submissions which the Tribunal received did not deal with this, some oral submissions did. Most Members did not seek any change in

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how allowances, including the Electoral Allowance, are usually adjusted by reference to changes in the CPI. Only one Member submitted that the amount of this allowance was inadequate and only one Member that it should not be adjusted in the usual way, to reflect increases in the CPI.

40. That submission was that any increase in the Electoral Allowance in 2024 would be inconsistent with what had driven the Parliament's introduction of s4A, which precludes any increase in the basic salary this year. This reflects that some Members utilise part of their Electoral Allowance as personal income. This was also addressed in some other submissions.
41. Section 4A of the Act does not apply to the Electoral Allowance, even in the case of Members who receive part of the allowance as personal income, as the result of actions which they, rather than the Tax Commissioner take. It provides that "determination of basic salary under section 4 by the Tribunal must not fix an amount that would increase the basic salary to an amount that is more than the amount determined to have effect from 1 July 2022": s4A(1).
42. Section 4A thus does not apply to any part of the Electoral Allowance received as personal income, because that does not form part of the basic salary fixed by the Determination.
43. It follows that the Tribunal does have the discretion to increase this allowance in 2024.

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44. As explained in the 2023 Determination, while various expenditure for which Members claim payment under the Determination must be supported by relevant documentation, that is not required for the Electoral Allowance.
45. From submissions received, it is apparent that the use which Members make of this allowance when performing their parliamentary duties varies very significantly. The types of expenditure which can be met from this allowance is explained in the Determination: at 5.2.1(iii). Particular expenditure is left entirely to Members' discretion, need not be accounted for to the Parliament and is not audited by the Auditor General. The Determination thus leaves open the possibility that part of the allowance can be used to increase a Member's personal income, which is then taxed in the usual way.
46. The Parliament's current practice is to pay the Electoral Allowance to Members monthly, with their basic salary. But no tax is withheld in respect of the allowance, unless that is sought by the Member. The Member's choice is then reflected in the advice eventually given to the Tax Office about payments which have been made to the Member and PAYG tax which has been withheld. The Tax Office then approaches calculation of the tax payable by the Member in accordance with its Ruling TR1999/10.
47. Given the submissions received, it is possible that these arrangements have not only driven some misunderstanding of the intention of the Determination, about the use to be made of this allowance in the performance of a Member's parliamentary duties. It appears that they may also have resulted in the deduction of more tax than is payable in respect of that part of this allowance which becomes part of a Member's personal

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income and that this may have contributed to problems some Members have again raised.

48. Issues raised include that the Tax Commissioner has treated as personal income even part of the allowance provided to and used by Members in the performance of their parliamentary duties, rather than having been used as personal income. Given all that has been advanced, I consider that this is a matter sensibly to be considered in the general review, raising as it appears to, Constitutional questions: *Melbourne Corporation v The Commonwealth* [1947] HCA 26; (1947) 74 CLR 31 and *Austin v The Commonwealth of Australia* [2003] HCA 3.
49. If the Tribunal had the power, further information about how the allowance is being used would sensibly be obtained. But unless voluntarily provided by Members, it does not appear to be within the Tribunal's power to require Members to provide such information, either to it or the Parliament.
50. Consideration could be given to the Act being amended, to permit the Determination to deal with this, for example by requiring Members to report their annual use of this allowance to the Parliament. But that is a matter for the Parliament to consider.
51. Nevertheless, given the operation of the legislative scheme, I have been persuaded that there should presently be no departure from the way in which this allowance has been adjusted in the past. It will thus again have a CPI adjustment in 2024.

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52. But it should be noted that the Determination intends that Members use this allowance in order to support the performance of their parliamentary duties and not in order to maximise their personal income.
53. As I will explain further, this is a matter which does warrant the Parliament's further consideration.

Other problems with the Electoral Allowance

54. Members' submissions addressed a number of problems with the Electoral Allowance which have influenced my conclusion that the general review of the Determination should be undertaken.
55. Some Members raising concerns about the differing levels of personal income which Members receive for the performance of their Parliamentary work. That is because of the way the Electoral Allowance operates and how the Australian Tax Office administers claims about the use they make of the allowance to meet expenses incurred in the performance of that work, staff travel, for example.
56. The result of the way in which the Electoral Allowance is currently regulated is that some Members do not only use the allowance in the performance of their parliamentary duties, but as income. That reflects its history.
57. In the past, the Tribunal received advice from the Crown Solicitor about the Electoral Allowance and the use which Members could lawfully make of it under the legislative scheme. The Act has since been amended, with s9(2B) now providing:

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2B) The following provisions apply to the electoral allowance—

(a) the allowance is payable to members (whether or not recognised office holders),

(b) the allowance is payable in money,

(c) the allowance is payable as compensation in respect of all incidents of the performance of parliamentary duties (other than those compensated or reimbursed by other additional entitlements),

(d) different amounts may be fixed for different members or classes of members.

58. But the Act does not permit the Tribunal to fix conditions on which the Electoral Allowance is provided, or how it is to be substantiated: s9(4)(a).

Inequity in remuneration

59. The result of the current regime is that some Members receive more personal income than others for the performance of their parliamentary duties. Submissions advanced suggest that an unintended consequence may have been to encourage less use of the allowance in the performance of some Members' parliamentary duties, than the Determination envisages.
60. That could not have been possible when the 1989 Act was enacted. It has been amended over time to change the way in which the Electoral Allowance could be dealt with by the Tribunal. The 1999 Determination required substantiation for all allowances Members received, providing:

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“8. At the end of each financial year, Members will be required to clarify 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 portion 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 the 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.”

61. As the result of advice later given by the Crown Solicitor about the applicable Tax Ruling, the Tribunal’s power to deal with the Electoral Allowance was restricted by the Parliament. The result that the requirement to substantiate the use made of the Electoral Allowance to the Parliament was removed from the Determination.
62. The history of the changes made to the legislative scheme can be found in the *Parliamentary Remuneration Amendment Act 1998* (NSW), and the *Parliamentary Remuneration Amendment Act 2001*. Various determinations have led to the current regulation of the Electoral Allowance: see the 1999, 2000, 2005, 2007, 2008, 2009, 2010, 2016, 2018, 2021, 2022 and 2023 Determinations.
63. Currently, a determination may fix the amount of the Electoral Allowance, but not the classes, terms and other incidents which the Tribunal may fix for Members’ other additional entitlements: s10(2A). Section 10(4)(a) only

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permits a determination to specify the form of substantiation, if any, that is required for additional entitlements other than the Electoral Allowance: s10(2C).

64. The 2023 Determination thus continued not to require any substantiation to the Parliament, for Members' use of the Electoral Allowance.
65. In the 2016 Determination, significant changes were introduced which introduced much of the current arrangements. There it was explained that Members were not required to account for the use of the Electoral Allowance to the Parliament, by then only being subject to the substantiation rules determined by the Australian Tax Office (ATO). It was when the allowance was not fully expended, or the expenditure was not allowed as a tax deduction by the ATO, that it became subject to the same tax rates as normal income. The onus thus rested on the Member, both to expend the funds provided by the allowance in accordance with the Determination and to determine the appropriate level of resources to be allocated to tasks associated with their parliamentary duties and the functioning of their office(s): at p10-11 of the 2016 Determination.
66. What use a Member makes of the allowance, is thus now no longer transparent or publicly available, even to the Parliament, the Tribunal or the Electoral Commission. It is only known by the Member and the Tax Office. Only they know what use the Member makes of the Electoral Allowance; what part of the allowance, if any, is taken as personal income, rather than being utilised in the performance of their duties; what part is claimed to have been used to meet expenses incurred in the performance of parliamentary

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duties; and what claims the Commissioner rejects and taxes as personal income.

67. There is thus presently no specific information available to the Parliament or the Tribunal about what personal income individual Members actually receive year to year, or how they utilise their Electoral Allowance. Only individual Members and the Tax Office have this information.
68. It follows that, in considering year to year how the determination should be altered, the Tribunal does not have relevant information. It would obviously be useful for Members to have to substantiate the use they make of the Electoral Allowance. For example, by reporting annually to the Parliament what percentage of their allowance has not been used in the performance of their Parliamentary duties, or even if so used, what has been treated by the Tax Office as being part of their personal income.
69. Such information could be provided voluntarily by Members, but it has not been. It could be provided when submissions for the general review are invited. Or the Parliament could amend the 1989 Act to permit such substantiation being required by the Determination.
70. Whether the current position is one which the Parliament is content with is for it to consider. Relevant considerations appear to include:
 - Members receive the same basic salary, but their Electoral Allowances vary considerably. They are fixed by reference to the size of a Member's electorate, under the 2023 Determination ranging from \$75,255 in group 1 electorates in the Legislative Assembly, to \$196,080 in the group 8

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electorate. In the Legislative Council, the allowance ranges from \$86,080 in Zone 1 to \$91,640 in Zone 3;

- Some Members take parts of their Electoral Allowance as personal income;
- When the ATO does not accept a Member's claims about expenditure in the course of the performance of their parliamentary duties met from the Electoral Allowance, that part of the allowance is also taxed as personal income;
- Concerns have arisen amongst some Members about an unintended resulting inequity in Members' remuneration; and
- The ongoing question of how the Tribunal should fairly adjust this allowance on its annual reviews, given the different uses which Members make of this allowance.

Taxation of the Electoral Allowance as personal income

71. The concerns Members have raised about treatment as personal income of expenditure incurred in the performance of their parliamentary duties appear to have been driven, at least in part, by changes made since the 2016 Determination. They include the introduction of administrative arrangements intended to assist Members.
72. It appears from the submissions that they have perhaps had unintended and certainly not well understood results. That has flowed from interaction between the current provisions of the Act, the Determination, administrative

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arrangements and the administration of the applicable Tax Office ruling. Whether that has changed over time, is not apparent.

73. The submissions about the tax treatment of this allowance appear to raise questions about whether the result of that ruling, as now applied, impermissibly interferes with the Parliament's intended use of the funds it pays to Members by this allowance, in order that they can be used in the performance of their parliamentary duties. Including to pay the travel expenses of staff whom the Parliament employs.
74. Information received is that tax treatment has driven some Members to elect to have PAYG tax deducted from the allowance when it is paid fortnightly with income. This may have the practical result that those Members meet all expenses incurred in the performance of their parliamentary duties, which they use their Electoral Allowance to meet, out of post-tax dollars. The Determination does not envisage this.
75. This has to be understood in the context that the Parliament ordinarily does not pay income tax. The result of the current arrangements appears, however, to be that tax is paid on funds utilised to meet expenses such as for staff travel, for example, when they are met out of a Members' Electoral Allowance, rather than being paid direct by Parliament. That appears to reduce the funds available to meet those expenses, in a way the Parliament did not intend.
76. From the history of the Determination, it appears that these problems may have been contributed to by changes sought by the Presiding Officers over time, as well as by administrative changes introduced to assist Members.

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They may also be contributed to by decisions Members have made. This began in 2015 and was explained in the 2016 Determination: at p6-8. It appears those changes were intended to achieve desired administrative simplicity.

77. In summary, the 2016 Determination explained that:

- The then Logistics Support Allocation, “LSA”, was an amount of money allocated to Members from which they could purchase products or services associated with undertaking their parliamentary duties. It was notionally comprised of four components “transport (other than electorate or electorate to Sydney transport); electronic communication; non-electronic communication; and printing, stationery, office supplies and services”. The total funds identified notional amounts for each of the groups, but in practice Members could determine, at their own discretion, what this allocation was used for, subject to the terms and conditions specified in the 2015 Determination: 2016 Determination at p8.
- The then General Transport Allowance, was available to be used for transport costs other than transport within an electorate or electorate to Sydney travel. It included all modes of transport, accommodation, some staff travel and approved relative travel: 2016 Determination at p8.
- Members of the 6 most remote electorates in NSW, as well as the Member of Port Macquarie, also received an Electorate Charter Transport Allowance. This Electorate Charter Transport Allowance was provided for the purpose of travel within the electorate: 2016 Determination at p9.

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- The Tribunal concluded that some components of the LSA, Printing, Stationery, Office Supplies and Services and Communication – Electronic, would be transferred to the Electoral Allowance. Its other components were transferred to the General Travel Allowance and the Communications Allowance: 2016 Determination at p9.
- To that point the LSA -Transport had been used for transport costs, other than transport within the electorate and electorate to Sydney travel. They included all modes of Members' transport accommodation, as well as some limited staff travel and approved relative travel: 2016 Determination at p9.
- The General Travel Allowance was intended to encompass all transport costs associated with Members undertaking their parliamentary duties, as well as costs for staff travel. This included transport within the electorate and intrastate and interstate travel, that providing Members with greater flexibility to meet all travel costs associated with their role as a Member of Parliament. The ability to claim transport costs within the electorate was also considered to provide Members with greater flexibility to use their Electoral Allowance for other purposes: 2016 Determination at p9.
- The Communication – Non-Electronic component of the LSA and the former Electorate Communication Allowance, "ECA", were combined to form a new entitlement – the Communications Allowance. It was intended to be used to meet the production and distribution costs of communicating with constituents including newsletters, brochures, the printing of letterheads, flyers, e-publications, developing, hosting and

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maintaining a website and/or other social media, email distribution services, advertisements and any other forms of communication approved by the Parliament. It was anticipated that this would streamline the administrative practices then associated with the use of the LSA and ECA: 2016 Determination at p10.

- The Electoral Allowance was explained to be paid to all Members for the performance of parliamentary or electoral duties and to cover incidental expenditure incurred in discharging these responsibilities. It could be used by a Member in undertaking either parliamentary or electorate duties: 2016 Determination p10.
- It was also explained that because of the LSA, Members had to establish personal accounts with a range of suppliers/providers, so that on incurring an eligible expense, a claim for those costs to be met by the Parliament could be made. The result was that, it had a high number of low value claims to process and pay. It was considered that paying these sums to Members in the form of additional Electoral Allowance and to expend those funds in accordance with ATO Tax Ruling, thereby determining the appropriate level of resources to be allocated to tasks associated with their parliamentary duties and the functioning of their office(s), would help give Members greater flexibility and control over their expenditure, while reducing the cost of the administration of these entitlements: 2016 Determination p11.
- It was also explained that the results of the changes made to these allowances included that in the case of unexpended parts of expenditure formerly met from allowances which had to be substantiated to the

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Parliament, which were formerly forfeited at the end of the parliamentary term, Members would in future retain such amounts as part of their Electoral Allowance: at p14.

78. The position is now that some costs, communication and staff travel incurred to assist the Member in performance of their parliamentary duties, which cannot be met by funds available under the Travel and Communications Allowance, may be met out of the Electoral Allowance. They no longer have to be substantiated to the Parliament and are not audited by the Auditor General, but they do have to be substantiated to the Tax Office. If not allowed as a tax deduction, that part of the Member's Electoral Allowance becomes subject to the same tax rates as normal income, despite being incurred in the performance of parliamentary duties.
79. It appears that this result may not previously have been appreciated or considered administrative changes.
80. Members' submissions also raised the difficulty in their own and advisers' understanding of the Electoral Allowance and how it is administered. The Tribunal's request for information resulted in advice about current administrative arrangements, including that:
 - Members have always had the ability to elect to pay additional PAYG withholding to cover any shortfalls in their tax at the end of the financial year, for any reason.
 - Records in the payroll system reflect Members electing to have additional PAYG deducted since 1999, when the current payroll system

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was implemented, but for what reason Members were electing to have additional PAYG deducted is not recorded.

- From 2003 payroll entries reflect Members specifically requesting additional PAYG withholding from their Electorate Allowance and LSA.
- In 2016, when these allowances were combined a lot more Members elected to have the additional PAYG deducted.
- Currently 39 Members have elected to pay additional PAYG withholding for their Electoral Allowance.
- The annual income statements issued to Members for tax purposes include the Expense Allowance, Electorate Allowance, Recognised Office Holder Allowance, Independent Allowance, Electorate Office Requisition Allowance, Committee Allowance (Public Accounts Committee), Committee Allowance, General Travel Allowance, Electorate to Sydney Allowance and Taxable Kms >5000 km.

