

Appendix 1 – General Review

Report to review the additional
entitlements for Members of the
Parliament of New South Wales

21 October 2024

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Section 1 – Introduction

2024 General Review of the Determination

1 In section 2 of the 2024 Annual Determination the Presiding Officers' request that the Tribunal undertake a general review of the Determination and its operation was explained. That review would consider matters such as:

- unintended anomalies, ambiguities and inconsistencies in the Determination, which affect its operation, including in relation to staffing;
- provisions which may need to be revisited in the context of contemporary conditions and of the current regulation of the entitlements of Members of other Australian Parliaments;
- changes made to the Determination in 2016 and subsequently, in order to introduce desirable administrative simplicity, which may have had unintended counterproductive consequences;
- ongoing problems with compliance with the Determination raised by the Auditor-General;
- the ongoing effective administration of the Determination by the Department of Parliamentary Services; and

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- the effect of provisions of the *Parliamentary Remuneration Act 1989* (NSW) which may require the Parliament's further consideration.

2 How such a review would need to be conducted was also explained. Reference was made elsewhere in that Determination to submissions which could be considered as part of such a general review. They included various problems which had been raised by Members about the Electoral Allowance, which required further investigation: at [54]-[102]. Those problems included:

- how, unlike other allowances provided by the Determination, under the current statutory scheme the Parliament is not only unable to exercise any practical oversight of the use of the Electoral Allowance and what Members spend it on, but that its use also cannot be audited by the Auditor-General;
- the impact of changes which were adopted to achieve administrative simplicity in the 2016 Determination and subsequently, which may have had unintended adverse impacts which had not been appreciated;
- one seemingly unintended practical result appearing to have been the reduction of funds allocated by the Parliament so that Members could meet various expenses incurred in the performance of their parliamentary duties. This being the result of PAYE tax being deducted from the Electoral Allowance when it is paid by the Parliament and it later being taxed as income, with the ATO rejecting claims that expenditure on certain expenses was not

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taxable. That potentially raising Constitutional issues which the Parliament might wish to consider;

- complaints about inequity in Members' remuneration resulting from some Members choosing to use the entire Electoral Allowance, or a large part of it, as personal income rather than to meet expenses incurred in the performance of their parliamentary duties; and
- the need for further advice to be obtained from the Crown Solicitor, whose past advice had led to legislative amendment in relation to the Electoral Allowance, given its prior history and problems which have arisen since these amendments were made.

3 The Tribunal invited Members and the Auditor General to make submissions about the general review and received both written and oral submissions, including two from the Presiding Officers. The Tribunal also received information from the Department of Parliamentary Services.

4 The matters raised include:

- (1) Anomalies, ambiguities and inconsistencies;
- (2) Workload, salary and pay inequity;
- (3) The Electoral Allowance and other additional entitlements;
- (4) Staffing and staff expenses;
- (5) Grouping of electorates;

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- (6) Aspects of the legislative scheme;
 - (7) The entitlements of Members of other Parliaments;
 - (8) Recognised Office Holders' entitlements;
 - (9) Administration of entitlements;
 - (10) The consequences of Members failing to adhere to requirements of the Determination; and
 - (11) Member and staff safety.
- 5 Advice about the regulation of the Electoral Allowance was also obtained from the Crown Solicitor. It was then shared with Members, from whom further submissions were then invited and received.

Summary of the conclusions reached

- 6 The amendments I have concluded should be made to the Determination as the result of this review appear at the appendices to this report. Members will have an opportunity to address them in the 2025 Annual Review process. It will commence in October 2024, with the Determination taking effect on 1 July 2025.
- 7 My conclusions include that:
- (1) No changes in electorate groupings are warranted;

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- (2) No increases in any allowances or changes in staffing are currently warranted;
- (3) Consideration should be given to altering the way staff expenses are funded, with resulting reductions in both the Electoral and General Travel allowances, in order that the Parliament can pay all staff expenses direct, without recourse to Members;
- (4) The regulation of the Electoral Allowance needs to be reconsidered by the Parliament, given unintended consequences of past changes to Members' entitlements; problems which have resulted from administrative arrangements which have been adopted; pay inequity which the current legislative arrangements permit; and the lack of transparency which results from the current legislative regime;
- (5) That various unintended anomalies, ambiguities and inconsistencies in the Determination need to be addressed, with changes needed to be made to reflect current provisions of the statutory scheme, current nomenclature and processes and that certain definitions need to be improved or introduced; and
- (6) Additional and/or changed entitlements for some Recognised Office Holders are necessary.

8 The reasons for these conclusions follow.

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Section 2 – Review

Salaries

- 9 Members' basic salary did not arise for consideration in this general review, even though it was addressed in various submissions.
- 10 While the Tribunal is empowered to fix Members' basic salary from time to time, for reasons explained in the 2024 Determination at [25]-[29], it may not presently exercise that power: s 4 and 4A *Parliamentary Remuneration Act 1989* (NSW).

Salaries and conditions of Members of other Parliaments

- 11 The Presiding Officers still provided the Tribunal with research which had been undertaken about the salaries and conditions of Members of the Parliaments in each of Australia's jurisdictions, as well as those of Members of the Parliaments of New Zealand, Canada and the United Kingdom. They also provided the Tribunal with the WA Parliamentary Handbook.
- 12 It was explained that there had been challenges in summarising the information obtained, which was therefore presented as information in relation to the various jurisdictions, about identified matters.
- 13 It is not useful to summarise all of this information, which established that there is a very considerable diversity of approach to remuneration,

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allowances and other benefits, including as to how their use is audited. This included:

- In the Commonwealth and some other States and Territories, remuneration, allowances and other entitlements are fixed by Tribunals under applicable statutory mechanisms. In some cases, certain entitlements are fixed by the Speaker, Minister or officer responsible, and in some instances, in consultation with others.
- In the case of the Australian Parliament travel expenses, allowances, work expenses and other public resources are provided to Members under a regulation. There is also an allowance for travel by private vehicle, which does not apply in NSW. Expenses incurred in the course of conducting parliamentary business, such as for travel and transport, are not part of Members' remuneration.
- The position in the Australian States varies, with some systems similar to NSW and others quite different.
- In New Zealand, after a 2020 decision of its Remuneration Authority, most Member entitlements are no longer considered to be part of their remuneration, which now only comprises salary and superannuation. The amounts vary according to Members' roles. But Members also receive a self-drive motor vehicle and other perquisites. An expense allowance is also provided to cover out of pocket expenses incurred in the pursuit of parliamentary business.