81. It follows that why a Member would chose to pay PAYG on an Electoral Allowance used in the performance of parliamentary duties is not immediately apparent. Submissions advanced included that:

- Such decisions were the result of tax advice, that the allowance was taxable and expenditure was not deductible;

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- Even when used in the performance of parliamentary duties, as the Determination provides, the ATO treated some of the expenditure it provides for as personal income; and
- The decision to make PAYG payments was made in order to ensure that all tax payable was paid throughout the year.

82. But a decision to pay PAYG tax on an Electoral Allowance used in the performance of parliamentary duties, in accordance with the Determination, would seem to give rise to unnecessary difficulty for a Member later claiming that tax was not payable on the allowance on which the Member has already paid tax throughout the year.
83. This needs to be understood in the practical situation in which Members are placed, which the submissions and other information provided shed light on. The current position is that ordinarily Members' staff are not employed by the Member, but by the Parliament, but various expenses, including some staff travel expenses are paid out of the Electoral Allowance, not direct by the Parliament.
84. In the past, staff themselves met some of these expenses and were then reimbursed, either by the Member or the Parliament. In the latter case with that expenditure then set off against the Member's allowances. But because of increased cost of living pressures, staff travel expenses are now often not met in the first instance by either Members or their staff. Increasingly, they are paid direct by the Parliament and then accounted for against the Members' Travel and Communications Allowances and if they have been exhausted, against the Electoral Allowance.

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85. This was explained by the impact of cost of living pressures having become more significant than CPI increases suggest. Further, that for some years now changes to mortgage rates have not been taken into account in calculating the CPI. While this does not have a negative impact on cost of living pressures when such rates remain steady or fall, when they increase, as they have in recent times, rapidly, there is a resulting impact on cost of living pressures not reflected in the CPI.
86. The result has been that staff members have been increasingly unable to afford to pay these expenses in the first instance, especially when travelling to Sydney to work at the Parliament. There has been a considerable increase in the cost of suitable accommodation in Sydney, especially within reasonable proximity to Parliament House, which Members have raised. The result is that payment of these costs, directly by the Parliament, the employer of the staff, has been adopted, with a later accounting against Members' allowances. That has had the identified benefit of the Parliament now being able to locate and direct the accommodation which Members' staff use in Sydney. The Parliament being able to obtain such accommodation at an overall lower cost than that which staff or Members can obtain themselves.
87. But once Members' Communication and Travel Allowances are expended, both the Member's and staff travel costs have to be met out of the Members' Electoral Allowance, over which the Parliament has no oversight. The result is that if such expenditure is not accepted by the ATO as being deductible, because it is concluded that it does not come within the applicable Ruling, unbeknownst to the Parliament, the expenditure is treated as having been met from personal income which is taxed.

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88. It is difficult to see that this is what the Parliament intended, in respect of costs incurred by a Member in the performance of his or her parliamentary duties. Taxation of such expenditure, effectively reducing as it does the funds the Parliament pays to Members to meet the expenses incurred in the performance of their duties, which are regulated by the Determination.
89. It follows that the change to administrative arrangements which provides Members the opportunity to elect to have PAYG tax withdrawn from the Electoral Allowance when it is paid to them fortnightly together with salary, introduces the need for the Members later to persuade the Tax office that the allowance was not in fact taxable when used by the Member to meet such expenses, even though tax has already been paid on the Electoral Allowance.
90. Logically this system would seem to rest on the invalid assumption that there is tax payable on the entire Electoral Allowance. Otherwise, there can be no obligation to make such payments and obvious disadvantage in doing so.
91. That this may have contributed to problems which Members raised, including tax advice that all of the allowance is taxable, with the result that claims for deductions are not even pursued, must be accepted.
92. Such advice no doubt turns on views formed by advisers about the Tax Ruling and the Determination. Even though it provides that the Electoral Allowance is to be used to fund staff travel and other expenses Members must meet in the performance of their parliamentary duties and that it is not paid as personal income: see 5.2.1 of the 2023 Determination. There it

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identifies the types of expenses which it is envisaged may be met from the Electoral Allowance, including staff expenses incurred in addition to those borne by the Parliament.

93. The problems raised by Members do not appear to have been anticipated, even by those who have availed themselves of the opportunity to pay PAYG tax on this allowance. But the result seems to be one that the Parliament may wish to consider in the context of the statutory regulation of the Electoral Allowance and whether it could usefully be further examined in the general review.
94. It lies in the hands of Members to provide the information which would shed light on the problems they have raised, because it is not otherwise available to the Parliament or the Tribunal.

Constitutional Problems

95. On the presently available information, it does seem possible that what has developed raises questions about the constitutionality of the Tax Office's current treatment of expenditure dealt with in the Determination, particularly that met out of the Electoral Allowance. Advice from the Crown Solicitor might usefully be obtained about this.
96. In *Austin* it was tax treatment of judicial pensions, by imposition of a surcharge, which was found to have placed an impermissible burden upon the operations and activities of this State, beyond the legislative power of the Commonwealth. That surcharge interfered with the terms and conditions upon which the State Parliament had appointed and remunerated the

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judges of its courts, a matter with which the Federal Parliament could not interfere.

97. Here it is how the Parliament remunerates its Members and provides them with funds by way of allowances in accordance with the requirements of the Determination, in order to enable them to perform their parliamentary duties, which has arisen to be considered. The specific amounts and the way these funds are paid by way of allowances are determined by the Tribunal from time to time, in accordance with the requirements of the Act.
98. That it is within the Federal Parliament's powers to implement a tax ruling which has the effect of interfering with the State's legislative choices in relation to such funds also appears doubtful. That the design or implementation of such a ruling could lawfully result in an increase in a Member's personal income and the income tax the Member has to pay, as well as a corresponding decrease in the funds provided by the Parliament to the Member to use to perform their duties, for example to meet the travel expenses of staff employed by the Parliament to work for the Member, is difficult to see.
99. It may be that the result of the Federal Parliament's tax laws and the Tax Commissioner's Ruling is that they impair the State's exercise of its freedom to discharge, as it decides, its constitutional functions in relation to how it remunerates Members and funds the performance of their Parliamentary work.

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100. There may be good reasons for why such a conclusion is not available. But on the information provided to the Tribunal, the possibility that this is what has resulted, even if unintentionally, requires further consideration.
101. It may be that what Members have raised is the unintended result of administrative arrangements introduced to assist them with their tax affairs. That is, by offering Members the option of having PAYG tax deducted regularly from their fortnightly Electoral Allowance payments, even though it may not be taxable as personal income. That system leaving it to the Member to substantiate to the Tax Commissioner that the purpose for which they used the allowance was not taxable, despite PAYG tax having already been withheld.
102. Given what has been raised by the submissions advanced and the information provided, it is desirable for advice again to be obtained from the Crown Solicitor about the Electoral Allowance. On this occasion, about matters such as whether the current provisions of the Determination and the administrative arrangements now offered to Members have had unintended consequences; whether the current tax treatment of the Electoral Allowance gives rise to any Constitutional difficulties; and if it does, how these problems can best be addressed, including by legislative amendment and/or changes to the Determination.

The Electoral Commission's approach to the 2023 Determination

103. Some Members addressed problems which have arisen as the result of the view taken by the Electoral Commission of the 2023 Determination, which

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has resulted in amendment of its Guidelines, which Members consider do not accord with changes made to that Determination. That was submitted to have been a result unintended by the Tribunal, the Electoral Commission having taken an incorrect view of the operation of the Electoral Allowance.

104. Another problem raised by some Members was the Commission's recently altered approach to changes introduced under the *Electoral Funding Act* 2018 (NSW), to the Guidelines which apply to its administration of the Administration Fund. The purpose of this Fund is to reimburse political parties and independent Members of Parliament for administrative or operating expenditure. Payments can be claimed within three months of the end of each quarter and are made quarterly.
105. Another complaint was an imbalance between the payments made to political parties and Independents, the analysis advanced being that some 85.6% of all payments in 2022 had been made to eligible parties.
106. There are applicable eligibility rules for such payments, which it is unnecessary to discuss. In 2024 the maximum amounts payable for parties range from \$106,100 for one endorsed elected Member, to \$226,800 for those with three such Members, plus \$36,500 for each additional Member. For Independents the maximum is \$68,600.
107. What was sought by Members included that the Tribunal provide a letter or fresh determination to make clear that the Electoral Allowance is paid as income and is not a claimable allowance. That cannot be acceded to, given all I have already explained.

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108. But some observations about the 2023 Determination and the problems raised by these submissions can be made.
109. The objects of the Electoral Funding Act include establishing “a fair and transparent electoral funding, expenditure and disclosure scheme” and providing “for the effective administration of public funding of elections, recognising the importance of the appropriate use of public revenue for that purpose”: s3(a) and (d). Division 2 deals with “administrative funding” for parties and independent Members. Such funding is defined to include various specified expenditure. But excludes “expenditure for which a Member may claim a parliamentary allowance as a Member”: s84(1)(b)(ii).
110. Members were advised in December 2023 that changes the Commission had made to the Guidelines had resulted from the view it had taken of changes made in the 2023 Determination. The Commission’s new guidelines 23 and 24 clarify what expenditure now cannot be reimbursed. They also explain what was considered to be expenditure for which Members may claim a Parliamentary Allowance as a Member and clarify the circumstances in which hospitality-related expenditure may be considered to be an “administrative expenditure”.
111. Members’ submissions explain their expectation that the result of these Guidelines will incorrectly be a decrease in funding available to them from this Fund, not envisaged by the Determination or consistent with the regulation of the Fund by the *Electoral Funding Act*.

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112. The Commission's advice to Members included two attachments which explained what would in future be considered to be administrative expenditure and what would not.
113. It is not for the Tribunal to determine the correctness of the views which the Commission has arrived at about this. That is because the Commission's decision as to whether any expenditure is or is not administrative expenditure in accordance with the *Electoral Funding Act* and the applicable regulations and guidelines is final: s84(2).
114. But still it may be observed that it is difficult to see that expenditure met out of a Members' Electoral Allowance falls within the concept of "expenditure for which a Member may claim a Parliamentary Allowance as a Member", which is excluded by s84(1)(b)(ii) of the *Electoral Funding Act*.
115. That is because, as I have explained, payment of the Electoral Allowance does not depend on a Member making any claim. It is rather an allowance paid regularly to the Member together with his or her salary, which is included in the Members' annual tax payment advice. It is for the Member to substantiate any claims advanced in a tax return about the deductibility of any part of this allowance, in accordance with the applicable Tax Ruling.
116. The allowance may thus be taken as personal income in whole or part and even if it is all spent in the performance of the Member's parliamentary duties, it may be taxed as personal income under the applicable Ruling, if a claim in relation to particular expenditure is not accepted.

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117. It was also submitted that the Guidelines had introduced an unfair change, putting Independent Members at a distinct disadvantage to political parties, given the differing ways in which they spend the Administration Fund. It was also claimed that the result was that the Electoral Commission was suggesting that ‘every cent’ of the Electoral Allowance had to be spent, before Independent Members are eligible to use the Fund. Further that under the new regime, payment from the Fund can only be made if functions are held during business hours, was also raised.

118. These are all matters about which the Tribunal simply has no information and cannot comment, given that they do not fall to it to determine.

Communications Allowance

119. The adequacy of the Communications Allowance was raised by some country Members. One sought to have the allowance increased by \$30,000. That was sought in order that four quarterly newsletters, rather than one, could be sent to constituents. This was explained in a context where some \$70,000 had been spent on newspaper advertising, even though many local newspapers had closed and where little use was being made of social media. Only some \$5,500 having been spent on digital advertising, radio advertising having amounted to \$24,000 and billboard advertising to \$9,000.

120. Another example given of its claimed inadequacy was of a current total allowance of \$112,121, but expenditure of over \$138,000 over the year, considerably more than the current allowance. The difference was presumably funded out of the Electoral Allowance, as the Determination contemplates.

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121. Another Member requested additional funding for communications hardware and software for staff in geographically remote locations. In that electorate the allowance was \$104,578, which is again to be increased this year.
122. Other Members did not suggest that the allowance was inadequate, even though two other Members reported having used all of their allowances. Others reported that it was adequate, although some submissions were made about the current conditions which apply to this allowance.
123. I am not persuaded that this allowance is inadequate. This allowance currently comprises a base annual allocation, in 2023 \$20,850 for Members of the Legislative Assembly, as well as an additional allocation based on the number of enrolled voters. This ranges from an allocation of some \$88,000 to some \$96,000: cl 6.3. The allowance for Members of the Legislative Council is \$5,315.
124. The history of the Communications Allowance was explained in the 2023 Determination: at [185]. The Tribunal was not then persuaded that it had become inadequate. That conclusion flowed from other information then provided, including about increasing use of social media which had permitted Members to address problems caused by the decline of local newspapers and the increasing cost of other forms of communication over time, as well as from the considerable increase in the allowance introduced that year.
125. Submissions received on this review confirmed many Members' increasing, effective use of social media and online communication with their

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constituents, the result in part of Members all seemingly now having websites. They enable them to obtain information which permits effective online communications with constituents and others.

126. I am unable to accept that such methods of communication are not available to other Members, or are not viable, even though it may be accepted that some more elderly members of the community may not use such online methods of communication. or may not use them often. I consider that it must also be accepted that very many do and that they will continue to be an ever increasing part of the community.

127. It is also relevant that the allowance will again be increased significantly this year, by 3.6%.

128. How Members choose to use their Communications Allowance is, of course, always a matter for them. But given all of the submissions received, I am not persuaded that the allowance is inadequate. This was not established by what was advanced by some few Members about the problems which have flown from the way that they have used this allowance and what else they wish to do in order to communicate more frequently with their constituents by newspaper. Given that there are increasingly available cheaper forms of communication, which permit effective direct communication, which Members can utilise, that the further increase sought to this allowance is warranted, in order to facilitate the efficient performance of Members' parliamentary duties, cannot be accepted.

129. Such a change cannot turn on the desires of only one or a few Members. It rather has to be considered in the context of what use Members are

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generally able to make of the allowance, given the current conditions imposed by the Determination. As well as the use which Members can make of other allowances, including the Electoral Allowance for the purpose of communication. No Member submitted that this allowance had been exhausted.

130. The Member for Barwon sought additional funding for communications hardware and software. That no doubt reflects the considerable staffing currently provided for that electorate. Given the amount of this allowance, as well as of this electorate's Electoral Allowance, which can also be used for such purposes, and is considerably greater than that provided for other electorates, I am not persuaded that the increase sought is required for the efficient performance of parliamentary duties in this electorate, despite its significant size.

131. Changes to conditions for this allowance in order to permit its use to fund engagement of a consultant to devise, implement or manage a Members' electronic communications system was also raised. Including, for example, to permit engagement of someone specifically to respond to questions communicated by constituents electronically. It is evident that this is an increasing method of communication and that such a use of this allowance can be an efficient means of ensuring effective communications.

132. The 2023 Determination provides:

6.3 Communications Allowance

Purpose

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The Communications Allowance is an annual budget provided to Members to meet the costs associated with communicating with their constituents including:

- *production and distribution of newsletters and brochures*
- *printing of letterhead and flyers*
- *audio posters and other e-publications*
- *developing, hosting and maintaining a website and/or other social media*
- *email distribution services*
- *advertisements*
- *other forms of communications approved by Parliament.*

Entitlement

1. *The Communications Allowance comprises a base annual allocation for Members of the Legislative Assembly and Legislative Council and an additional allocation for Members of the Legislative Assembly based on the number of enrolled voters.*
2. *The base annual allocation for each electoral group or zone shall be as follows:*

133. It seems to me that funding the engagement of such a consultant can sensibly be included in the stated purpose of this allowance. It will be amended to include:

- *Engaging a consultant to devise, implement or manage a Members' electronic communications system and/or to use it to communicate on behalf of the member.*

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General Travel Allowance

134. Some Members raised the adequacy of this allowance. Others the definition of approved relatives.

Adequacy

135. In considering the adequacy of this allowance it must be remembered that travel costs may also be met from the Communications and Electoral Allowances. Further that Members who reside in non-metropolitan electorates are also entitled to the Sydney Allowance, in the circumstances specified, for the performance of their parliamentary duties: cl 6.2.

136. This allowance is provided to meet additional costs incurred by Members, including commercial accommodation, meals and incidental costs, when staying in Sydney, when such Members attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business.

137. Members who reside in Sydney have staff who live there and work in the Member's office in Parliament House. Some country Members reported that they also have staff who live in Sydney, perform their work in the Members' parliamentary office and only infrequently have to travel to the electoral office or the electorate, to perform aspects of their work.

138. In one case the Member has three staff members who live and work in Sydney, that Member having more than one electoral office. Another Member with more than one electoral office has a part time staff member who lives and works in Melbourne.

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139. Other country Members only have staff who reside in their electorates, with one staff member being required to travel to Sydney with the Member when Parliament sits, in order to work with the Member in the parliamentary office.
140. Some Members reported also employing staff themselves, using their Electoral Allowance to meet the costs of their salary. For example, during the trial of satellite offices, some Members employed part time staff themselves to work in those offices.
141. As I have explained, issues were also raised about having to pay some staff travel in post-tax dollars, because of the Tax Office's treatment of the Members' Electoral Allowance to meet staff expenses. One submission was that all staff travel should be paid by the Parliament. Despite this, no Member submitted that all of the available allowances, together, were insufficient to meet the costs of such required travel, although they are administered and substantiated differently.
142. One Group 4 Member, however, sought an increase in this allowance considered necessary to fund staff travel to Sydney, to accompany the Member when Parliament is sitting. Alternatively, a change in the electorates grouping was proposed, to which I will return.
143. This Member's allowance totalled \$14,230, with staff travel to Sydney for 17 sitting weeks totalling some \$26,539.04. While the Communications Allowance could also be used to meet such costs after the Travel Allowance was exhausted, in this electorate that allowance had all been expended on communications. The Electoral Allowance can also be used for this

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purpose, and it was not submitted to be inadequate to meet the balance of those costs.

144. In one case, it was submitted that funding a satellite office would address some of the challenges and cost of the Member and staff having to travel excessively in a large electorate. There for some 60,000 km per year, with on occasions having events to attend on consecutive days at distant ends of the electorate, where the cost of charter flights was prohibitive. The result was said to be that it would be convenient for staff, rather than the Member, to attend some functions.
145. I will return to the Satellite Allowance. But it should be noted that the Act does not provide for Members of Parliament delegating any of their parliamentary duties to their staff, or for determinations to be made to facilitate this, or to meet the costs involved.
146. In considering what was raised, it must be remembered that it is the Parliament, not the Member, who employs the staff the Determination provides for and that it is not for the Tribunal to fix staff conditions. The function of such staff is not to perform the Member's duties, but to assist the Member in the performance of their parliamentary duties.
147. The Determination specifies the number of staff Members are entitled to be provided with, as well as what use may be made of various allowances, to meet their expenses. This reflects that the Act is concerned with the making of determinations which provide not only for members' salaries, but also other benefits, including their staff entitlements and an Electoral Allowance

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and other additional allowances, all provided to facilitate the efficient performance of their parliamentary duties.

148. On what was advanced I am not satisfied that the General Travel Allowance needs to be increased, other than by the annual CPI adjustment. This allowance, when considered with all the other funds provided to Members to meet their and staff travel expenses, has not been demonstrated to be insufficient, so as to warrant an increase in this allowance, in addition to the CPI increase.

149. That conclusion accords with other Members, including country Members, reporting that the allowance was adequate for the needs of their electorates.

Approved relatives

150. Condition 6.4.5 (ix) of the General Travel Allowance provides:

“Members and their approved relatives, when travelling in connection with the Member's parliamentary duties, may claim reasonable actual accommodation and meal expenses from the Member's General Travel Allowance. The payment of actual travelling expenses will be paid subject to the production of tax invoices/receipts. The reimbursement of these expenses may not exceed the travel allowance rates as determined for Members in Table 9: Travel Allowances – Indicative Upper Limits for Members.”

151. “Approved relatives” is defined in cl1 Definitions to mean:

- “One person who meets any of the following criteria:
 - wife or husband of the Member;

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- *a person living with the Member in a domestic relationship as defined in the Property (Relationships) Act 1984; and/or*
- *an immediate family member of the Member (parent, sibling or children who are not minors i.e. below 16 years of age) who is nominated as an approved relative.*
- *Members with dependent children may nominate one or more of those children as approved relatives. A dependent child means a person under 16 years of age in the care of the Member who is legally responsible (alone or jointly with another person) for the person's day-to-day care, welfare and development."*

152. The Presiding Officers initially proposed an alteration to the last part of this definition, because of problems which had arisen when dependent children over the age of 16 years, had to continue travelling with a member. For example, because of ongoing medical conditions and resulting carer obligations. Its proposed replacement was:

"Members with dependent children may nominate one or more of those children as approved relatives. A dependent child means a person under 16 years of age in the care of the Member who is legally responsible (alone or jointly with another person) for the person's day-to-day care, welfare and development. Dependent children with continuing care needs may be nominated beyond the age of 16."

153. There were obvious problems with this. It was clarified that what was intended was for the allowance to be available to be utilised whenever the Member had to travel with such a dependent person, in order to perform their Parliamentary duties.

154. What was finally proposed was:

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“Members with dependent children may nominate one or more of those children as approved relatives. A dependent child means a person under 16 years of age in the care of the Member who is legally responsible (alone or jointly with another person) for the person’s day-to-day care, welfare and development. Dependents over the age of 16 with ongoing day-to-day care and welfare needs and who remain in the full time care of the Member may be nominated as an approved relative on occasions where the travel is directly associated with facilitating the efficient performance of the Member’s parliamentary duties.”

155. The history is that initially travel costs of approved relatives when incurred in connection with official parliamentary duties, was introduced: 2015 Determination. They did not include more than one child. Changes were pursued in 2016 in relation to family reunion travel :2016 Determination at p18-19. In 2017 the Determination recognised that “a Member may need to be accompanied by a spouse/partner or other approved relative and child(ren) when required to travel to undertake parliamentary business”: at p8-13.

156. I have concluded that the Determination should now be amended to reflect that on occasions Members may not only be called upon to travel with a dependent child while performing their parliamentary duties, but also with older dependents who remain within their ongoing care. But the proposed clause could be better expressed. The definition will be amended to provide:

- *“One person who meets any of the following criteria:*
 - *wife or husband of the Member;*
 - *a person living with the Member in a domestic relationship as defined in the Property (Relationships) Act 1984; and/or*

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- *an immediate family member of the Member (parent, siblings or children who are not minors i.e. below 16 years of age) who is nominated as an approved relative.*
- *Members may nominate as approved relatives:*
 - *one or more dependent child under 16 years of age in the care of the Member who is legally responsible (alone or jointly with another person) for the child's day-to-day care, welfare and development, and/or*
 - *a dependent over the age of 16 years who has ongoing day to day care needs and who remains in the full-time care of the Member.*

Condition 6.4.5(xi)

157. This condition provides:

“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.”

158. The Presiding Officers proposed that this condition be amended, to clarify that it is not intended that Ministers cannot use their general travel entitlement when travelling in connection with the performance of their parliamentary and electorate duties.

159. That is certainly not what the Determination intends and so I accept that the condition should be amended to make this clear. What the Presiding Officers proposed was:

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“Those Recognised Office Holders for whom non-parliamentary funded budgets are provided are to meet the costs of travel in connection with those roles from those budgets. When travelling in connection with their parliamentary and electorate duties, those office holders may use the General Travel Allowance”

160. But I consider that this condition can also be better expressed, given that the Act defines “parliamentary duties of a member or recognised office holder” in s3 to mean:

“the duties that attach to the office of a member or recognised office holder, and includes the duties that a member or recognised office holder is ordinarily expected to undertake, including participation in the activities of recognised political parties, and includes any duties prescribed as being within this definition, but does not include any duties prescribed as being outside this definition.”

161. This condition will thus provide:

(xi) Some Recognised Office Holders are provided with non-parliamentary funded budgets to meet the costs of travel which they undertake in connection with the performance of the duties of those offices. While they must use those funds when travelling to perform the functions of those offices, when travelling to perform their other parliamentary duties, including their electorate duties, they may use their General Travel Allowance.

Skills Development Allowance

162. This allowance provides:

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“The Skills Development Allowance is provided to Members and Members’ staff for training that is directly relevant to the role of Members and Members’ staff, including but not limited to:

- *media skills training;*
- *public speaking;*
- *community engagement;*
- *graphic design;*
- *website and social media maintenance; and*
- *writing skills for reports and media releases.”*

163. This allowance was introduced in the 2018 Determination to fund specified professional development for Members and staff. In 2019 and 2020 changes were made to allow pooling of this allocation between Members and staff in the same office.

164. This allowance is currently \$565 per staff member and \$1,695 for the member, as the result of a large increase in 2023. These sums will be again increased this year by 3.6%.

165. In the 2023 Determination, it was concluded that it had not been established that the allowance was inadequate or otherwise needed to be altered, apart from the CPI increase which then took effect: at [242]-[252].

166. The purpose of this allowance is to assist Members in the performance of their Parliamentary duties and thus its utilisation must be driven by them, not by their staff. In determining what training staff should undertake, Members must necessarily take into account that much training nowadays is offered online to them and their staff, both by the Parliament and other providers, including universities. Some courses are paid for by the

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Parliament, as well as travel costs when staff are required to travel to Sydney for such training.

167. The Staff Determination also provides for the use, with approval, of short-term relief staff for skills development training of one day or more relevant to the staff member's role, where minimum staffing levels cannot be met. There was no suggestion that such relief had been sought and wrongly refused.
168. The allowance may also be carried over from one year to the next, within a parliamentary term, in order to make available larger amounts of funds to be used for appropriate training at suitable times.
169. The Member for Murray sought an increase in the Skills Development Allowance, explaining that in her electorate, a training day required some staff to travel to Griffith from Wentworth and Deniliquin, requiring an overnight stay, which was also required when trainers came from Sydney. Further, that staff had a consensus that the allowance should not be pooled; that they should be allowed to prioritise training they each wished to participate in; and that group training was not appropriate.
170. These are not matters for staff to determine and were inconsistent with the claim that face to face group training was preferable to online training. Despite much of such training now being provided online by the Parliament and other providers, the Member also considered that online training was not suitable. This was despite the large distances her staff had to travel to undertake face to face training in the same electoral office and other

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Members whose electorate had more than one office finding online training both cost effective and suitable for their staff.

171. It is Members who must determine what training, directly relevant to their role and that of their staff, that particular staff members should pursue, as well as how and when that training will be delivered. Both desirable training and the funds available to fund it may thus logically dictate that it is best delivered online, which does not require travel. And if that is necessary, if it is not provided and paid for by the Parliament, that it be delivered to staff as a group, rather than individually.
172. The preferences of individual staff members who may be employed from time to time for separate training in matters of interest to them, does not establish that this allowance is inadequate.
173. I am not persuaded that this Members' attitude to online training is a proper basis for the further increase sought. Such a seemingly idiosyncratic approach to cost effective and efficient online training, which other Members, as well as many members of the community and businesses of all kinds nowadays successfully undertake, given hard won experiences gained during the pandemic, is incapable of establishing that a further increase to this allowance is required to facilitate Members' efficient performance of their parliamentary duties.
174. I have thus not been persuaded that this allowance needs to be increased other than by a further CPI adjustment.

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Sydney Allowance

175. One submission raised the question of whether the Sydney Allowance can be used for staff accommodation. The Determination, Guidelines and Members' Handbook make it clear that it cannot. This allowance is provided for a different purpose.
176. Clause 5.3.1 (i) of the 2023 Determination provides that "The Sydney Allowance is provided to Members who reside in non-metropolitan electorates for the additional costs including commercial accommodation, meals, and incidental costs associated with staying in Sydney to attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business." This is also explained in clause 8.1 of the Handbook.
177. Page 3 of 2023-24 Sydney Allowance of the Guidelines explains that "The Sydney Allowance is provided to Members to compensate them for the additional costs associated with travelling to Sydney for parliamentary duties. These costs include commercial accommodation, meals and incidentals associated with attending sessions of Parliament, meetings of Parliamentary committees, or other Parliamentary business."
178. Given that staff travel can be met by use of the General Travel, Communications and Electoral Allowances, I am satisfied that use of the Sydney Allowance for staff travel is not required in order to facilitate the efficient performance of the parliamentary duties of Members and Recognised Office Holders.

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Regrouping of some electorates

179. Some Members again raised the regrouping of their electorates.
180. The Member for Murray sought its regrouping from Group 7 to Group 8. The submission suggested this change would support additional communication with constituents through additional funding by the General Travel and Communications Allowances. It would also result in a significant increase in the Electorate Allowance.
181. The Member for Wagga Wagga sought to have that electorate regrouped to Group 5, if the General Travel Allowance was not increased, reiterating the submissions made in 2021 and 2023.
182. In the 2023 Determination such regroupings were rejected: at [108]-[116]. At [116] it was explained that “proposed alterations in groupings would require an examination of the criteria by which electorates are grouped. If improvements in those criteria can be identified they will be considered by the Tribunal, but ad hoc alterations in groupings which do not pay necessary regard to them, cannot fairly be entertained”.
183. The submissions advanced did not address those criteria, explained in the 2022 Determination. At [16] reference was made to the criteria of “location (i.e. metropolitan or non-metropolitan), size, population density, the distance from Sydney, their regional status and remoteness.” The differences between the groupings were also explained.

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184. I have concluded that no basis for a change to the Group allocations of Murray or Wagga Wagga electoral districts has been established. While increased funding is no doubt always useful, I am not persuaded that the proposed alteration in groupings, in order to increase funding, including that provided by the Electoral Allowance is warranted, or that the funding provided is inadequate for these electorates. It has not been submitted, for example, that all the Electoral Allowance has been expended on the performance of parliamentary duties, rather than taken as personal income, in either electorate.

185. To the contrary, the idea that the Electoral Allowance should be expended on parliamentary duties, before funding is available under the *Electoral Funding Act*, was resisted.

Additional offices

186. The establishment of additional offices can undoubtedly help members in larger electorates with the efficient performance of their parliamentary duties, given the distances which have to be travelled. The members for Monaro, the Upper Hunter and Wagga Wagga again pursued the introduction of an additional office in their electorates, even though the Tribunal has previously concluded that such offices were not warranted, given their sizes and where existing offices were located: as explained at [204]-[219] of the 2023 Determination. The Presiding Officers did not support electorates having more offices.

187. In the case of the Upper Hunter, it emerged on this review that what was really now required, was not an additional office, but the relocation of the

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existing electoral office, in order that both constituents across the electorate have good access to the office and the Member is able to travel around the electorate efficiently. It must be accepted that this should not require the Member to utilise a significant portion of the Electoral Allowance to establish a second residence in this Group 5 electorate, which after the boundary changes has an area of 22,959 sq km: 2023 Determination at [31].

188. It seems that despite the lease of the now unsuitably located electoral office having expired and appropriate premises being available in a suitable location, given the boundary changes, the Member has been advised that the Parliament cannot allocate the necessary resources to relocate the office. This was explained by a project presently being pursued by the Parliament, to upgrade electoral offices, including in relation to safety obligations and considerable changes having earlier been made to the current premises, under this program.
189. The allocation of scarce resources is, of course, important, as is safety of Members, staff and constituents. But so is electoral offices being appropriately located in the electorates that they serve and being moved, when that is required, for the Members' efficient performance of his or her Parliamentary duties across the electorate served. Such relocations have occurred in the past and from time to time have been driven by boundary changes.
190. In the result I consider that the introduction of cl 7.1.2 of the Determination should be amended to provide that "Each Member of the Legislative Assembly shall receive a suitably located, fitted out, equipped and maintained Electorate Office to an appropriate standard". Such location

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requires ongoing input not only from the Member, but also the Parliament, which sensibly also has to take into account the priority which needs to be given to needed relocations which may be required in more than one office.