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- In Canada, Members receive a salary and, in the UK, they receive a salary and may claim some expenses.

- 14 Both salaries and Electoral Allowances are paid to Commonwealth and other State Parliamentarians, but how the Electoral Allowance must be accounted for varies.
- 15 This was relevant background to some issues raised in the general review. Especially in relation to the use of the Electoral Allowance as income.
- 16 The current picture in relation to base salaries in short summary, appears to be:

| Jurisdiction | Date of last adjustment | % variation | Base salary |
|--------------------------------|-------------------------|-------------|-------------|
| Commonwealth ¹ | 01 Jul 2024 | 3.5 | \$233,660 |
| New South Wales ² | 01 Jul 2022 | 2.0 | \$172,576 |
| Victoria ³ | 01 Jul 2024 | 3.5 | \$205,798 |
| Queensland ⁴ | 01 Jul 2024 | 4.0 | \$183,985 |
| South Australia ⁵ | 01 Jul 2024 | - | \$226,053 |
| Western Australia ⁶ | 01 Jul 2024 | 4.0 | \$173,393 |
| Tasmania ⁷ | 01 Jul 2018 | 2.5 | \$140,185 |

¹ Remuneration Tribunal, *Remuneration Tribunal (Members of Parliament) Determination 2024 Compilation No. 1*, Remuneration Tribunal, 2024.

² Parliamentary Remuneration Tribunal, *Parliamentary Remuneration Tribunal Annual Determination 2022*, PRT, 2024

³ Victorian Independent Remuneration Tribunal, *Members of Parliament (Victoria) Annual Adjustment Determination 2024*, VIRT, 2024

⁴ Office of the Clerk of the Parliament, *Legislative Assembly of Queensland Members' Remuneration Handbook*, Queensland Parliament, 2024

⁵ *Parliamentary Remuneration Act 1990* (SA), Section 4AB; Remuneration Tribunal of South Australia, *Determination 8 of 2023 – Report- Common Allowance for MPs*, Remuneration Tribunal of South Australia, 2023.

Section 4AB states that 'The basic salary payable to a member of Parliament is salary at a rate equal to the rate from time to time of the Commonwealth basic salary less \$42 000 plus the common allowance for the relevant year.'

Therefore, the formula for the South Australian basic salary in 2024 is: \$233,660 - \$42,000 + \$34,393

⁶ Salaries and Allowances Tribunal, *Members of Parliament Tribunal Determination No 1 of 2024*, SAT, 2024.

⁷ Tasmanian Industrial Commission, *Inquiry into the Parliamentary Salaries and Allowances by The Full Bench of the Tasmanian Industrial Commission*, TIC, 2020

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| Australian Capital Territory ⁸ | 01 Jul 2024 | 3.0 | \$188,798 |
| Northern Territory ⁹ | 01 Jan 2024 | 2.5 | \$166,763 |

Members' workload

- 17 Some submissions raised Members' increasing workloads and the inadequacy of their remuneration and the staff assistance which they receive.
- 18 Members' workload was considered by the Tribunal in 2006, 2013 and 2017. In 2013, workload and staffing arrangements in the Federal and other State parliaments were examined, as was changes in elector numbers. They had then increased in this State by 12 per cent since 2006 with, it was accepted, resulting impact on Members' workload. At that time there was also a higher ratio of electors to Members in this State, than in other States and Territories. There had also been an increase in Parliamentary sitting days from 61 days in 2006 to 67 in 2013: 2013 Determination at page 17.
- 19 In 2017 further increases in constituent numbers and innovations in technology and communication which had increased the number of interactions a Member and his or her staff had with electors and the wider community, increasingly via email or social media, rather than the traditional form of written correspondence, was identified: at p17.

⁸ Australian Capital Territory Remuneration Tribunal, *Determination 5 of 2024 Members of the ACT Legislative Assembly Accompanying Statement*, ACT Remuneration Tribunal, 2024

⁹ Northern Territory Remuneration Tribunal, *Report and Determination No.2 of 2024 - Entitlements of Assembly Members - Electoral Redistribution*, NT Remuneration Tribunal, 2024

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- 20 On this review it was the submission of the Government that the workload of Members has increased significantly in recent years, reflecting the increased frequency of natural disasters to which they have had to respond. With the results including more Friday sittings of both the Assembly and the Council. Information was also provided about the consequences of the Lismore floods for that electorate office.
- 21 Such matters were also said to have been reflected in increases in staffing of the Department of Parliamentary Service by 75% from 2020 to 2023, because of increased demand from Members, Committees, research and for media monitoring.
- 22 One submission was that such changes in Members' work had also resulted in excessive working hours being demanded of their staff.
- 23 Another submission was that Members of the various parties no longer receive the type of support which parties provided them in the past, on which current staffing arrangements had been arrived at. In the result all Members now require the support of four staff members.
- 24 If increases in the basic salary in order to reflect changed work are to be pursued in an annual review, the Tribunal will have to be provided with information which establishes that increases are warranted. That will require changes to be considered in light of the history of how current salaries were arrived at.
- 25 Change may help establish that Members require additional staff support. That would also require consideration of the relevant history, as well as of

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current staff numbers and conditions; whether staff working hours have changed and are excessive; and staff turnover. Some submissions suggesting this is now being driven by excessive workload, as well as inadequate remuneration.

- 26 Information about such matters is not publicly available. What has so far been advanced is not capable of establishing changes in workload warranting the provision, generally, of additional staff for all Members, or of any overall increase in Members' basic salary.
- 27 If such changes are pursued and information about relevant matters establishes changes warranting increased salaries when the Tribunal again has power to increase the basic salary, it will of course act in accordance with the requirements of the Act.
- 28 That will again require consideration of the matters considered in the past, in the present context. Not much information has yet been advanced about them. It is for Members to decide whether to pursue such changes in the 2025 annual review and then to provide the Tribunal with relevant information to consider.

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Auditing of Members' entitlements, transparency and financial implications of changes to the Determination

- 29 The use which Members make of their entitlements, other than the Electoral Allowance, and their compliance with the requirements of the Determination is audited annually by the Auditor General. That results in a public report which identifies Members' failures to comply with the requirements of the Determination and the applicable guidelines.
- 30 The Auditor-General's 2023 report explained the approach adopted to audits, applicable requirements and the system of quality management pursued. The Auditor General's submission on this review urged the Tribunal's adoption of "enhanced transparency around Members' claims", which may support improved compliance.
- 31 Member's entitlements are administered by the Department of Parliamentary Services, which also audits their use for the Parliament, except for the Electoral Allowance. Data is kept by the Department about the use made of allowances, except for Members' usage of the Electoral Allowance, which is known only to them and the ATO.
- 32 That data suggests that other allowances are currently fixed at levels sufficient to facilitate the efficient performance of the parliamentary duties of Members or Recognised Office Holders: s 10(1) of the Act, given the use which is made of them.
- 33 Because of the current legislative regime, however, neither the Parliament nor the Auditor-General have the ability to understand Members' use of

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the Electoral Allowance. Nor is such information available to the Tribunal, unless provided voluntarily by Members: s10(2C) of the Act.