191. In this case I have concluded that the Parliament should reconsider the priority it has given to the relocation of the electoral office in the Upper Hunter, because the current one is no longer suitably located.

192. Further information of the kind provided in relation to the Upper Hunter was not provided in respect of Monaro whose member also continued to seek an additional electoral office. Information of the kind which has not been accepted in recent years as establishing a need for an additional electoral office in that electorate was instead again relied on.

193. Neither where this electoral office is located, distances which need to be travelled across the electorate, or the other matters advanced have altered the position discussed in earlier Determinations where what was again sought in the 2024 Determination was refused. I am still not persuaded that an additional electoral office is required in Monaro, for the efficient performance of its Member's parliamentary duties.

Satellite offices

194. The need for satellite offices was pursued by the members for Murray and Wagga Wagga. The member for Murray is continuing to operate such an office under the continuing trial and in Wagga Wagga a satellite office was proposed in Tumut, where the Member now operates a mobile office at various times.

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195. Tumut is not more than 1.5 hours travel from the existing office and does not fall within the criteria which will be introduced for such offices by this Determination.
196. The mobile office, as the Member explained, provides a presence in Tumut and community members with access to the Member, if they cannot travel to the not far distant electoral office. That is funded by the Member's Electoral Allowance.
197. The Member also sought advice about "a manner that will authorise the NSW Electoral Commission to allow members of Parliament to use the Administration Fund to fund satellite offices". That is not a part of the Tribunal's functions.
198. The establishment of satellite or mobile offices and their staffing must be considered in light of the statutory interest in facilitating the efficient performance of Members' parliamentary duties and not the delegation of any of those duties to staff members.
199. The Presiding Officers did not oppose the introduction of the allowance foreshadowed in the 2023 Determination, given what the ongoing trial at Murray has established. The position of the Opposition Whips was that allowances for dedicated satellite offices to be set up was not sought, but that additional funding to hire on demand workspaces or access to Government offices was worth considering.
200. In the 2023 Determination it was accepted that in the larger electorates real efficiencies may be achieved if a satellite office, located in a suitable, distant

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part of the electorate is able to operate for limited hours, with locally employed staff. But that there was a need for such an office to operate for more than two days per week had not been established. Nor had it been established that where the electorate already has more than two electoral offices, that additional staff are required to man a satellite office: at [227]-[228].

201. I am satisfied that this remains the position.

202. It was also concluded in 2023, at [231]-[235], that if satellite offices had the Presiding Officers continuing support, what was warranted was:

- If there are more than two electoral offices in an electorate, staffing a suitably located satellite office to operate two days per week from the Member's existing staffing allocation;
- Where there are only two electoral offices, funding a further staff member to be employed on two days per week at a suitably located electoral office;
- An allowance covering the cost of the rent of such a suitable, approved office and the cost of the usual fit out and equipment, unless that cost is born by the Parliament.

203. The submissions indicated that the Presiding Officers did not oppose the establishment of such satellite offices, or the working arrangements they had approved for the trial continuing after it ceased. They involved one member of staff working alone in such an office, which had to be co-located

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with other Government offices. Further, that the Parliament would continue to take steps to help Members locate premises suitable for such offices, as well as providing suitable fit out and equipment for them. Such costs would then not have to continue being met by Members from their Electoral Allowances.

204. I have thus concluded that the 2024 Determination should include a provision for the establishment and staffing of such offices. Its effective operation can be the subject of ongoing review and if difficulties are perceived, or improvements sought, they can be considered in later determinations.

205. The Determination will thus provide:

In electorates with two or more electoral offices, the Parliament will assist Members who wish to establish a satellite office to operate on up to two days per week, to identify suitably located premises, co-located with other Government offices, which it will fit out and equip. Such an office will be staffed by:

- a. existing staff in electorates with more than two electoral offices; and*
- b. an additional staff member to be employed for up to two days per week in electorates with two electoral offices.*

Mobile offices

206. In the 2023 Determination it was explained that mobile offices open in public places across an electorate are operated in some electorates, including

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smaller ones, funded by Members' Electoral Allowances: at [223]. Submissions advanced establish that this continues, including in Wagga Wagga.

207. The Member for Barwon, which has three electoral offices, now staffed by 12 staff members because he is now an Independent, operates such a mobile office. He sought additional staff assistance for that mobile office. I am entirely satisfied that this cannot be accepted. Despite the size of this electorate, 12 staff members, including some in Sydney, is more than sufficient to support the efficient performance of parliamentary duties in this electorate, including when staff members are required to work in the mobile office from time to time.
208. Nor has a case been established for more staff or additional funding of the mobile office in Tumut, given Wagga Wagga's size, the distance between its electorate office and Tumut and the successful funding of the mobile office out of this Member's Electoral Allowance.

Staff

209. Various submissions addressed staffing and problems associated with their travel arrangements and various conditions of their employment.
210. What was raised has to be understood in the context that few Members themselves employ staff. Those provided for by the Determination, are employed by the Parliament. Some staff expenses are met direct by the Parliament. Others, including the costs of staff travel in or to the electorate, or to Parliament House from the electorate, are paid with the funds provided

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to Members by the Travel, Communications and Electoral Allowances, as I have explained.

211. Greens Members sought the same staffing for Members of the cross bench in the Legislative Assembly as Independent Members receive under the Determination. This was supported by some of the Independent Members of Parliament.

212. The Opposition Whips:

- Proposed additional staffing for Members of the shadow cabinet to be allocated by the Leader of the Opposition's office, given that both members of the Legislative Council and Legislative Assembly are eligible to be appointed to the shadow cabinet and that policy demands change
- Pursued the transfer of a staff entitlement from the Deputy Leader of the Opposition in the Legislative Assembly to the Deputy Parliamentary Leader.

213. One submission raised the inadequacy of the current classification structure and sought greater flexibility in Members' use of their total staff budget, so that they could have more discretion about how they utilise their staff.

214. Another Member addressed the remuneration of electoral office staff which he considered does not adequately reflect their role or the responsibilities, skills and knowledge required for their positions. He also explained the use which staff are called on to make of their phones, in order to perform their

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work. A proposed salary sacrifice arrangement was also raised, to reflect work required and relieve increasing cost of living burdens.

215. Comparisons were also drawn:

- between the salary paid to an electorate officer, at its highest \$88,756 per annum, compared to advertised salaries for positions with similar responsibilities of around \$100,000. With the salary for a senior electorate officer being at its highest \$106,025.
- With the Victorian system, where experience and years of service is remunerated by a system of 3 grades, with six to eight steps in each grade.

216. Another Member raised the inadequate support provided to staff when their Members were not re-elected, with the result that they lost their employment. Another that Members did not have the opportunity to have a new staff member commence work before the departure of an existing staff member, so that new staff members could be trained, before they have to begin performing their functions. Problems with the provision of relief when staff attend training, was also again raised.

Staff salary and conditions

217. Staff salary and their conditions of employment are provided by the Parliament, in accordance with the provisions of the *Members of Parliament Staff Act 2013*, which is determined by the Presiding Officers. They can undoubtedly affect a Members' ability to both attract and retain suitable staff, it being the Member who selects the staff the Parliament employs to meet

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the requirements of the Determination. But as explained in past determinations, the powers given to the Tribunal do not include determining what work staff do, what they should be paid, or what their conditions of employment should be: 2023 Determination at [158]-[160]. That is for the Presiding Officers to determine.

218. Under s18 of the *Members of Parliament Staff Act 2013*, the role of the Tribunal is confined to determining the number of persons that a Member or a special office holder, other than the President or Deputy President of the Legislative Council or the Speaker or Deputy Speaker of the Legislative Assembly, are entitled to employ under ss14 and 15.
219. The powers to employ staff on behalf of the State may be exercised “in accordance with arrangements approved by the relevant Presiding Officer and the exercise of that power is subject to such conditions as are determined by the relevant Presiding Officer”: s16. Staff conditions are those from time to time determined by the relevant Presiding Officer: s19. The Tribunal is not empowered to make determinations in relation to such matters.
220. It follows that changes to both staff salary and conditions, including salary sacrifice and on termination, must be raised with the Presiding Officers to consider. If Members consider that these statutory mechanisms are not operating satisfactorily, amendment of the legislative scheme which regulates the employment and remuneration of staff must be pursued in the Parliament.

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221. As it has done in the past, however the Tribunal will refer the concerns raised to the Presiding Officers, accepting that there is obvious good sense in some of what was proposed, salary sacrifice arrangements and new staff commencing their employment some days before the existing staff member departs for example.

222. Other matters Members' raised should logically also be given consideration, given what they entail.

Secretarial services

223. The Presiding Officers raised the question of whether the current provision of the Determination which requires the provision of secretarial services to Members had been retained as the result of oversight: cl 7.1.1. That requires a consideration of the relevant history.

224. As explained in the 2001 Determination, Member's staff allocations were in 1991 provided by the Premier: at p12. Later determinations dealt variously with such assistance. In the 1999 Determination, Members receiving assistance from a pool of stenographers, it being provided at p110.

"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."

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225. That ceased and in the 2000 Annual Determination it was provided at page 125.

“EQUIPMENT, SERVICES AND FACILITIES

Members of the Legislative Assembly and the Legislative Council shall be provided by the Parliament with the equipment, services, and facilities necessary to perform their Parliamentary duties as follows:

(1) All members shall receive at the Parliament House, Sydney, a fitted out, equipped and maintained office, and secretarial services.

(2) Each Member of the Legislative Assembly shall receive a fitted out, and equipped, and maintained electorate office...”

226. Minimum staff required to provide administrative support in electoral offices was also then specified at page 125-126.

227. After the enactment of the 2013 *Members of Parliament Staff Act*, increased staff numbers were considered in various determinations, consistent with the Parliament no longer providing Members with secretarial services in Parliament House, or with administrative support in electoral offices. Despite this, the requirement for the provision of secretarial services continued and was not considered when later determinations were made.

228. This did not accord with the *Members of Parliament Staff Act*, which empowers the Tribunal to determine the number of staff that a Member of Parliament is entitled to. Members are empowered to employ such staff on behalf of the State, to assist the Member in exercising his or her functions as a Member of Parliament: s14. That power must be exercised in accordance with arrangements approved by the relevant Presiding Officer

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and its exercise is subject to such conditions as they determine: s16. Such staff members' conditions of employment are also determined by the relevant Presiding Officer, unless otherwise provided for in a written employment agreement: s19.

229. It is now the Clerks of the Parliaments and the Legislative Assembly, as well as the Executive Manager, Parliamentary Services in the Parliament's Department of Parliamentary Service, who must provide administrative and other support services to Members in relation to such staff: s21.

230. Despite this, as well as now specifying in cl 7.1.2 of the 2023 Determination the number of staff Members must be provided, it continues to provide in cl 7.1.1, that "All Members shall receive at Parliament House, Sydney...secretarial services".

231. This has resulted in one Member recently claiming that in addition to the staff which the Determination specifies he is entitled to and who must be engaged in accordance with the requirements of the *Members of Parliament Staff Act*, he must also be provided with additional "secretarial services" at Parliament House, such secretarial services not being provided by his staff members.

232. I do not agree. Given the history I have explained, it must be accepted it is the result of oversight that clause 7.1.1, still retained even in the 2023 Determination, has not been removed.

233. The 2023 Determination provides not only for the specified number of staff members to which Members are entitled but envisages that they may be

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employed to work at Parliament House and in electoral offices, as directed by the Members for whom they perform their work. They are, undoubtedly employed to perform work of various kinds, including work which in the past was described as “secretarial services”.

234. In fact, Members themselves, like many other professionals, nowadays perform some such work. For example, when they use the computers and mobile phones which the Parliament now provides them, in order to write emails and other documents, which they then send; or when they themselves receive and respond to emails; write, send and receive texts; and make and receive phone calls.

235. In the result, I have concluded that cl 7.1.1 of the Determination will be amended to remove reference to the provision of secretarial services at Parliament House.

Staffing for Independent and Cross Bench members

236. Some submissions pursued additional staffing for cross bench members.

237. The 2023 determination provides that the number of staff allocated to Members and specified special office holders is:

“(i) Each Member of the Legislative Assembly shall be entitled to three staff Members employed at each electorate office.

“(ii) Each Independent Member of the Legislative Assembly, and who is elected as an independent Member, shall be entitled to four staff Members employed in each electorate office.

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(iii) Each Member of the Legislative Council shall be entitled to one staff Member.

(iv) Each Member of the Legislative Council who is elected as a cross bench Member shall be entitled to two staff Members.”

238. Parliamentary seats may be occupied by Members of the Government, or the Opposition, who are generally Members of a major political party such as the Labor, Liberal or National party. Or by Members of minor parties such as the Greens or the Shooters party or by Independent Members, who are not members of any political party.

239. The Determination does not define the term “cross bench Member”. But the relevant history is that in past determinations the Tribunal has used that term to refer to those who are Members of minor parties. It appears from submissions received that this is not the meaning given to that term in common parlance.

240. In the result I have concluded that the term “cross bench Member” will be defined in the Determination to mean “Members who are not Members of a major political party or an Independent Member, but a Member of a minor political party”.

241. Staffing for Independent and cross bench Members has been repeatedly considered in the 2000, 2001, 2013, 2016, 2017, 2019, 2020, 2021 and 2023 Determinations.

242. On this occasion Members of the Greens, the Members for Ballina, Newtown and Balmain all sought that cross bench Members and

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Independents in the Legislative Assembly all be allocated 4 staff members. They submitted that this was warranted, given that such Members all did not have access to major party administrative support. The result being that their staff are thus required to shoulder a greater workload than that carried by those employed in the offices of Members of the major parties.

243. This submission was supported by the Independent Members of the Legislative Assembly, the Members for Sydney, Lake Macquarie, Murray and Wagga Wagga. The question of whether all of the Members of Parliament in the Legislative Assembly who are not Members of a major party should be entitled to the same staffing, must thus be considered.

244. In the 2013 Determination it was noted that until 2011 no Members of minor parties had been elected to the Legislative Assembly and that Independents in the Legislative Assembly then received one additional staff member employed as a research officer: at p14.

245. Arrangements in the Federal and all State Parliaments were then considered, with Senators and Members of the Federal Parliament receiving four staff each, while those in the Legislative Assemblies of NSW, Victoria, Queensland and Western Australia received two and those of the Northern Territory and Tasmania one. In this State Members also received an additional temporary staff entitlement.

246. Workload, including relative workloads of electorate office staff across Australia was also then considered by reference to elector numbers. It being found that there had been a 12 per cent increase in the number of electors in the State since 2006, which had had an impact on the workload of

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electorate office staff: at p16. There was then also a higher ratio of electors to staff in this State, than other States and Territories.

247. There had also been an increase in Parliamentary sitting days from 61 days in 2006 to 67 in 2013: at p17.

248. The Tribunal concluded in 2013 that additional support for Members of the Legislative Assembly was then warranted, increasing staff numbers to 3: at p18. With Independents continuing to receive the additional support of a staff member employed as a research officer, but that not being extended to cross bench Members: at p18-19.

249. In the 2020 Determination it was concluded that some Members needed additional support. The result was that electoral offices continued to be staffed with three staff members, other than in the case of elected Independent Members, whose electoral officers were then staffed with four staff members: at p20-21.

250. In the 2023 Determination, the Tribunal was not persuaded that an additional member of staff in a research officer role was warranted for Independent and cross bench Members: at [151]-[160].

251. The submission this year, that cross bench Members should receive the same staffing as Independents has to be considered in a context where some submissions pointed to situations where some Members elected while Members of minor parties, had resigned such membership after their election, with the result that they had then become Independents. The result

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was that when re-elected, they then became entitled to an additional staff member.

252. But in some cases, their electorates had more than one electoral office. The result was, in the case of Barwon for example, on re-election as an Independent, the Member then became entitled to 12, rather than 9 staff members. That was more staff than any Recognised Office Holder received under the Determination. This result was submitted to be anomalous and inconsistent with what the efficient performance of the parliamentary duties of both Members and Recognised Office Holders required.

253. It is pertinent that in the 2023 Determination I observed, in the context of the trial of satellite offices, which was still ongoing, that “any electorate requires more than nine staff members, for the efficient performance of the Members’ parliamentary duties, even if a satellite office is established, has not been demonstrated”: at [229].

254. An explanation was given about the work which these staff members were now called on to perform, with two staff members employed for the Member for Barwon being permanently located in Sydney and the other 10, working in its three electoral offices and/or travelling around the State with the Member, when the mobile office was being utilised.

255. It appears that this outcome may have been the result of oversight. It not being considered or discussed in the determinations, that if an Independent was elected to an electorate which has more than one electoral office, that the way in which the Determination was worded, would have the result that

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each office in that electorate would then be staffed by four staff members, rather than three.

256. This is an issue which may sensibly be considered in the general review of the operation of the Determination, s10(4)(d) of the Act permitting as it does a determination to “withdraw or alter an additional entitlement.” But it is not necessary to consider this further at this stage.

257. It appears that in other States and the Commonwealth, Independents and cross bench Members are entitled to the same staffing, although it is only in the Commonwealth that staffing entitlements are as great as they are in this State.

258. Nevertheless, I have concluded that a case has been made out for cross bench Members to receive an additional staff member, so that they too are entitled to the same staff support as Independents. This reflects the work the staff of such Members are called on to perform, by comparison to that which has to be undertaken by the staff of those Members who are Members of major political parties. They, like Independents, not receiving support of the kind such Members receive from their parties.

259. Clause 7.2 Staff of the Determination will thus be amended to add the following subclause:

Each Member of the Legislative Assembly, who is elected as a cross bench member, shall be entitled to one additional staff member.

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Transfer of staffing entitlement

260. In the 2023 Determination it was explained that the Tribunal was not persuaded to alter the Determination, to transfer an additional staff entitlement between the positions of Deputy Leader of the Opposition in the Legislative Assembly to the Deputy Parliamentary Leader. But it was noted that further information would be invited in this review: at [177].

261. What was invited was a submission addressing how this would facilitate the performance of the respective Members' duties, what had been accepted in the 2020 Determination as warranting the staffing allocation then determined and any relevant changes since then, which would warrant the altered staffing.

262. A submission was received, but it did not address these matters.

263. What was raised was changes in 2023 to the Rules of the NSW Parliamentary Liberal Party, which allow Members of both the Legislative Assembly and the Legislative Council, to contest the Deputy Parliamentary Leader position. The result was that the current Deputy Parliamentary Leader is a Member of the Legislative Council. The proposed change was sought to accurately reflect the role and responsibilities which this position now holds, as well as the "new arrangements of these office holders in the NSW Liberal Party Opposition for current and future iterations".

264. It was also noted that it would result in no additional expense.

265. Section 9 of the Act empowers the Tribunal to make determinations of additional entitlements that are to be available to Recognised Office

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Holders. They are identified in schedule 1 to the Act, which may be amended by regulation: s6(4).

266. One of the specified office holders specified in schedule 1 is the Deputy Leader of the Opposition in the Legislative Assembly. Another is the Deputy Leader of the Opposition in the Legislative Council (when not leader of a party). The Deputy Parliamentary Leader is not specified in the schedule to be a special office holder. That can be addressed by regulation, but it has not been.
267. Perhaps that reflects that the Act is concerned with the efficient performance of the parliamentary duties of Members or Recognised Office Holders and not the role and responsibilities of office holders in political parties.
268. What the submission did not raise is that the Member occupying the position of Deputy Leader of the Opposition also holds an office listed in the Schedule being *Deputy Leader in the Legislative Council (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 9 members of which are members of the Legislative Council and of which no member is a Minister*.
269. The schedule lists many office holders, but the Tribunal's determination only allocates staff to the Deputy Leader of the Opposition in the Legislative Assembly, Leader of the Opposition in the Legislative Council and Deputy Leader of the Opposition in the Legislative Council, in addition to the Whip of each recognised political party of not less than 10 Members.

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270. The submission noted the additional duties that the Deputy Parliamentary Leader is required to perform. These were said to include supporting the Leader of the Opposition in policy and media duties, representing the Opposition and the Leader in various ways and acting as Leader of the Opposition when the Leader is on leave. These duties appear to be attributable to the Member's role as Deputy Parliamentary Leader, which is not an office listed in the Schedule, rather than to the Member's Recognised Office Holder role in the Legislative Council. I have therefore concluded that it is not appropriate to confer an additional staffing entitlement on this office holder.

New entitlement – allowance for temporary chairs of committees and Temporary Speaker

271. What was proposed was the establishment of an additional allowance, then of \$5,085, for Temporary Chairs of Committees in the Legislative Council, similar to that provided to Members of the Public Accounts Committee, as well as for Temporary Speakers, at the rate provided by the Committee Allowance.

272. The Committee Allowance is specified to be:

"5.4.1 Purpose and Operation of the Provision

Committee Allowances are paid to Chairpersons of Joint, Select and Standing Committees in recognition of the additional responsibilities of the office. Because of the statutory nature of the Public Accounts

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Committee and their role in Government activities, the annual rate of allowance is payable to Members of these Committees.”

5.4.2 Entitlement

(i) Members of the Legislative Council and the Legislative Assembly serving as Chairpersons of Joint Committees, Select Committees and Standing Committees shall be paid the sum of \$220 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. This allowance is not payable to Chairpersons in receipt of a salary of office as specified in Schedule 1 of the Act.

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Parliamentary Remuneration Tribunal – Annual Determination

(ii) Members of the Public Accounts Committee, other than the Chairperson of the Committee or another Committee in receipt of a salary of office as specified in sch 1 of the Act, shall each receive a committee allowance of \$5,085 per annum”

273. The Presiding Officers sought the new allowance for Members of panels who they nominate to act as Temporary Chairs of Committees, and those who they nominate to perform the duties and exercise the authority of the Speaker or President, if the Speaker, the President, Deputy President or Assistant President are absent.

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274. The Presiding Officers explained that at the beginning of each Parliament at least three Members are nominated to a Panel, who can then be called on to act as Temporary Chairs of Committees. In the absence of the President, Deputy President and Assistant President, one of those Temporary Chairs takes the Chair and performs the duties of and has the authority of the President. In the absence of the Chair of Committees, one of them also takes his or her Chair and performs those duties.
275. This was considered to involve a significant additional responsibility, in addition to the Members' normal duties and responsibilities. With such work being performed by one of the Temporary Chairs for at least one hour each day.
276. In the Legislative Assembly, up to 5 Members are elected to be the Temporary Speaker, who, in the absence of the Speaker, Deputy and Assistant Speakers, sits in the Speaker's Chair and exercises his or her powers and duties.
277. In practice, under a rotation system, each of the Temporary Speakers performs this work up to half a sitting day at a time, after receiving required training. This work is considered to involve a significant additional workload, arising to be performed over most sitting days and for longer when the Parliament has to sit late, given that the Speaker's Chair cannot be left empty.
278. I have concluded that it should be accepted that the work for which the proposed allowance is intended to compensate does involve work additional to Members' ordinary parliamentary duties and should be compensated for

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by the proposed additional entitlement. Clause 5.4. the Determination will be amended to provide:

Committee and Temporary Speaker Allowance

5.4.1 Purpose and Operation of the Provision

Committee Allowances are paid to Chairpersons of Joint, Select and Standing Committees, those appointed by the Presiding Officers to the Temporary Chairs of Committees Panel, or the Panel of Temporary Speakers, in recognition of their additional responsibilities.

Because of the statutory nature of the Public Accounts Committee, and their roles in Government activities, the annual rate of allowance is payable to them. Because of the nature of their responsibilities and how it arises to be performed, it is also payable to those appointed to the Temporary Chairs of Committees Panel or the Panel of Temporary Speakers.

5.4.2 Entitlement

(i) Members of the Legislative Council and the Legislative Assembly serving as Chairpersons of Joint Committees, Select Committees and Standing Committees shall be paid the sum of \$220 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. This allowance is not payable to Chairpersons in receipt of a salary of office as specified in Schedule 1 of the Act.

(ii) Members of the Public Accounts Committee, Panel of Temporary Chairs of Committees and Temporary Speakers Panel, other than the

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Chairperson of the Committee or another Committee in receipt of a salary of office as specified in sch 1 of the Act, shall each receive a committee allowance of \$5,085 per annum.

Administration of entitlements

279. The Determination specifies that “Members must comply with the Parliament’s administrative guidelines where they are consistent with the Determination”: at cl 2.4.1. Members compliance is audited by both the Parliament and the Auditor General.

280. The Auditor General’s 2023 special report indicated that 33 departures by Members from the Determination had been identified, including:

- 22 Members did not submit their claims for payment within 60 days of receipt of invoice or incurring the expense (2022: 12 Members’ claims)
- 4 Members submitted their Sydney Allowance reconciliations after the due date (2022: six Members’ reconciliations)
- 2 Members had claimed for publications under the Communications Allowance but not made the required authorisations and attributions upon publication (2022: four Member’s publications)
- 1 Member made a claim for a Communication Allowance during the blackout period
- 4 Members did not submit their annual loyalty/incentive scheme declarations (2022: two Members)

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- 7 Members also submitted annual loyalty/incentive scheme declarations after the date specified in the Guidelines.

281. The Auditor General recommended that the Tribunal provide greater clarity to Members about current processes and the implications of departures from the Guidelines.

282. The Auditor General also drew attention to her 2016 report to Parliament, where she recommended that the Tribunal should consider requiring the Department to publish full details of Members' expenditure claims on its website in a secure and accessible form. The Tribunal did develop a proposal for this but considered that it did not have the power to facilitate it: 2019 Determination at p16. The Auditor General has continued to raise this in subsequent yearly annual reports.

283. But unless the Parliament acts to amend the legislative scheme to empower the Tribunal to deal with the reporting requirements the Auditor General has proposed, it has no power to do so.

284. What is within the Tribunal's power is to amend the Determination to highlight the consequences of Members not adhering to the requirements of the Determination. This will be pursued in the General Review.

Section 5

Section 5 – General Summary of the Determination

2024 Adjustments

Basic salary and additional entitlements	Adjustments and Amendments
Basic Salary	No Increase
Electoral Allowance:	
Base Allowance	3.6 per cent increase
Additional Allowance	3.6 per cent increase
Recognised Office Holder Allowance (except Independents)	3.6 per cent increase
Independents Allowance	3.6 per cent increase
Sydney Allowance	3.6 per cent increase
Communications Allowance:	
Base Allocation	3.6 per cent increase
Additional Allocation	Adjusted to reflect changes in constituent numbers.
Committee Allowances	No Increase
Panel of Temporary Chairs of Committee and Temporary Speakers Panel (except Chairperson of the Committee or another Committee)	\$5,085 per annum
General Travel Allowance:	
Base Allocation	3.6 per cent increase
Additional Allocation	3.6 per cent increase
Skills Development Allowance	3.6 per cent increase
Travel Allowances	As per Australian Tax Office Determination (TD 2023/3)

Section 5

Basic salary and additional entitlements	Adjustments and Amendments
Cross bench staff members for the Legislative Assembly	Each Member of the Legislative Assembly who is elected as a cross bench Member shall be entitled to one additional staff member.
Satellite Office	<p>In electorates with two or more electoral officers, the Parliament can assist Members who wish to establish a satellite office to operate on up to two days per week, in a suitably located premise, co-located with other Government officers. This office is to be staffed by:</p> <ul style="list-style-type: none">(i) Existing staff in electorates with more than two electoral offices; and(ii) An additional staff member to be employed up to two days per week in electorates with two electoral offices.

The Parliamentary Remuneration Tribunal



Hon A/Justice Schmidt AM
Parliamentary Remuneration Tribunal

The Hon Acting Justice M Schmidt
Dated: 24 May 2024

The Determination

The Determination

Pursuant to ss10(2) and 11(1) of the Act, the Tribunal makes the following Determination:

With effect on and from 1 July 2024 and pursuant to s10(6) of the Act, all previous Determinations of the Tribunal are revoked. This Determination shall constitute the annual Determination and shall operate on and from 1 July 2024

1. Definitions

“Member” or “Members” refers to a duly elected Member or Members of the Parliament of New South Wales (referred to hereinafter in this Determination as “the Parliament”).

“Cross bench members” means Members who are not members of a major political party or an Independent member, but a member of a minor political party.

In this Determination the expression “additional entitlements” is to be understood in the sense used in Pt 3 of the Act.

“Basic salary” has the meaning given by s4 of the Act.

“Parliamentary duties” has the meaning attributed to it by s3 of the Act.

“Electoral groups” are the groups of electorates specified in Table 1.

“Zones” are the areas for Members of the Legislative Council as specified in Table 2.

“Approved relatives” means:

The Determination

- One person who meets any of the following criteria:
 - wife or husband of the Member;
 - a person living with the Member in a domestic relationship as defined in the *Property (Relationships) Act 1984*; and/or
 - an immediate family member of the Member (parent, siblings or children who are not minors i.e. below 16 years of age) who is nominated as an approved relative.
- Members may nominate as approved relatives:
 - one or more dependent child under 16 years of age in the care of the Member who is legally responsible (alone or jointly with another person) for the child's day-to-day care, welfare and development, and/or
 - a dependent over the age of 16 years who has ongoing day to day care needs and who remains in the full-time care of the Member.

Under special circumstances a Member may apply through the Presiding Officers to the Tribunal for an exception to the criteria. This will need to be based on the ability of the Member to meet their parliamentary duties and individual circumstances that apply at the time.

2. Guidelines and General Conditions Regarding Additional Entitlements for Members in Connection with Parliamentary Duties

Every class of “additional entitlements” described in this Determination is provided pursuant to s10(1)(a) of the Act “for the purpose of facilitating the

The Determination

efficient performance of the parliamentary duties of Members.” The following guidelines shall apply to the receipt, use and operation of additional entitlements.

Circumstances upon which the additional entitlements may be used for parliamentary duties

2.1 Additional entitlements, including the Electoral Allowance, are provided to facilitate the efficient performance of the following particular parliamentary duties of Members as follows:

2.1.1 Activities undertaken in representing the interests of constituents but excluding activities of a direct electioneering or political campaigning nature.

2.1.2 Performing electorate work for a Member’s electorate and participation in official and community activities to which the Member is invited because of the Member’s status as a parliamentary representative.

2.1.3 Attending and participating in sessions of Parliament.

2.1.4 Participation in the activities of parliamentary committees.

2.1.5 Attending Vice-Regal, parliamentary and State ceremonial functions.

2.1.6 Attending State, Commonwealth and Local Government functions.

2.1.7 Attending official functions to which a Member is invited because of the Member’s status as a parliamentary representative, e.g., receptions and other community gatherings hosted by Members of the diplomatic corps, educational and religious institutions,

The Determination

community and service organisations, business associations, sporting bodies or other special interest groups.

2.1.8 Participation in the activities of recognised political parties, including participation in national, State and regional conferences, branch meetings, electorate council meetings, executive meetings, committee meetings, and meetings of the Members of the parliamentary political party, its executive and committees.

2.1.9 For a Member elected to the Parliament as an independent, participation in activities that are reasonable alternatives to participation in the activities of recognised political parties.

2.1.10 A Member who is elected to the Parliament as a representative of a recognised political party and who subsequently resigns from that party Membership and thereafter sits as an independent Member, howsoever described, shall continue to receive the same entitlements as they received as a Member of the party prior to resignation and not the additional entitlements provided to elected independents. The Member is also not entitled to the benefit of the rule in cl 2.1.9 above.