- 34 Some submissions suggested that this current regulatory system is undesirable. It has resulted in complaints to the Tribunal about pay inequity between Members. It has been submitted that it was common knowledge that some Members use all of the Electoral Allowance for personal income, rather than utilising it for the performance of their parliamentary duties. That was disputed by some Members on this review. Others considered that reflected an appropriate use of the Allowance, which the Act left to individual Members.
- 35 The Crown Solicitor's advice was that using the Electoral Allowance for personal income was permissible. Section 10(2B) of the Act providing that the Electoral Allowance is payable in money "as compensation in respect of all incidents of the performance of parliamentary duties (other than those compensated or reimbursed by other additional entitlements)": s10(2B)(c) of the Act.
- 36 One submission was that this left it open to Members to decide how much of this allowance they retained as income from time to time, decisions which they made having regard to duties they elect to perform. For example, in relation to committee work.
- 37 This helps explain the Auditor-General's description of her annual review as "limited assurance reviews", focussed as they are on Member claims which have been identified as being at higher risk. It is of ongoing concern

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that the Auditor-General's reports repeatedly include findings about Members' departures from compliance in respect of such claims.

- 38 The Members Entitlements Handbook which the Department publishes refers to the Parliamentary Ethics Adviser appointed by the Legislative Council and Legislative Assembly in 1989, who is available to give Members advice about the use of their entitlements: 1.6.
- 39 The Guiding Principles for their use is specified in cl 2.1. It is there noted that the primary purpose of additional entitlements Members are provided is "facilitating the efficient performance of the parliamentary duties of members or recognised office holders", as is specified in s10(1)(a) of the Act. "Additional entitlements" including the Electoral Allowance: s3.
- 40 The Tribunal was informed that the Ethics Adviser has not given Members any general advice about the use of their Electoral Allowance and that any advice given to individual Members is confidential.
- 41 The position, it must be accepted, is that unlike other allowances, Members' use of their Electoral allowance is not transparent. The NSW position seems to be similar to that of some other jurisdictions. But it appears that in Western Australia and Tasmania, for example, Members must account for the use which they make of all their allowances. Further, in neither Canada nor the United Kingdom can Members retain their unspent allowances as salary.
- 42 I am satisfied that the Parliament may wish to consider the current regulation of the Electoral Allowance, which does not permit either it or the

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Auditor-General to understand, let alone audit what use Members make of it from time to time.

- 43 At a minimum it may wish to consider introducing a reporting requirement which obliges Members to disclose annually, what percentage of the Electoral Allowance they receive as income. That would enable the Parliament to consider whether the current regulation of the allowance remains desirable, especially if such reports establish that pay inequity now exists between Members.
- 44 Given the Crown Solicitor's advice, it must be accepted that this is currently possible.
- 45 Such inequity may have been driven by administrative arrangements which the Parliament has introduced. The deduction of income tax from the Electoral Allowance when it is paid monthly being one of them. Caps on increases in the basic salary which the Parliament imposed for some years, as well as the current freeze on increases in the basic salary which remains in force until 30 June 2025 may be another explanation. That restriction not applying to the Electoral Allowance.
- 46 The result of these caps and the current freeze is that Members receive a considerably lower basic salary than that which Members of some other Australian Parliaments now receive. That was raised by Members in the context of both submissions about increased work value and the regulation of the Electoral Allowance.

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47 In their first submission the Presiding Officers noted that in 2009 the Parliament had adopted a risk-based management approach to the administration of Members' entitlements, the key to which was a self-assessment regime. It requires Members to acknowledge their legislative responsibility in using and claiming entitlements. The principles guiding its administration were explained to be:

- *“the Annual Report and Determination of the Parliamentary Remuneration Tribunal sets out the quantum of the entitlements to be received by Members and the general conditions of use for each entitlement;*
- *the Determination is further supported by the Members' Entitlement handbook, Parliament's administrative guidelines and the guiding principles for the use of entitlements;*
- *Members are accountable for all expenditure in connection with their parliamentary and electorate duties and the onus is always on the Member to show that any expenditure or any claim for reimbursement relates to their parliamentary and electorate duties;*
- *all Members' claims are subject to audit by the Audit Office of NSW and Parliament's internal auditors. All Members will be audited at least once in each parliamentary term;*
- *Members should ensure they retain copies of all supporting documentation for a minimum period of two (2) years for audit purposes;*

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- *matters involving serious allegations of misconduct and/or inappropriate use of entitlements may be referred to the Independent Commission Against Corruption (ICAC)."*

- 48 Consistent with this approach is a consideration of the current operation of the statutory regulation of the Electoral Allowance, in light of the adoption of this risk-based management approach to other additional entitlements. That is for the Parliament to consider.
- 49 In making a determination the Tribunal is required to have regard to the financial implications of the determination for the State, having invited the Secretary of the Treasury to make submissions about those financial implications, and taking any submission made into account: s 12A.
- 50 Section 15(5) is also relevant, it providing that "Any payment of remuneration or additional allowances to which a person is entitled under this Act, or any part of any such payment, not drawn by the person or on the person's behalf within 28 days after the payment becomes due and payable reverts to the Treasury and becomes part of the Consolidated Fund."
- 51 The Presiding Officers submitted that the impact of any changes to the Determination as the result of this review should thus be assessed "to ensure Parliament is able to meet its obligations", before any entitlements are granted. That must be accepted.

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- 52 Submissions about proposed changes to the Determination will thus be invited as part of the 2025 annual review, when submissions about their financial impact will also be sought from the Secretary of the Treasury.

Intermingling of a Member's Parliamentary Duties and Private Activities

- 53 Additional guidelines were sought by the Presiding Officers in cl 2.3, Clause 2.3.1 providing:

“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.”

- 54 The question of intermingling was dealt with in the 2015 Determination, with the result the introduction of the current clause. This was intended to deal with Members’ incidental private use of an entitlement, which could be interpreted to be in breach of the use of additional entitlements, even where no cost was involved.

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55 Where incidental private use of an entitlement involves additional cost, it was considered to be appropriate for the Member to pay those costs. The clause was intended to ensure that such minor matters did not result in Members being accused of a misuse of entitlements: 2015 Determination at 18-19. The example given being when a Member receives a call of the nature of political campaigning which is received on a communication device funded from additional entitlements.

56 The Presiding Officers proposed the identification of resources which should not be intermingled under any circumstances. They including “allowances relating to travel”. That would potentially include the Travel, Communications and Electoral Allowances, which does not appear to accord with what is contemplated by cl 2.3.1.

57 Otherwise, I consider that the addition the Presiding Officers proposed to the clause should be accepted and numbered 2.3.2, with consequential renumbering of following clauses. It will provide:

“2.3.2 The Member entitlements and resources which should not be intermingled under any circumstances include:

- *Parliamentary staff;*
- *Parliamentary offices; and*
- *Official business stationery.”*

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Members' staff

58 Submissions received raised various staffing matters.

Staff remuneration and conditions

59 Various Members made submissions about the workload, remuneration and conditions of their staff, who are usually employed by the Parliament, not the Member.

60 They included that the Presiding Officers had not responded to matters which have been raised with them by Members about such staffing matters, even those conveyed to them by the Tribunal as the result of matters raised by Members in past annual reviews of the Determination.

61 Also raised was the ongoing requirement for staff to work excessive hours without additional pay; office accommodation being inadequate and not permitting staff to feel safe in their working environment; remuneration levels being inadequate to attract new young staff members, that restricting the available talent pool; staff salary not being suitably structured and inadequate overall, to help Members attract or retain experienced staff. This being reflected in high staff turnover.

62 It was also submitted that Members would be assisted if they had greater flexibility in determining appropriate salaries for individual staff members.

63 None of these matters are for the Tribunal to determine, falling as they do within the matters for which the Presiding Officers have responsibility under the *Members of Parliament Staff Act* 2013. This has repeatedly been

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explained in past determinations: see for example 2024 Determination at [217]-[222] and 2023 Determination at [158]-[160].

- 64 Inadequate staffing levels contributing to excessive hours which some staff members are still being required to perform by the Members for whom they work, it may be accepted, conceptually, could involve breaches of the *Work Health and Safety Act 2011* (NSW). That is a matter not only for Members and the Presiding Officers to consider, but also the Parliament, given that it employs such staff: s 14 *Members of Parliament Staff Act*.
- 65 As it has in the past, the Tribunal will inform the Presiding Officers about the staffing matters which have been raised with it on this review. It will also draw to the Parliament's attention the question of whether provisions of the *Members of Parliament Staff Act 2013* should be reviewed, given Members' ongoing dissatisfaction with how staff conditions are currently regulated.
- 66 That also being a matter for the Parliament to consider.

Removal of additional Staffing anomaly

- 67 In the 2024 review an anomaly in relation to staffing which arose from cl 7.2(ii) was discussed: at [251]-[256]. This had resulted in the Barwon electorate, which has three electoral offices, being staffed with 12 staff members. It was then concluded that this was not what had been intended when the 2020 Determination was amended to provide for an extra staff member in that electorate: 2024 Determination at page 22.

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- 68 What had been intended was that there be one additional staff member for that electorate, which would have resulted in total staffing of its three electoral offices with 10 staff. When the Member was later elected as an Independent, staffing increased to 12, because of the wording of cl 7.2(ii). Considerably more than the staffing of any other electorate.
- 69 No submissions opposed the correction of this anomaly. In the result cl 7.2(ii) should be amended to provide “Each Member elected as an Independent Member of the Legislative Assembly shall be entitled to one additional member of staff”.

Additional short-term staffing

- 70 The Presiding Officers submitted that the Chief Executive of the Department of Parliamentary Services, who has overall responsibility for the administration of the Determination, may on occasions require additional flexibility to ensure its operative effectiveness.
- 71 Clause 7.2.1 of the Determination provides:

“(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.”

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72 This clause was introduced in the 2023 Determination as the result of experiences during the pandemic and flooding emergencies experienced in the State: at [164]-[165].

73 It was submitted that while the Determination thus now provides for the Chief Executive to deal with short term emergency relief staff, on occasions it was also necessary to respond to work, health and safety issues, such as when the need for increased security arises, by employing additional short-term staff. There was also a need to ensure smooth transition in staffing arrangements, when a transition period for handover and training was required, in the event of planned departure of staff.

74 I accept that improving the Chief Executive's ability to respond to Members' short-term needs of this kind, when they arise, will enhance the efficient performance of their parliamentary duties.

75 I have thus concluded that the Determination could sensibly be amended to provide:

(i) "Members are entitled to make a request to the Chief Executive, Department of Parliamentary Services for short term staffing assistance:

(a) 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;

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(b) in order to respond to a work health and safety issue, including in relation to security;

(c) on a temporary basis to permit handover and training where required on departure of staff to ensure the smooth running of the Members' office."

Staffing numbers

- 76 Various submissions raised the question of whether staffing remained adequate.
- 77 Clause 7.2 specifies the staff support which Members are entitled to receive.
- 78 Staffing in the electorate offices of Members of the Legislative Assembly was formerly two, with a budget for an additional staff member to work in the Members' office or at Parliament House, which was calculated by reference to the salary of a Senior Electorate Officer for a period of 70 days per annum: 2016 Determination at p15-16.
- 79 Their staffing was increased to three, with the condition that staff should not work alone when the electorate office is open to the public except in exceptional circumstances: 2017 Determination at p19-20. Those elected as Independents and cross bench Members are now entitled to four staff: cl 7.2 (ii) and (iii).

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- 80 One submission was that the workload of other Members have increased to the point where they also require the assistance of an additional staff Member.
- 81 Members of the Legislative Council are entitled to one staff member, except for those elected as a cross-bench Member, who are entitled to two: cl7.2(iv) and (v). Another submission was that these staffing levels were inequitable, with Members of the Greens seeking three staff members, given increased workload.
- 82 Such submissions alone cannot not establish a basis for alterations in current staffing. That requires an examination of matters such as the history of the various entitlements, Members' workloads at the time that the current provisions came into existence, as well as what has since changed.
- 83 If such matters are pursued, they will of course be considered.

Staff support when Members work at Parliament House

- 84 Some submissions raised the inequity of Members whose electorates were in Sydney or in close proximity to it, being able to have the support of a member of their staff working in their office in Parliament when it is sitting, without having to bear resulting staff travel and accommodation expenses out of their entitlements.
- 85 That was difficult to accept, given that Members' entitlements have already been fixed having regard to the expense of staff travel, both within

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electorates as well as to and from the Parliament, in the case of regional Members.