2.1.11 Participation within Australia in the activities of the Commonwealth Parliamentary Association (CPA) organised by the CPA provided such activities arise directly from Membership of the New South Wales Branch and officially endorsed by the Branch. Members may utilise Frequent Flyer Points which have been accrued as a result of the use of public funds to purchase international flights or obtain an upgrade in seat class in order to attend CPA activities.

The Determination

2.1.12 Participation in a parliamentary Group such as the Asia Pacific Friendship Group; provided that, such group is approved in writing by the President of the Legislative Council and the Speaker of the Legislative Assembly.

2.2 Where any additional entitlement fixed by this Determination is to be used for the purpose of facilitating Members' participation in the activities of recognised political parties, the Tribunal sets out the following guidelines as to the use of that additional entitlement:

2.2.1 Parties registered under the *Parliamentary Electorates and Elections Act 1912*, and included in the register of parties maintained by the Electoral Commissioner, are to be treated as recognised political parties.

2.2.2 Additional entitlements should not be used to fund:

- (i) activities such as those associated with party Membership drives;
- (ii) mail distributions for non-electorate or non-parliamentary activities;
- (iii) costs associated with election campaigning for an individual Member;
- (iv) party fundraising for a Member's own political use and/or other party political Members such as the purchase of raffle tickets, raffle prizes or tickets to attend functions etc;

The Determination

- (v) costs previously borne by political parties which are not principally related to a Member's parliamentary or electorate duties; and

- (vi) costs associated with pre-selection activities.

2.2.3 The electorate office provided for a Member of the Legislative Assembly is not to be used as an election campaign office.

2.3 The Tribunal sets out the following additional and general guidelines:

2.3.1 Some intermingling of a Member's parliamentary duties and non-parliamentary duties is in practical terms not always easily avoided. The onus is always on the Member to show that expenditure or any claims for reimbursement relate to parliamentary duties. Where there is intermingling of non-parliamentary activity, which is incidental to a Member's parliamentary duties, such incidental non-parliamentary use is permissible. If it is not practical to separate intermingled parliamentary and non-parliamentary use a Member must estimate the component of non-parliamentary use and, using the Member's best efforts, meet these costs independently.

2.3.2 In the case of parliamentary work, any activities in which a Member's involvement may reasonably be regarded as deriving from the Member's responsibilities as a parliamentary representative should be treated as parliamentary duties.

2.3.3 In the case of a Member's activities within the broader community outside the Member's electorate, activities that may reasonably be regarded as deriving from the Member's status as a parliamentary representative should be treated as parliamentary duties.

The Determination

2.4 Conditions

The following general conditions will apply to all additional entitlements determined hereunder. These conditions are in addition to any special conditions attaching to the provision of allowances or other benefits (as specified later in this Determination):

- 2.4.1 The use of Members' additional entitlements will be subject to Parliament's administrative guidelines. The administrative guidelines should assist Members in carrying out their functions and duties. Members must comply with the Parliament's administrative guidelines where they are consistent with the Determination and guidelines and conditions contained herein.
- 2.4.2 All procurement by Members will be in accordance with the Parliament's purchasing policies.
- 2.4.3 Members must ensure that they have sufficient funds to meet the costs associated with their parliamentary duties.
- 2.4.4 All entitlements, except for the Electoral Allowance, shall be established and maintained by the Chief Executive, Department of Parliamentary Services (the Chief Executive). Members should be advised by the Department of Parliamentary Services each month as to the balance of these allocations.
- 2.4.5 Nothing shall prevent the use of the Electoral Allowance for legitimate electorate expenses which might also fall within the categories of expenses such as those covered by the Communications Allowance, General Travel Allowance and Skills Development Allowance.

The Determination

- 2.4.6 All accounts and Members' claims must be submitted to the Legislature for payment within 60 days of receipt or occurrence of the expense.
- 2.4.7 Members' additional entitlements in the nature of fixed allocations and the Sydney Allowance provided to Members shall be audited annually for compliance through the Parliament's internal audit function. In addition to any internal audit conducted by the Parliament, Members' additional entitlements in the nature of fixed allocations and the Sydney allowance shall be the subject of an external assurance engagement conducted by the Auditor-General of NSW. The cost of any assurance engagements shall be met by the Parliament. Members should ensure they maintain appropriate records of expenditure for the purpose of any audit or assurance engagements. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.
- 2.4.8 Expenditure is only to be incurred in connection with the parliamentary duties of Members (and in this respect the Member should refer to the guidelines in this Determination and those issued by the Parliament).
- 2.4.9 The various allowances determined here, are for the sole use of the Member and are not to be transferred to other persons or organisations including Members. The Member may use his/her entitlements to meet official costs of the approved relatives and/or staff employed by the Parliament when that expenditure is in connection with official parliamentary duties.

The Determination

2.4.10 Benefits accrued by a Member by way of loyalty/incentive schemes such as frequent flyers, as a consequence of the Member using his or her additional entitlements, are to be used only for parliamentary duties and not for private purposes. Any outstanding benefits of this nature, when the Member ceases to be a Member, are to be forfeited. Members shall be required to complete an annual declaration form provided by the Parliament's administration at the end of each financial year or within 30 days of ceasing to be a Member declaring that they have not used loyalty/reward benefits accrued through the use of their additional entitlements for non-parliamentary or electorate purposes.

2.4.11 Payment of accounts relating to the use of a Member's additional entitlements in the nature of fixed allocations will be paid directly by the Parliament and debited to the Member's account or paid in the first instance by the Member who would then seek reimbursement from the Parliament.

2.5 List of Tables Relating to Additional Entitlements

Table 1	Electoral Groupings for the Legislative Assembly – 1 July 2024 to 30 June 2025
Table 2	Zones for Legislative Council – 1 July 2024 to 30 June 2025
Table 3	Electoral Allowance Legislative Assembly and Legislative Council – 1 July 2024 to 30 June 2025
Table 4	Sydney Allowance Daily Rates – 1 July 2024 to 30 June 2025
Table 5	Electorate/Zone to Sydney Travel Entitlements – Additional Entitlements for Recognised Office Holders – 1 July 2024 to 30 June 2025
Table 6	Communications Allowance – Base Allocation – 1 July 2024 to 30 June 2025
Table 7	Communications Allowance – Additional Allocation – 1 July 2024 to 30 June 2025

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Table 8	General Travel Allowance – 1 July 2024 to 30 June 2025
Table 9	Travel Allowances Indicative Upper Limits for Members – 1 July 2024 to 30 June 2025
Table 10	Recognised Office Holder and Other Member Additional Entitlements – 1 July 2024 to 30 June 2025
Table 11	Skills Development Allowance – 1 July 2024 to 30 June 2025

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3. Basic Salary

With effect from 1 July 2024 the basic salary of Members, pursuant to s 4 of the Act, shall be \$172,576 per annum.

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4. Electoral Groupings and Zones for Fixing Additional Entitlements

The electoral groupings for the Legislative Assembly and Zones for the Legislative Council to be used for the purposes of determining the quantum of additional entitlements shall be as follows:

Table 1: Electoral Groupings for the Legislative Assembly			
Group 1			
Auburn	Drummoyne	Londonderry	Riverstone
Badgerys Creek	East Hills	Macquarie Fields	Rockdale
Balmain	Epping	Manly	Ryde
Bankstown	Fairfield	Maroubra	Strathfield
Blacktown	Granville	Miranda	Summer Hill
Cabramatta	Heffron	Mount Druitt	Sydney
Camden	Holsworthy	Newtown	Vaucluse
Campbelltown	Hornsby	North Shore	Wahroonga
Canterbury	Kellyville	Oatley	Wakehurst
Castle Hill	Kogarah	Parramatta	Willoughby
Coogee	Lane Cove	Penrith	Winston Hills
Cronulla	Leppington	Pittwater	
Davidson	Liverpool	Prospect	
Group 2			
Blue Mountains	Heathcote	Shellharbour	Wallsend
Charlestown	Keira	Swansea	Wollondilly
Gosford	Lake Macquarie	Terrigal	Wollongong
Hawkesbury	Newcastle	The Entrance	Wyong
Group 3			
Ballina	Kiama	Port Macquarie	South Coast
Cessnock	Maitland	Port Stephens	Tweed
Coffs Harbour	Myall Lakes		
Group 4			
Albury	Clarence	Lismore	Tamworth
Bathurst	Dubbo	Orange	Wagga Wagga
Bega	Goulburn	Oxley	
Group 5	Cootamundra	Monaro	Upper Hunter
Group 6	Northern Tablelands		
Group 7	Murray	Group 8	Barwon

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Table 2: Electoral Zones for Legislative Council

Zone 1			
Auburn	Drummoyne	Londonderry	Riverstone
Badgerys Creek	East Hills	Macquarie Fields	Rockdale
Balmain	Epping	Manly	Ryde
Bankstown	Fairfield	Maroubra	Strathfield
Blacktown	Granville	Miranda	Summer Hill
Cabramatta	Heffron	Mount Druitt	Sydney
Camden	Holsworthy	Newtown	Vaucluse
Campbelltown	Hornsby	North Shore	Wahroonga
Canterbury	Kellyville	Oatley	Wakehurst
Castle Hill	Kogarah	Parramatta	Willoughby
Coogee	Lane Cove	Penrith	Winston Hills
Cronulla	Leppington	Pittwater	
Davidson	Liverpool	Prospect	
Zone 2			
Blue Mountains	Heathcote	Shellharbour	Wallsend
Charlestown	Keira	Swansea	Wollondilly
Gosford	Lake Macquarie	Terrigal	Wollongong
Hawkesbury	Newcastle	The Entrance	Wyong
Zone 3			
Albury	Cootamundra	Myall Lakes	Port Stephens
Ballina	Dubbo	Northern Tablelands	South Coast
Barwon	Goulburn	Orange	Tamworth
Bathurst	Lismore	Oxley	Tweed
Bega	Kiama	Port Macquarie	Upper Hunter
Cessnock	Maitland		Wagga Wagga
Clarence	Monaro		
Coffs Harbour	Murray		

5. Additional Entitlements in the Nature of Allowances

5.1 Summary

The entitlements in this category comprise the following:

Electoral Allowance

- Base Allowance
- Additional Allowance

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Electoral Allowance

- **Recognised Office Holder Allowance (except Independents)**
- **Independents Allowance**

Sydney Allowance

Committee Allowances

5.2 Electoral Allowance

5.2.1 Basis

- (i) The allowance is based upon those factors which have historically been taken into account in assessing the quantum of the allowance (including the additional costs associated with the performance by Members of their parliamentary duties in their electorates) and such other factors as may be determined from time to time as appropriate to be taken into account by the Tribunal under the Act.
- (ii) The establishment of the additional allowance took into account the costs previously met from the abolished LSA – Communications (electronic) and LSA - Printing and Stationery, Office Supplies and Services.
- (iii) The allowance is intended to be used by Members to pay for expenses incurred in the performance of their duties. The types of expenses which it is envisaged may be met from the Electoral Allowance include:
 - a) leasing or purchasing a motor vehicle and additional vehicle equipment expenses;

The Determination

- b) telephone, internet, office and equipment expenses which are not met by the Parliament;
- c) Member and staff travel expenses not compensated for by the Parliament and or the Sydney, Travel and Communications Allowances;
- d) expenses incurred in communicating with constituents not compensated for by the Communications and Travel Allowances; and
- e) staff expenses incurred in addition to those borne by the Parliament.

5.2.2 Entitlement

- (i) Each Member of the Legislative Assembly and the Legislative Council shall receive an electoral allowance. The quantum of that allowance shall be fixed in accordance with the electoral grouping or zone for the electorate of the Member as follows:

Table 3: Electoral Allowance - Legislative Assembly and Legislative Council - 1 July 2024 to 30 June 2025 (inclusive)			
Electoral Group/Zone	Base Allowance	Additional Allowance	Total
Legislative Assembly			
Group 1	\$59,890	\$18,075	\$77,965
Group 2	\$70,140	\$19,985	\$90,125
Group 3	\$82,670	\$19,985	\$102,655
Group 4	\$90,250	\$19,985	\$110,235
Group 5	\$95,985	\$19,985	\$115,970
Group 6	\$105,220	\$19,985	\$125,205
Group 7	\$123,065	\$19,985	\$143,050
Group 8	\$168,295	\$34,845	\$203,140
Legislative Council			
Zone 1	\$70,140	\$19,035	\$89,175

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Table 3: Electoral Allowance - Legislative Assembly and Legislative Council - 1 July 2024 to 30 June 2025 (inclusive)			
Zone 2	\$70,140	\$19,985	\$90,125
Zone 3	\$70,140	\$24,795	\$94,935

- (ii) A further allowance of \$4,660 per annum is payable to each Recognised Office Holder (except an Independent) in the Legislative Assembly and Legislative Council.
- (iii) A further allowance of \$2,325 per annum is payable to each Independent in the Legislative Assembly and Legislative Council
- (iv) The electoral allowances shall be payable per calendar month in arrears in conjunction with salary payments.

5.3 Sydney Allowance

5.3.1 Purpose and Operation of the Provisions

- (i) The Sydney Allowance is provided to Members who reside in non-metropolitan electorates to compensate for the additional costs including commercial accommodation, meals and incidental costs associated with staying in Sydney to attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business.
- (ii) Members whose principal place of residence is a minimum distance of 70 kms by road from Parliament House are eligible to receive the Sydney Allowance.
- (iii) Members may receive the lower or greater amount of overnight stays based on the following distance criteria:

The Determination

- Members whose principal place of residence is between 70 kms and 140 kms by road from Parliament House are eligible to receive the Sydney Allowance at the lower amount of overnight stays.
 - Members whose principal place of residence is a distance greater than 140 kms by road from Parliament House are eligible to receive the Sydney Allowance at the greater amount of overnight stays.
- (iv) The Tribunal considers the Member's principal place of residence to be that residence where the Member would normally return and reside when not attending Sydney on parliamentary duties.
- (v) To establish the principal place of residence each Member will be required to complete the Parliament's checklist and certify that the residence nominated is the principal place of residence.

5.3.2 Entitlement

- (i) The daily rate (including the number of overnight stays) for the Sydney Allowance for eligible Members shall be in accordance with *Table 4: Sydney Allowance Daily Rates - 1 July 2024 to 30 June 2025 (inclusive)* below. Where a Member elects for a daily rate, he/she shall be entitled to the daily rate for the number of overnight stays per annum specified in that Table, except as provided in the conditions.