- 86 One submission was that most regional Legislative Assembly Members have no available staff support during sitting weeks. That is obviously not correct, because while Members are at Parliament House in Sydney, their staff continue working to support them, albeit in some cases, from their electoral offices. Modern methods of communication enhance the effectiveness of such remote support.
- 87 It may be accepted, nevertheless, that it would be useful for all Members of Parliament to have a staff member with them in Sydney when Parliament is sitting, given the emphasis in the legislative scheme on the efficient performance of their parliamentary duties.
- 88 Regional Members do have to bear staff travel and accommodation expenses out of their General Travel and Communications Allowances and if they are not sufficient, out of their Electoral Allowances. The sufficiency of those entitlements will again arise for consideration in the 2025 annual review.
- 89 Some Members submitted that the practical result of these arrangements was that they do not always have the support of a staff member at Parliament House when Parliament is sitting, as they would prefer, because of the cost of staff travel. That being undesirable for the efficient performance of their duties.
- 90 But not all regional Members considered this result to be a problem.

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- 91 It must be noted that the outcome complained about can only be the result of decisions which Members are free to make, including in relation to the use of their Electoral Allowance.
- 92 From all of the information received, it must be accepted that it is possible for Members to refrain from having staff travel to work at Parliament House, in order to avoid incurring expenses which the Electoral Allowance is provided to meet. That enabling them to utilise part of that allowance as personal income.
- 93 Given the history of the Determination, I consider that outcome is not one which the Tribunal intended. But it is one that the Crown Solicitor has advised the legislative scheme permits individual Members to choose.
- 94 The provision of staff support at Parliament House when the Parliament is sitting can, nevertheless, be addressed in the Determination. An appropriate amendment to cl 7.2(i) being that:
- “Each Member of the Legislative Assembly shall be entitled to three staff members employed at each electorate office, one of whom shall work at Parliament House with the Member, when the Parliament is sitting”.*
- 95 That would accord with the statutory intention, which is concerned with the efficient performance of Members’ parliamentary duties. It would have the result that Members would have to meet the cost of resulting staff travel and accommodation expenses out of their entitlements, including the Electoral Allowance.

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- 96 Members will have an opportunity, in the 2025 Review, to address the desirability of such an amendment.

Staff travel expenses

- 97 Submissions advanced for some regional Members was that allowances available to meet staff expenses were inadequate. Reliance being placed on Members who have electorates in or close to Sydney, who are able to arrange their staff working conditions without having to meet any additional cost for staff travel, accommodation or meals, out of any their allowances.
- 98 The submission of the Nationals was that regional and rural Members were disadvantaged by “the current low General Travel Allowance”. They sought that it be increased to fund a staff member to travel to Parliament during sitting weeks, it not being sufficient now to fund this, while city-based Members could have multiple staff members at Parliament House for no more than the cost of public transport or an uber.
- 99 These submissions have to be understood in light of the *Members of Parliament Staff Act 2013* empowering Members to employ staff on behalf of the State, but that such staff are employees of the State. Their conditions of employment and entitlements are determined by the Presiding Officers. The Parliament pays their salary and certain of their expenses, including some of their travel expenses. Other travel expenses are met from Members’ allowances.
- 100 It is the Members for whom the staff work, who determine what work they must perform day to day and where. The result of some of these decisions is that Members must meet some of their staff’s travel, accommodation

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and meal expenses out of their additional entitlements. In the case of regional Members, including when they require staff to travel to Sydney to work from Parliament House.

- 101 In practice, when regional Members require staff to travel to work from Parliament House, their accommodation and travel expenses are now paid direct by the Parliament in the first instance. But they are ultimately born out of Members' General Travel, Communication or Electoral Allowance, as was explained in the 2024 Determination at [83]-[87].
- 102 Members whose staff live in Sydney do not have to bear the cost of staff travelling from home to their workplace at Parliament House, which staff must bear themselves, as do staff who work in country electorates when they travel to the electoral office from their home. City Members only have to bear staff travel expenses if they require staff to work elsewhere than Parliament House, when they are required to stay away from home. But these differences are reflected in the amounts of the allowances Members receive, according to their electorate groupings.
- 103 Data kept by the Parliament shows that most Members do not utilise all of their travel or communications allowances. That accords with some submissions, that the allowances provided by the Determination are all now fixed at an appropriate level.
- 104 It does appear that some submissions about the inadequacies of allowances, given the cost of staff travel, may be driven by Members' claims for deductions for such expenditure not having been allowed by the ATO. With the effective result that such staff travel, accommodation and

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meal costs are paid in post-tax dollars. That would not occur if those expenses were all paid direct by the Parliament itself.

- 105 It is doubtful that this outcome was envisaged when the current provisions of the legislative scheme, or past determinations were arrived at.
- 106 The amount of Members' entitlements, including allowances, has been reviewed annually as the Act requires. But no past determination indicates that it was anticipated or appreciated that staff travel expenses would not be accepted as being deductible when met out of a Members' Electoral Allowance, with the result that such funds used to meet such expenses would be taxed as part of a Members' assessable income.
- 107 The tax treatment of the Electoral Allowance under the applicable ATO ruling thus appears to have had the unintended, perverse practical result of reducing funds which the Parliament has provided to Members to use to meet staff travel and accommodation expenses, as well as some Members' resistance to having their staff travel to Sydney to work.
- 108 The Crown Solicitor's advice was that this could be addressed by funds intended to meet such expenses not being paid as part of Members' entitlements.
- 109 The Parliament already pays staff travel expenses direct, in some cases without later recourse to Members. It thus appears that a better approach to the funding of all staff travel may be for staff travel expenses not to be encompassed in the additional entitlements fixed by the Determination.

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- 110 If such expenses were not payable out of a Members' General Travel, Communication or Electoral Allowance, the funds provided to meet them would not appear to be capable of being reduced by the ATO rejecting Members' claims in respect of such expenditure. Or those expenses then becoming part of a Member's income.
- 111 If such an approach were to be adopted, a Members' entitlement to have a staff member perform work at Parliament House when the Parliament is sitting, will still result in the staff member being entitled to have their resulting travel, accommodation and meal expenses paid in accordance with the Presiding Officers' arrangements.
- 112 The Parliament would continue to pay those expenses itself, as it currently does, but it would not then have to make recourse to notional or actual funding of such expenses out of a Members' entitlements. Such an approach, it would appear to follow, would also save administration costs and make the use of these funds more transparent.
- 113 Such a change could be affected by:
- reference to Members meeting the costs of staff travel being removed from the Determination;
 - Members' entitlements being reduced, in order to reflect that they will no longer be responsible for meeting such staff expenses out of their various allowances; and

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- The Parliament paying all staff travel expenses without recourse to Members' entitlement.