The Determination

Table 4: Sydney Allowance Daily Rates – 1 July 2024 to 30 June 2025 (inclusive)

Office	Principal place of residence	Overnight stays p.a.	Overnight in Sydney where accommodation costs are incurred	In transit to and from Sydney where no overnight stay is involved
Minister, Speaker, President, Leader and Deputy Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly with not less than 10 Members.	A minimum of 70 kms by road from Parliament House	180	\$368.00	Actual reasonable expenses for meals and incidentals up to a maximum of \$186.40 per day
Deputy Speaker, Legislative Assembly, Deputy President and Chair of Committees (Legislative Council), Whip and Deputy Whip (Assembly and Council), Parliamentary Secretary, Assistant Speaker Legislative Assembly, Assistant President Legislative Council, Deputy Leader of Third	A minimum of 70 kms by road from Parliament House	140	\$368.00	As above

The Determination

Party in Assembly with not less than 10 Members.				
Chairs of Standing/Select Committees	A minimum of 70 kms by road from Parliament House	140	\$368.00	As above
Legislative Council Members	Greater than 140 kms by road from Parliament House	135	\$368.00	As above
	Between 70 kms and 140 kms by road from Parliament House	105	\$368.00	As above
Legislative Assembly Members	Greater than 140 kms by road from Parliament House	135	\$368.00	As above
	Between 70 kms and 140 kms by road from Parliament House	105	\$368.00	As above

The Determination

5.3.3 Conditions

The following conditions apply to the Sydney Allowance:

- (i) A Member can choose to receive the Sydney Allowance as either an annual fixed allowance or a daily rate. The election is to be made at the commencement of each financial year.
- (ii) If a Member chooses to receive the annual fixed allowance the Department of Parliamentary Services of the Legislature will calculate the annual entitlement by multiplying the number of overnight stays for the particular Member or Recognised Office Holder by the daily rate.
- (iii) In order to receive the Sydney Allowance each Member must certify to the Chief Executive, Department of Parliamentary Services their principal place of residence.
- (iv) Where a Member chooses to receive the daily rate of allowance the Member shall receive the overnight daily rate as specified in *Table 4: Sydney Allowance Daily Rates*. The Member is entitled to the number of overnight stays per annum specified in *Table 4: Sydney Allowance Daily Rates* without the need to substantiate to the Parliament expenses up to the daily rate.
- (v) Where a Member chooses to receive the daily rate of allowance and the Member exceeds the number of overnight stays Members will be reimbursed actual costs, up to the daily maximum upon the production of tax invoices/receipts for each such occasion.
- (vi) Members in receipt of the Sydney Allowance when travelling to Sydney for parliamentary business or home from Sydney following an overnight stay

The Determination

and where there is no overnight stay required en-route, will be entitled up to the maximum provided in the “In transit...” column of *Table 4: Sydney Allowance Daily Rates* for:

- (a) incidentals which will be paid in accordance with the non-executive arrangements applying to Crown employees under the Public Service Conditions of Employment, Reviewed Award 2009, or its successors without substantiation; and
 - (b) the actual cost of meals, which must be substantiated
- (vii) Members may not claim this entitlement in their hometown closest to their principal place of residence, at their nominated home airport or within a 70 km radius of Parliament House for which Sydney Allowance payments are provided.
- (viii) When in receipt of the annual allowance Members are required to certify halfway and at the end of the financial year the number of occasions they stayed in Sydney and that on each occasion the stay was for parliamentary business. Members who nominate to receive the annual allowance may also claim for additional overnight stays in excess of those specified in *Table 4: Sydney Allowance Daily Rates*, which will be paid, up to the daily maximum, upon substantiation.
- (ix) Members are required to maintain records or other relevant proof that clearly document the parliamentary purpose and the occasions they stayed in Sydney in connection with their parliamentary duties. Subject to the proviso below, Members attending Parliament House on parliamentary business when Parliament is not sitting are required to sign in and out of the parliamentary register as proof of being in Sydney. On those occasions

The Determination

where Members are in Sydney on parliamentary business but are not required to attend Parliament House e.g., attending a function, then the Member must provide sufficient proof to the Chief Executive to substantiate each such occasion. Provided, however, it will be sufficient for Members to provide entries from their diaries, or other forms of documentary proof, acceptable to the Chief Executive to certify as proof of their attendance in Sydney. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

- (x) Members in receipt of the annual amount will be required to provide a reconciliation of their annual payments twice per year. The first reconciliation will be required by 31 January of each year for payments made in the previous period of 1 July to 31 December. A further reconciliation will be required by 31 July of each year for payments made in the subsequent six months. The first reconciliation is only to be used for the purpose of validating the number of nights claimed during the period. Any financial adjustments will be calculated in consideration of the total number of nights validated over the whole financial year. Where applicable, Members will return to Parliament any part of the annual amount that they have not substantiated by 30 September each year or within 30 days of ceasing to be a Member.
- (xi) Members who do not reimburse outstanding amounts by 30 September each year are to have their annual entitlement suspended and are to revert to the daily rate of Sydney Allowance until the reimbursement is made.
- (xii) Members are not to claim the Sydney Allowance if they stay in Government owned or funded accommodation including Parliament House.

The Determination

- (xiii) In determining eligibility Members will need to nominate their principal place of residence immediately following their election to Parliament. Members are not to relocate during the parliamentary term for the purposes of meeting the eligibility criteria.

5.4 Committee Allowances

5.4.1 Purpose and Operation of the Provision

Committee Allowances are paid to Chairpersons of Joint, Select and Standing Committees, those appointed by the Presiding Officers to the Temporary Chairs of Committees Panel, or the Panel of Temporary Speakers in recognition of their additional responsibilities.

Because of the statutory nature of the Public Accounts Committee and their roles in Government activities, the annual rate of allowance is payable to them. Because of the nature of their responsibilities and how it arises to be performed, it is also payable to those appointed to the Temporary Chairs of Committees Panel or the Panel of Temporary Speakers.

5.4.2 Entitlement

- (i) Members of the Legislative Council and the Legislative Assembly serving as Chairpersons of Joint Committees, Select Committees and Standing Committees shall be paid the sum of \$220 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. This allowance is not payable to Chairpersons in receipt of a salary of office as specified in Schedule 1 of the Act.

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- (ii) Members of the Public Accounts Committee, Panel of Temporary Chairs of Committees and Temporary Speakers Panel, other than the Chairperson of the Committee or another Committee in receipt of a salary of office as specified in sch 1 of the Act, shall each receive a committee allowance of \$5,085 per annum.

6. Additional Entitlements in the Nature of Fixed Allocations

6.1 Summary

The entitlements in this category comprise the following:

Electorate/Zone to Sydney Travel	
Communications Allowance	– Base Allocation
	– Additional Allocation
General Travel Allowance	– Base Allocation
	– Additional Allocation
Travelling Allowances for Recognised Office Holders	
Skills Development Allowance	

6.2 Electorate/Zone to Sydney Travel

6.2.1 Purpose and Operation of the Provisions

The Determination

- (i) Members who are eligible to receive the Sydney Allowance qualify for return air travel warrants between their electorate or principal place of residence and Sydney.
- (ii) These entitlements are provided for the performance of parliamentary duties.
- (iii) All eligible Members shall receive 104 single economy class journeys per annum between electorate/zone and Sydney.
- (iv) Where eligible, each of the below mentioned recognised office holders shall be entitled to the following additional electorate/zone to Sydney travel entitlements per annum:

Table 5: Electorate/Zone to Sydney Travel Entitlements – Additional Entitlements for Recognised Office Holders – 1 July 2024 to 30 June 2025 (inclusive)	
Office holder	Electorate to Sydney travel entitlement
Minister of the Crown	32 single journey entitlements
Speaker of the Legislative Assembly	32 single journey entitlements
President of the Legislative Council	32 single journey entitlements
Leader of the Opposition Assembly and Council	32 single journey entitlements
Leader of Party (not less than 10 Members in the Legislative Assembly)	32 single journey entitlements
Deputy President and Chair of Committees, Legislative Council	32 single journey entitlements.
Assistant Speaker, Legislative Assembly	32 single journey entitlements.
Assistant President, Legislative Council	32 single journey entitlements.
Deputy Speaker	32 single journey entitlements
Deputy Leader of the Opposition Assembly and Council	16 single journey entitlements
Deputy Leader of Party (not less than 10 Members in the Legislative Assembly)	16 single journey entitlements

The Determination

6.2.2 Conditions

- (i) All travel between the Member's electorate or principal place of residence and Sydney and return is restricted to economy class.
- (ii) Entitlements may be used to meet the cost of using a private motor vehicle or rental vehicle in lieu of electorate or principal place of residence to Sydney air travel. The amount to be reimbursed for this purpose is not to exceed the commercial airfare for an equivalent distance flight.
- (iii) A minimum of one entitlement is required to be surrendered for each single journey; a return trip will require the surrender of at least two warrants.
- (iv) Entitlements are not transferable between Members, or approved relatives, or Members' staff.
- (v) Members may use the electorate to Sydney entitlements to defray part of the cost of intrastate and interstate parliamentary travel when such travel is via Sydney.
- (vi) Members may charter a plane in lieu of travelling on commercial flights if travel is for electorate and/or parliamentary business and that sufficient entitlements based on the equivalent commercial cost of each person travelling are surrendered. The cost of Members' approved relatives travelling on the charter is to be met from the Member's General Travel Allowance. It is a condition of all air transport charters that the Member responsible for organising the charter obtains a passenger manifest from the charter operator and attaches it to the invoice when it is sent for payment.

The Determination

- (vi) A Member's air transport booking for parliamentary duties and that of their spouse/approved relatives and staff are to be made by the Member with an appropriate transport provider.
- (vii) Members will need to maintain records or other relevant evidence that clearly document parliamentary purpose and the occasions they travelled to Sydney in connection with their parliamentary duties. A copy of this documentation including airline boarding passes if travelling by commercial air is to be retained for subsequent review by internal and/or external auditors if required. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

6.3 Communications Allowance

6.3.1 Purpose

The Communications Allowance is an annual budget provided to Members to meet the costs associated with communicating with their constituents including:

- production and distribution of newsletters and brochures;
- printing of letterhead and flyers;
- audio posters and other e-publications;
- developing, hosting and maintaining a website and/or other social media;
- email distribution services;
- advertisements;
- other forms of communications approved by Parliament, and
- Engaging a consultant to devise, implement or manage a Members' electronic communications system and/or to use it to communicate on behalf of the member.

The Determination

6.3.2 Entitlement

- (i) The Communications Allowance comprises a base annual allocation and an additional allocation for Members of the Legislative Assembly based on the number of enrolled voters.
- (ii) The base annual allocation for each electoral group or zone shall be as follows:

Table 6: Communications Allowance – Base Allocation – 1 July 2024 to 30 June 2025 (inclusive)	
Member	Base Allocation
Legislative Assembly	\$21,600
Legislative Council	\$5,505

- (iii) The additional annual allocation for each Member of the Legislative Assembly shall be as follows:

Table 7: Communications Allowance – Additional Allocation		
Electoral District	Number of Electors ¹	Annual entitlement
1. Albury	61,102	\$94,097
2. Auburn	59,813	\$92,112
3. Badgerys Creek	62,058	\$95,569
4. Ballina	60,305	\$92,870
5. Balmain	59,058	\$90,949
6. Bankstown	60,421	\$93,048
7. Barwon	55,132	\$84,903
8. Bathurst	59,858	\$92,181
9. Bega	60,530	\$93,216
10. Blacktown	59,227	\$91,210
11. Blue Mountains	59,666	\$91,886
12. Cabramatta	62,549	\$96,325
13. Camden	63,433	\$97,687

¹ Number of Electors as at 22 January 2024 on the NSW Electoral Commission website

The Determination

Table 7: Communications Allowance – Additional Allocation

Electoral District	Number of Electors ¹	Annual entitlement
14. Campbelltown	58,995	\$90,852
15. Canterbury	58,814	\$90,574
16. Castle Hill	60,809	\$93,646
17. Cessnock	63,795	\$98,244
18. Charlestown	61,355	\$94,487
19. Clarence	58,789	\$90,535
20. Coffs Harbour	58,682	\$90,370
21. Coogee	59,773	\$92,050
22. Cootamundra	56,322	\$86,736
23. Cronulla	59,769	\$92,044
24. Davidson	60,233	\$92,759
25. Drummoyne	59,337	\$91,379
26. Dubbo	59,008	\$90,872
27. East Hills	60,869	\$93,738
28. Epping	59,373	\$91,434
29. Fairfield	61,839	\$95,232
30. Gosford	58,446	\$90,007
31. Goulburn	58,772	\$90,509
32. Granville	63,542	\$97,855
33. Hawkesbury	63,670	\$98,052
34. Heathcote	58,842	\$90,617
35. Heffron	54,788	\$84,374
36. Holsworthy	58,927	\$90,748
37. Hornsby	61,055	\$94,025
38. Keira	58,304	\$89,788
39. Kellyville	60,933	\$93,837
40. Kiama	61,007	\$93,951
41. Kogarah	59,965	\$92,346
42. Lake Macquarie	59,750	\$92,015
43. Lane Cove	59,464	\$91,575
44. Leppington	63,752	\$98,178
45. Lismore	57,859	\$89,103
46. Liverpool	61,364	\$94,501
47. Londonderry	64,588	\$99,466
48. Macquarie Fields	60,776	\$93,595

The Determination

Table 7: Communications Allowance – Additional Allocation

Electoral District	Number of Electors ¹	Annual entitlement
49. Maitland	61,515	\$94,733
50. Manly	62,328	\$95,985
51. Maroubra	60,142	\$92,619
52. Miranda	60,589	\$93,307
53. Monaro	60,372	\$92,973
54. Mount Druitt	63,087	\$97,154
55. Murray	59,713	\$91,958
56. Myall Lakes	61,756	\$95,104
57. Newcastle	59,809	\$92,106
58. Newtown	59,730	\$91,984
59. North Shore	57,254	\$88,171
60. Northern Tablelands	58,740	\$90,460
61. Oatley	57,985	\$89,297
62. Orange	58,328	\$89,825
63. Oxley	63,857	\$98,340
64. Parramatta	59,574	\$91,744
65. Penrith	60,525	\$93,209
66. Pittwater	56,912	\$87,644
67. Port Macquarie	61,942	\$95,391
68. Port Stephens	60,814	\$93,654
69. Prospect	59,809	\$92,106
70. Riverstone	65,926	\$101,526
71. Rockdale	57,361	\$88,336
72. Ryde	62,038	\$95,539
73. Shellharbour	61,460	\$94,648
74. South Coast	61,025	\$93,979
75. Strathfield	58,921	\$90,738
76. Summer Hill	58,242	\$89,693
77. Swansea	61,330	\$94,448
78. Sydney	62,040	\$95,542
79. Tamworth	61,723	\$95,053
80. Terrigal	58,471	\$90,045
81. The Entrance	59,520	\$91,661
82. Tweed	59,222	\$91,202
83. Upper Hunter	63,105	\$97,182

The Determination

Table 7: Communications Allowance – Additional Allocation		
Electoral District	Number of Electors ¹	Annual entitlement
84. Vacluse	59,639	\$91,844
85. Wagga Wagga	57,654	\$88,787
86. Wahrenonga	59,863	\$92,189
87. Wakehurst	58,966	\$90,808
88. Wallsend	60,453	\$93,098
89. Willoughby	60,775	\$93,594
90. Winston Hills	62,480	\$96,219
91. Wollondilly	61,194	\$94,239
92. Wollongong	59,040	\$90,922
93. Wyong	57,858	\$89,101

- (iv) Recognised Office Holders receive an additional loading on the Communications Allowance Base Allocation in accordance with *Table 10 Recognised Office Holder and Other Member Additional Entitlements -1* July 2024 to 30 June 2025 (inclusive).

6.3.3 Carry over/forfeiture of entitlement

**End of each financial year
(within 4-year parliamentary
term):**

Base Allocation: Unexpended amounts not exceeding the maximum of the annual allocation can be carried forward.

**End of parliamentary
term/earlier dissolution of
LA:**

Base Allocation and Additional Allocations: Remaining balances are forfeited

6.3.4 Special Conditions

- (i) Upon the gazettal of new electoral districts following an electoral redistribution (undertaken pursuant to s27(1)(c) of the *Constitution Act 1902*), Members of the Legislative Assembly may use their Communications

The Determination

Allowance to communicate with prospective constituents from neighbouring electorates who at the time of the next election following the gazettal of the new electoral districts will become constituents of the Member's electorate.

- (ii) When an electoral redistribution results in the abolition or renaming of an electorate, that Member may communicate with prospective constituents in a new or renamed electorate, subject to the new or renamed electorate comprising the majority of the constituents who would have resided in the Member's former electorate prior to the gazettal of the new electoral districts.

6.3.5 Conditions

- (i) Members will receive a monthly report containing expenditure and balance of their account.
- (ii) All procurement of services will be in accordance with the Parliament's purchasing policies.
- (iii) No supplementation to the allocation will be considered. Where funds are exhausted, any additional costs may be met from unexpended funds from the Member's General Travel Allowance or from the Member's Electoral Allowance. The conditions that apply to the use of the Communications Allowance apply when using funds from the General Travel Allowance for the purpose of producing or sending communications. A Member may not use the General Travel Allowance to fund the kind of communications that would normally be funded from the Communications Allowance, during the blackout period, from 26 January in an election year until the election day.