- 114 This would involve significant change and must thus be considered carefully, including by those who have to administer the Determination.
- 115 Such a change would require Members' current usage of their allowances to meet staff travel costs to be identified, in order that appropriate reductions in existing allowances can be calculated. But given that these expenses are now being met in the first instance by the Parliament, that should not be difficult to establish.
- 116 Members will have the opportunity to address the question of changes to how staff travel expenses are dealt with in the Determination and how that might affect the efficient performance of their parliamentary duties, when submissions for the 2025 annual review are invited.

Additional Staff for Recognised Office Holders

- 117 The Presiding Officers sought that the Determination provide more clearly for additional staff in the case of Recognised Officer Holders, who are identified in Schedule 1 to the Act, which has been repeatedly amended. It should be noted that some Members may hold more than one of these offices.
- 118 The Tribunal is empowered to make determinations of additional entitlements for such Recognised Office Holders: s9. Staff entitlements are dealt with in cl 7.2 of the Determination, including for Recognised Office Holders.

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- 119 It is apparent from the provisions to which the Presiding Officers referred and their history, that the Determination reflects decisions made by the Tribunal from time to time about particular entitlements, including staff for Recognised Officer Holders, in light of what Members have raised. Those entitlements have been considered in the context of circumstances which then prevailed.
- 120 The current provisions of the Determination also reflect that the Tribunal did not intend that all Recognised Office Holders will have the same additional entitlements, including in relation to staff.
- 121 The current position is that while some past changes to the Schedule have been reflected in the Determination, it does not now accurately reflect its current nomenclature. The result is that some of the provisions of the Determination do not accord with the current Schedule, to which it must adhere and so the affected provisions must be brought up to date.
- 122 Utilising the current descriptions of the Recognised Office Holders in the Schedule in the Determination, will help prevent such problems arising in future and addressing them, if they do.

Staffing for Whips and Deputies

- 123 Clause 7.2 (viii) deals with the staff of Whips, providing that “The Whip of each recognised political party of not less than 10 Members to each shall be entitled to one staff member”.
- 124 The Presiding Officers pointed out that other benefits were not so restricted and that recent circumstances had left only 9 Members of the

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Liberal Party remaining in the Legislative Council. Clause 5.2.2(ii) having the effect that Whips are entitled to an additional electoral allowance of \$4,660 per annum; Table 4 providing for additional overnight stays in Sydney for Whips and Deputy Whips; and Table 10 providing for additional base communication allowances for Whips.

125 Schedule 1 to the Act now specifies Recognised Office Holders to include Government Whips in the Legislative Council and Legislative Assembly, Deputy Government Whips in the Legislative Council and Assembly, Opposition Whips in the Legislative Council and Assembly, Deputy Opposition Whips in the Legislative Council and Assembly, Whip in the Legislative Assembly of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and Deputy Whip in the Legislative Assembly of a recognised political party not fewer than 40 members of which are members of the Legislative Assembly.

126 In the case of clause 7.2(viii), it appears that the clause should thus be amended to provide;

“The Whip of each recognised political party not fewer than 10 Members of which are Members of the Legislative Assembly, shall be entitled to one staff member.”

127 That is because the Act does not permit the Determination to depart from the provisions made in the Schedule, with the result that this clause thus cannot be amended to refer to 9 Members of the Legislative Assembly.

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- 128 Clause 7.2 (ix) provides “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.”
- 129 The Presiding Officers submitted that this clause needed to be amended to reflect the provision made in Schedule 1 to the Act.
- 130 In the case of the Opposition, the Schedule provides for the Leader of the Opposition, when not Leader or Deputy Leader of the Opposition in the Legislative Council or Leader or Deputy Leader of the Opposition in the Legislative Assembly and the Leader of the Opposition in the Legislative Council. It also provides for the Deputy Leader of the Opposition in the Legislative Assembly and the Deputy Leader of the Opposition in the Legislative Council, both when leader of a party and when not leader of a party.
- 131 It follows that clause 7.2 (ix) does not need to be amended, it referring to Office Holders presently specified in the Schedule as it does.

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Electoral offices

- 132 A number of submissions were directed to provisions of the Determination which concern electoral offices.

Member Safety

- 133 The Determination entitles Members to an electoral office which is suitably located, fitted out, equipped and maintained to an appropriate standard: cl 7.1.2. While not expressly specified, necessarily, such an appropriate standard is one which addresses the safety of those who work there.
- 134 In the 2024 Determination reference was made to an ongoing project being pursued by the Parliament to upgrade electoral offices, including in relation to safety. That still appears not to have been completed.
- 135 Safety concerns were again addressed in various submissions made on this review. Both in relation to how safety issues were being managed at Parliament House, as well as at electoral offices. Some of which were said still not to be located in premises which ensure the safety of Members or their staff, or which comply with safety obligations long imposed by the *Work Health and Safety Act 2011* (NSW).
- 136 It is apparent that there continues to be a real concern that the safety of Members and staff has not yet been adequately addressed.
- 137 This has to be considered in light of the provisions of the *Work Health and Safety Act 2011*, which helped establish a nationally consistent framework to secure the health and safety of workers and workplaces. Including by

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protecting workers and others against harm to their health, safety and welfare, through the elimination or minimisation of risks arising from work: s3. Predecessor legislation had similar objectives.

- 138 The legislative scheme binds the Crown: s10. It imposes duties, like layers of an onion, on all those who conduct undertakings with others, to ensure health and safety: s5. That requires them to eliminate risks to health and safety, so far as is reasonably practicable, and if it is not, to minimise those risks so far as is reasonably practicable: s17.
- 139 The primary duty of care is not only directed to workers engaged or caused to be engaged by such persons, but also to workers whose activities in carrying out work they influence or direct, and others who might be put at risk from work carried out as part of the conduct of the business or undertaking: s19. “Workers” is widely defined in s7.
- 140 What must be ensured, so far as reasonably practicable, includes the provision and maintenance of a work environment without risks to health and safety, as well as safe plant and structures: s19(2)(a) and (b). They include the structures in which work is performed.
- 141 A person conducts an undertaking whether it is conducted by the person alone or with others and whether or not it is conducted for profit or gain. An elected member of a local authority does not in that capacity conduct an undertaking: s5(5). But there is no such provision made in respect of elected Members of Parliament. A local authority being defined to mean a council, county council or joint organisation under the *Local Government Act 1993* (NSW): s3.

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- 142 The Regulations also require duty holders, in managing risks to health and safety, to eliminate risks to health and safety so far as is reasonably practicable, and if it is not, to minimise those risks so far as is reasonably practicable: r35. Regulation 36 specifies hierarchy of control measures which must be pursued when risks cannot be eliminated, but must be minimised. It also specifies how control measures must be maintained.
- 143 It follows that this regulatory scheme applies not only to work performed at Parliament House, but also at Members' electoral offices.
- 144 The Tribunal was provided with information about how the Parliament approaches the obligations imposed by this regulatory scheme, which also imposes obligations in relation to safety on Members and their staff. There is no question, however, that even the best paper systems can fall down in their implementation.
- 145 I am satisfied that the Determination can also recognise safety obligations, given that it must be accepted that safety concerns can impact the efficient performance of Members' parliamentary duties.
- 146 I thus consider that it would be desirable to clarify cl 7.1.2 of the Determination, which provides for Members to be provided with an electoral office which is suitably located, fitted out, equipped and maintained to an appropriate standard. That is, by specifying that the safety of those who work there is a matter to which regard must be had.
- 147 It is difficult to imagine that it would be contended that it is not reasonably practical to eliminate, or at least minimise, risks to health and safety which

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exist at a particular electoral office. That is, by either taking steps to address any safety risks which are known to exist, or if that cannot be done, by relocating the electoral office to other premises where such risks do not exist. At the least, any existing identified safety risks must be minimised, in order that the requirement to maintain the office to an appropriate standard is met.

148 If there is any concern that this is not being met in the case of a particular office, the Member should obviously raise this with the Department of Parliamentary Services, which administers the Determination.

149 But given the ongoing concerns about safety which have been raised, however, I consider that the clause should be amended to provide:

“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, which has regard to safety requirements.”

Additional electoral offices

150 Issue was taken in some submissions with conclusions reached in the 2024 Determination about why some electorates not identified in the submissions, did not require a second electoral office. It being submitted that they were geographically vast, with dispersed centres and populations, with major residential centres many hours from an electorate office.

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- 151 This issue has been considered in the 2022, 2023 and 2024 Determinations, where conclusions arrived at in relation to various electorates have been explained.
- 152 A need for an additional electoral office can always be advanced. Submissions in respect of any identified electorate need to address the criteria to which the Tribunal has had regard in resolving claims for additional offices; explain why a change in those criteria is sought, if that be the case; and why the applicable criteria now justify an additional office, given current circumstances.
- 153 The submissions advanced on this review cannot result in any alteration to the Determination, not having addressed such matters.

The Communications Allowance

- 154 The Communications Allowance is an annual budget provided to Members to meet costs associated with communicating with their constituents: cl 6.
- 155 It has two parts, a base allocation which was established in the 2016 Determination and an additional allocation based on numbers of enrolled voters for each electoral group or zone. The allowance was last significantly reviewed in the 2021 Determination. It also has regard to a “postage factor”, which has a history going back to 1889: 2021 Determination at [64].
- 156 The base allocation for Members of the Legislative Assembly is currently \$21,600 and for Members of the Legislative Council \$5,505. Members of

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the Legislative Assembly also receive an additional money allocation which reflects elector numbers, which ranges from \$84,374 to \$101,526. Recognised Office Holders also receive an additional entitlement: cl 6.3.2.

- 157 If Members do not use all of the Communications Allowance, it can also be used to meet travel expenses: cl 6.4.4 (xv). But data provided by the Department showed that some Members had not used the allowance at all and that most had not used all of it.
- 158 Examples of costs for which the allowance can be used is given in cl 6.3. They encompass 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: cl 6.3.1.
- 159 The Presiding Officers raised a number of issues.

Proposed new principles

- 160 One issue being a review of the way in which this allowance is determined. What was proposed was that "other principles such as accessibility and factors such as the demographics of each electorate including the ability to communicate with First Nations peoples and culturally and linguistically diverse communities are considered".

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- 161 Given the history of this allowance and what it is intended to fund, the cost of communicating with constituents, it is not readily apparent what work such proposed principles would have to do in relation to the adjustment of either the base or additional allocations. They having been adjusted in the past in order to reflect increases in the CPI, that affecting the costs which Members incur in communicating with constituents, to which this allowance is directed and given the use which Members make of this allowance, as revealed by the data kept by the Parliament.
- 162 I have thus not been persuaded that the Determination should be amended to introduce what was proposed.
- 163 I have rather concluded that this proposal would be best revisited at a time when an adjustment of the allowance to reflect the proposed factors is sought, in which event a specified increase should be advanced to be considered.
- 164 Such a proposal would need to be accompanied by a suggested amendment to clause 6.3 of the Determination, which presently specifies the purpose of the allowance, Members' entitlements, carry over/forfeiture of the allowance, special conditions and other applicable conditions, so that the purpose and effects of such a claimed increase can be understood.

Information to be provided to Members

- 165 Another matter raised was cl 6.3.5. It specifies the conditions of use for this allowance, referring to monthly reports Members are provided, and the

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purposes for which the allowance can be used. Condition (vi) also provides that:

*“(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.”* (Emphasis added).

- 166 The submission indicated that Members had in the past been unable to obtain the highlighted information from the Electoral Commission.
- 167 But the Determination does not envisage that Members will be left to their own devices to obtain such information. It rather contemplates that the Parliament will take the necessary steps to ensure that it is provided. I have thus concluded that the highlighted words in the condition should be amended to clarify that:

“Each Member is to be provided with the details of the prospective constituents, by information obtained from the NSW Electoral Commission”.

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Members of the Legislative Council

- 168 The Presiding Officers also raised the sufficiency of the allocation for Members of the Legislative Council, they representing the interests of 5,599,805 enrolled voters and requiring greater flexibility in their use of this allocation.
- 169 This was advanced in light of a proposal which had been made by a number of Legislative Council Members, that together they be able to use their communications allowance to fund a website. That allowing constituents across the State to communicate efficiently with each of them by accessing the one website.
- 170 This was considered by the Department of Parliamentary Services to be reasonable, but not permissible under the Determination. That was because while the allowance provides Members with an annual budget to meet the costs of communicating with constituents, including by forms of communications approved by the Parliament, the result of the general conditions imposed by the Determination in cl 2.4 was that the proposed pooling of this allowance was not allowed.
- 171 The general conditions imposed by the Determination include that additional entitlements are subject to the Parliament's Administrative Guidelines and that expenditure is only to be incurred in connection with the Members' parliamentary duties: cl 2.4.1 and 2.4.8. Further, that allowances "are for the sole use of the Member and are not to be transferred to other persons or organisations including Members": cl 2.4.9.