The Determination

- (iv) Members may use the Communications Allowance for the purpose of communicating with constituents using a range of communication services in accordance with Parliament's administrative guidelines.
- (v) Members are encouraged to submit material they are proposing to print or produce using the Communications Allowance to the Department of Parliamentary Services for a pre-production assessment.
- (vi) Communication with prospective constituents is permitted following the gazettal of electoral districts. Each Member is to receive the details of the prospective constituents from the NSW Electoral Commission. For Members whose electorates are substantially unchanged by the electoral redistribution, communication will be limited only to those electors who will transfer from adjoining electorates. For Members whose electorates are abolished or renamed, those Members may communicate with prospective constituents in a new or renamed electorate, where that electorate comprises the majority of the constituents who would have resided in the Member's former electorate prior to the gazettal of the new electoral districts.
- (vi) Communications with constituents/prospective constituents will be limited to matters affecting the Member's electorate.
- (viii) Members will not be permitted to use their Communications Allowance for the production and distribution of any publication or communications (paper based or electronic) intended for distribution either electronically, by mail, letterbox drop, newspaper supplement/insert or handout during the period from 26 January in a State election year to the election date or beyond the issue of the writ for a by-election within an electorate for which a by-election

The Determination

is being held. This includes all written, drawn or pictorial matter, including advertisements, but not general office correspondence.

- (ix) Members will not be permitted to use the Communications Allowance for purchasing, producing, contributing towards the cost of producing and distributing promotional material including but not limited to fridge magnets, calendars, wall planners, rainfall/tide charts, notepads, shopping lists, bowling scorecards, pens, key rings, balloons, clothing etc.
- (x) Members are required to maintain records that clearly document the costs claimed against the Communications Allowance budget. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

6.4 General Travel Allowance

6.4.1 Purpose

The General Travel Allowance is provided to Members to meet all travel costs associated with their parliamentary or official duties within Australia.

6.4.2 Entitlement

- (i) The General Travel Allowance comprises a base annual allocation for Members of the Legislative Assembly and Legislative Council and an additional allocation for Members of specified electoral groups.
- (ii) The annual base allocation and additional allocation for each electoral group/zone shall be as follows:

The Determination

Table 8: General Travel Allowance			
Electoral Group/Zone	Base Allocation	Additional Allocation	Total General Travel Allowance
Legislative Assembly			
Group 1	\$7,340		\$7,340
Group 2	\$11,030		\$11,030
Group 3	\$14,740		\$14,740
Group 4	\$14,740		\$14,740
Group 5 (and Port Macquarie)	\$14,740	\$12,435	\$27,175
Group 6	\$18,420	\$20,295	\$38,715
Group 7	\$18,420	\$37,535	\$55,955
Group 8	\$42,300	\$74,515	\$116,815
Legislative Council			
Zone 1	\$7,340		\$7,340
Zone 2	\$7,340		\$7,340
Zone 3	\$18,355		\$18,355

- (iii) Recognised Office Holders receive an additional loading on the General Travel Allowance - Base Allocation in accordance with *Table 10 Recognised Office Holder and Other Member Additional Entitlements – 1 July 2024 to 30 June 2025 (inclusive)*.

6.4.3 Carry over/forfeiture of entitlement

End of each financial year (within 4-year parliamentary term):

Base Allocation: Unexpended amounts not exceeding the maximum of the annual allocation can be carried forward
Additional Allocations: Unexpended amounts are forfeited

End of parliamentary term/earlier dissolution of LA:

Base Allocation and Additional Allocations: Remaining balances are forfeited

6.4.4 Conditions

- (i) A Member may use the General Travel Allowance to travel to any place in Australia, subject to the following requirements:

The Determination

- (a) Travel must be for parliamentary or electorate duties.
 - (b) The cost of travel must be reasonable.
 - (c) There must be sufficient funds in the Member's Account to pay for the expenses involved at the time of the making of reservations (if applicable) or incurring the expense.
- (ii) A Member may use the General Travel Allowance for the following modes of transport:
 - (a) Private vehicles (to be reimbursed by the Australian Tax Office 'cents per kilometre' method).
 - (b) Car-with-driver transport (hire cars, taxi transport, regulated car sharing services).
 - (c) Self-drive hire cars (reimbursement to include insurance excess reduction and fuel costs).
 - (d) Air transport (including charter transport).
 - (e) Public transport costs (bus, train, ferry, light rail).
- (iii) A Member who incurs parking costs (at either a commercial parking station or a parking meter) may be reimbursed these costs from the General Travel Allowance when the travel relates to attending a meeting or event.
- (iv) It is a condition of all air transport charters that the Member responsible for organising the charter obtains a passenger manifest from the charter operator and attaches it to the invoice when it is submitted for payment to the Parliament. Only the cost of the Member's approved relatives or

The Determination

Member of staff accompanying the Member may be met for charter transport costs.

- (v) The Member for Port Macquarie shall receive a General Travel Allowance - Additional Allocation commensurate with that provided to Members located in electoral Group 5 and shall include costs associated with up to four return trips to Lord Howe Island per year, flying from Port Macquarie or from Sydney subject to available flights.
- (vi) A Member representing the Electorate of Murray and a Member representing the Electorate of Barwon who flies his/her own aircraft, may claim reimbursement against this allowance for the cost of fuel, landing fees and one annual service.
- (vii) All travel costs associated with Members' staff travel and with the travel of staff of Recognised Office Holders provided for by this Determination, may be met from this entitlement. Such travel shall be paid in accordance with the *Members' Staff Conditions of Employment – Determination of the Presiding Officers*.
- (viii) All associated travel expenses for Members and Members' staff including registration costs for conferences, conventions, symposiums, forums or similar and associated accommodation and meal costs approved by the Parliament shall be met from this entitlement. Such costs shall however exclude professional development for Members, overseas travel, electorate to Sydney travel and costs met from the Sydney Allowance.
- (ix) Members and their approved relatives, when travelling in connection with the Member's parliamentary duties, may claim reasonable actual accommodation and meal expenses from the Member's General Travel

The Determination

Allowance. The payment of actual travelling expenses will be paid subject to the production of tax invoices/receipts. The reimbursement of these expenses may not exceed the travel allowance rates as determined for Members in *Table 9: Travel Allowances – Indicative Upper Limits for Members*.

Table 9: Travelling Allowances Indicative Upper Limits for Members – 1 July 2024 to 30 June 2025 (inclusive)		
Destinations	Amount	Where no overnight stay is required
Adelaide	\$414.80	Actual reasonable meal expenses
Brisbane	\$460.80	
Canberra	\$449.80	
Darwin	\$469.80	
Hobart	\$438.80	
Melbourne	\$468.80	
Perth	\$468.80	
Other areas	\$398.80	

- (x) The entitlement may not be used to meet or defray the cost of any individual, office holder or other party not included in these conditions.
- (xi) Some Recognised Office Holders are provided with non-parliamentary funded budgets to meet the costs of travel which they undertake in connection with the performance of the duties of those offices. While they must use those funds when travelling to perform the functions of those offices, when travelling to perform their other parliamentary duties, including their electorate duties, they may use their general travel allowance.
- (xii) Members should ensure that records are maintained that clearly document each occasion and the parliamentary purpose of any travel met from this entitlement for stays in Sydney or other locations when travelling in

The Determination

connection with the Member's parliamentary duties. Such documentation including airline boarding passes if applicable is to be retained for subsequent review by internal and external auditors if required. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

- (xiii) A Member and his or her approved relatives may travel together or separately in connection with attendance at a function in the course of Parliamentary duties. Dependent children may only travel in the company of the Member or other approved relative.
- (xiv) Members undertaking training using the Skills Development Allowance may use the General Travel Allowance to meet their travel costs. Other staff training costs are to be met by the Legislature.
- (xv) Where funds are exhausted, any additional costs may be met from unexpended funds from the Member's Communications Allowance or from the Member's Electoral Allowance. The conditions that apply to the use of the General Travel Allowance apply when using funds from the Communications Allowance to meet travel costs.

6.5 Recognised Office Holder Additional Entitlements

6.5.1 Additional loadings

Additional loadings for Recognised Office Holders and Members listed below shall be as follows:

The Determination

Table 10: Recognised Office Holder Additional Entitlements – 1 July 2024 to 30 June 2025 (inclusive)		
Recognised Office Holder	General Travel Allowance Base Allocation	Communications Allowance Base Allocation
Presiding Officer	30%	55%(A) 175%(C)
Leader of the Opposition	20%(A)	140%(A) 175%(C)
Deputy Leader of the Opposition	10%	15%(C)
Whips		15%(C)
Party Leader (not less than 10 Members)	15%	
Deputy Party Leader (not less than 10 Members LA or 9 Members LC)	10%	
Leader of the National Party (in Opposition with not less than 10 Members in LA)	15%	15%

6.5.2 Carry over/forfeiture of entitlement

**End of each financial year
(within 4 year
parliamentary term):**

Balance of loadings forfeited

**End of parliamentary
term/earlier dissolution of
LA:**

Balance of loadings forfeited

6.5.3 Conditions

The following conditions shall apply in respect of this allowance:

- (i) Recognised Office Holders referred to in Table 10: Recognised Office Holder and Other Member Additional Entitlements may receive this additional entitlement for only one office; that office being the office which attracts the greater level of entitlement.

The Determination

- (ii) These entitlements, as they apply to Recognised Office Holders, are to be available only for Recognised Office Holder duties.
- (iii) Where entitlements formerly provided for the Recognised Office Holder's approved relatives these have been included in the allocation.
- (iv) Where an entitlement is followed by (A) or (C) it applies only to the Office Holder in either the Assembly or the Council.

6.6 Skills Development Allowance

6.6.1 Purpose

The Skills Development Allowance is provided to Members and Members' staff for training that is directly relevant to the role of Members and Members' staff, including but not limited to:

- media skills training;
- public speaking;
- community engagement;
- graphic design;
- website and social media maintenance; and
- writing skills for reports and media releases.

6.6.2 Entitlement

The Skills Development Allowance comprises an annual allocation for Members of the Legislative Assembly and Legislative Council and staff members and shall be as follows:

The Determination

Table 11: Skills Development Allowance – 1 July 2024 to 30 June 2025 (inclusive)

Member/Members' Staff	Annual entitlement
Members of the Legislative Assembly and Legislative Council	\$1,755
Members' staff (each full-time equivalent position)	\$585

6.6.3 Carry over/forfeiture of entitlement

End of each financial year (within 4 year parliamentary term):

Unexpended amounts not exceeding the maximum of the annual allocation can be carried forward

End of parliamentary term/earlier dissolution of LA:

Balance of allowances forfeited

6.6.4 Conditions

The following conditions shall apply in respect of this allowance:

The following conditions shall apply in respect of this allowance:

- (i) Entitlements are not transferable between Members.
- (ii) Entitlements may be transferred from Members to staff and between staff in the same office subject to the expenditure not exceeding the total budget allocation provided to a Member for skills training. Members may not however use training funds available to staff to meet their own training needs.
- (iii) As a general principle, the Member should ensure that the training requirements of staff members are considered equitably. Where a staff member does not get an opportunity to use the allowance during one financial year, they should where possible, be given priority in the subsequent year.

The Determination

- (iv) Members should prioritise the training of full-time and part-time staff members. Training from the allowance should only be provided to short term temporary staff members if resources remain from the allocation of training to full-time and part-time staff members.
- (v) No supplementation to the allocation will be considered.
- (vi) All travel expenses for Members and Members' staff and associated accommodation and meal costs to attend training under the Skills Development Allowance may be met from the General Travel Allowance subject to Parliament's administrative guidelines. Such travel for Members' staff shall be paid in accordance with the *Members' Staff Conditions of Employment – Determination of the Presiding Officers*.
- (vii) Members are required to maintain records that clearly document the costs claimed against the Staff Development allocation. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

7. Additional Entitlements/Resources

7.1 Equipment, Services and Facilities

Members of the Legislative Assembly and the Legislative Council shall be provided by the Parliament with the equipment, services and facilities necessary to perform their parliamentary duties as follows:

- 7.1.1 All Members shall receive at Parliament House, Sydney, a fitted out, equipped and maintained office.

The Determination

7.1.2 Each Member of the Legislative Assembly shall receive a suitably located, fitted out, equipped and maintained Electorate Office to an appropriate standard.

- (i) The Member for Barwon shall be provided with an additional two electorate offices (a total of three).
- (ii) The Member for Murray shall be provided with one additional electorate office (a total of two).
- (iii) The Member for Cootamundra shall be provided with one additional electorate office (a total of two).
- (iv) The Member for Northern Tablelands shall be provided with one additional electorate office (a total of two).

7.1.3 In electorates with two or more electoral offices, the Parliament will assist Members who wish to establish a satellite office to operate on up to two days per week, to identify suitably located premises, co-located with other Government offices, which it will fit out and equip. Such an office will be staffed by:

- (i). existing staff in electorates with more than two electoral offices; and
- (ii). an additional staff member to be employed up to two days per week in electorates with two electoral offices.

7.2 Staff

Section 18 of the *Members of Parliament Staff Act 2013* provides for the number of staff to be determined by the Tribunal. The number of staff allocated to Members and special office holders (as specified) is as follows:

The Determination

- (i) Each Member of the Legislative Assembly shall be entitled to three staff members employed at each electorate office.
- (ii) Each Independent Member of the Legislative Assembly, and who is elected as an Independent Member, shall be entitled to four staff members employed in each electorate office.
- (iii) Each Member of the Legislative Assembly, who is elected as a cross bench member, shall be entitled to one additional staff member.
- (iv) Each Member of the Legislative Council shall be entitled to one staff member.
- (v) Each Member of the Legislative Council who is elected as a cross bench Member shall be entitled to two staff members.
- (vi) The Parliament will provide relief arrangements to Members of the Legislative Assembly and Legislative Council when any staff member is absent on approved leave on any full working day. Parliament will be fully funded to provide relief arrangements to comply with this condition.
- (vii) Relief arrangements and minimum staffing requirements will be provided in accordance with the provisions set out in the *Members' Staff Conditions of Employment Determination of the Presiding Officers*.
- (viii) The Whip of each recognised political party of not less than 10 Members to each shall be entitled to one staff member.
- (ix) The Deputy Leader of the Opposition in the Legislative Assembly, Leader of the Opposition in the Legislative Council and Deputy Leader of the Opposition in the Legislative Council shall be entitled to one staff member each.

The Determination

- (x) Nothing in this determination removes from the employer of staff other obligations arising under the *Work Health and Safety Act 2011*. *Safety Act 2011*.

7.2.1 Emergency Relief Staff

- (i) Members are entitled to make a request to the Chief Executive, Department of Parliamentary Services for short term staffing assistance due to a temporary increase in constituent demand arising from an emergency or public health order such as border closures during a pandemic or as a result of a natural disaster or declared emergency pursuant to s 44 of the Rural Fires Act 1997 and the aftermath of such incidents.

The Parliamentary Remuneration Tribunal



Hon A/Justice Schmidt AM
Parliamentary Remuneration Tribunal

The Hon Acting Justice M Schmidt
Dated: 24 May 2024

Appendices

Appendices

Appendix 1 – Submission of the Secretary of NSW Treasury

In a letter dated 22 May 2024 the Secretary of NSW Treasury, Mr Michael Coutts-Trotter provided the following statement in respect to the financial implications of the Determination pursuant to s12A of the Act.



Treasury

Advice of the Secretary of NSW Treasury

The following comments on the Parliamentary Tribunal's 2024 Determination are made pursuant to Section 12A of the *Parliamentary Remuneration Act 1989*.

Financial Impact of the 2024 Determination

Basic salary for Members will remain unchanged from 1 July 2024.

Based on commencement from 1 July 2024, other entitlements are estimated to increase by \$1,226,944 over the 2023 Determination. This increase consists of a \$770,722 increase in expenditure on various allowances and a \$456,222 increase in expenditure on new staffing for the cross-bench members and the satellite office. The additional costs arising from the Determination are expected to be sought via a Parameter and Technical Adjustment (PTA) in the 2024-25 Budget.

A handwritten signature in black ink, appearing to read 'M. Coutts-Trotter'.

Michael Coutts-Trotter
Secretary
NSW Treasury

Date: 22.5.24