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- 172 I am satisfied that Members of the Legislative Council together funding one website which permits constituents across the State to communicate efficiently with each of them, accords with the statutory intention of providing additional entitlements for the purpose of facilitating the efficient performance of the parliamentary duties of Members or Recognised Office Holders: s11(1)(a).
- 173 Nowadays, when Members are elected, they often establish a website so that constituents can communicate efficiently with them. That is envisaged in conditions which apply to the communications allowance: cl 6.3.5. The Parliament's Administrative Guidelines also provides for the communications allowance to be used for website and social media costs, including design, hosting and domain name renewals.
- 174 Given the size of the allowance provided to Members of the Legislative Council, there is obvious efficiency to be achieved by a number of them combining to use their allowance to fund one website which would permit constituents to communicate electronically with each of them.
- 175 I do not consider that such an arrangement would involve any Member's allowance wrongly being used for the benefit of other Members. Or that payments made to third parties to meet the costs of such a website, would involve an impermissible transfer of Member's funds to another person, organisation or Member. The allowance contemplating as it does, that it would be used to pay a third-party provider.

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176 I also consider that establishment of such a website can sensibly be dealt with by the Parliament providing guidance by way of further appropriate administrative guidelines.

177 I note that this approach also accords with that adopted when more than one Member travels in the same vehicle. That is dealt with at 7.10 of the Members' Entitlements Handbook by apportionment between the Members. A similar practical approach to the cost of a shared website, can also be adopted.

Proposed review of applicable criteria

178 The Presiding Officers also proposed that cl 6.3.1, which explains the purpose of the allowance and gives examples of what it may be spent on, be updated so that the examples given are:

- *“paper-based and electronic communications including translation services;*
- *software subscriptions;*
- *advertising costs - print, digital ads, radio and television;*
- *website and social media costs including design, hosting and domain name renewals;*
- *email distribution services;*
- *video conferencing software and subscriptions;*

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- *interactive voice responses and surveys;*
- *engaging a consultant to devise, implement or manage a Member's electronic communications system and/or to use it to communicate on behalf of the Member; and*
- *other forms of communications and software approved by Parliament."*

179 I am satisfied that there can be no objection to what is proposed, they all exemplifying ways in which Members can now efficiently pursue their parliamentary duties. The deletion of reference to examples formerly given in this clause, such as production of newsletters or the printing of letterhead, should not be understood as prohibiting expenditure of the allowance on such costs. The list of examples given being inclusive and the conditions also restricting the time during which such communications can be pursued: cl6.3.5 (viii).

Increased postage and other costs

180 Some submissions indicated that the amount of this and other allowances was considered to be inadequate, despite adjustments to reflect changes in the CPI. Other submissions indicated that it was adequate.

181 One submission requested a policy change, by the adoption of the federal system, which was considered to be more generous.

182 The Nationals sought an increase in this allowance to reflect claimed increases in postage, which was submitted to have more than doubled in

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recent years. No data was provided to support this. Increased postage costs are reflected in the allowance and are considered from time to time. They can again be assessed in the context of the 2025 annual review.

- 183 It was also submitted that newspaper advertising was becoming increasingly more difficult, with the result that new or more expensive ways available to communicate, were not adequately met by the allowance. What they were was not, however, explained.
- 184 It was also submitted that other forms of communication, such as the provision of a notebook to constituents with a Members' contact details, should be a permitted use of this allowance.
- 185 As has been repeatedly explained, it is for Parliament to determine the policy basis on which determinations are made by the Tribunal. At present the basis on which additional entitlements must be determined is to facilitate the efficient performance of the parliamentary duties of Members or Recognised Office Holders: s10. It is not to adopt entitlements to which Members of the Federal Parliament receive from time to time.
- 186 In the 2024 Determination the amount of this allowance, then increased by 3.6%, was found to be adequate: at [119]-[130]. Members increasing effective use of social media was there noted, as was that some of the more elderly members of the community may not use such online methods of communication or may not use them often, but that those who do are an ever-increasing part of the community: at [126].

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- 187 It may also be accepted that there are parts of some electorates where it is still difficult to utilise electronic means of communication, because of ongoing infrastructure deficiencies. But that such difficulties are also diminishing over time, must also be accepted.
- 188 I am thus not persuaded that the changes sought to this allowance are necessary, to facilitate the efficient performance of Members' parliamentary duties.
- 189 The conditions which apply to this allowance permits its use "for the purpose of communicating with constituents using a range of communication services in accordance with Parliament's Administrative Guidelines": cl 6.3.5(iv) of the Determination. Communications with constituents are limited to matters affecting the Member's electorate: cl 6.2(vii) Members Entitlements Handbook.
- 190 Communicating a Members' contact details by post seems to be an inefficient use of this allowance, but that is a matter for a Member to decide, so long as what is posted is not promotional material: cl 6.3.5(ix) of the Determination. Such material includes notepads.
- 191 I am not persuaded that any change to this restriction, which has a long history which was not addressed in the submission, is warranted.

Business stationery

- 192 Clarification was also sought about the use of the Communications Allowance to produce business stationery in which the Member indicated his or her membership of an approved Parliamentary Friendship Group.

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- 193 Such a cost can only be trivial. If a Group has been approved by either the President of the Legislative Council or the Speaker of the Legislative Assembly, in accordance with cl 2.1.12 of the Determination, I can see no objection to this being referred to in a letterhead.

The General Travel Allowance

- 194 The purpose of the General Travel Allowance is to meet all travel costs associated with parliamentary duties: cl 6.4.1. That includes when travel is undertaken by private vehicle. Such costs are to be reimbursed in accordance with the ATO cents per kilometre method: cl 6.4.4(ii). Clause 7.10 of the Handbook inadvertently omitted the list of rates for motor vehicles and motorcycles which usually appears there and this needs to be updated.
- 195 This allowance provides a different base annual allocation for Members of the Legislative Assembly, according to their groups, which range from \$7,340 to \$42,300 and for Legislative Council Members, according to their zones, their allowance ranging from \$7,340 to \$18,355. Legislative Assembly Members in groups 5 to 8 also receive additional allocations ranging from \$12,435 and \$74,515: cl 6.4.2. Recognised Office Holders also receive an additional allowance: Table 10.
- 196 Staff travel costs may also be met out of this allowance in accordance with the Members' Staff Conditions of Employment – Determination of the Presiding Officers: cl 6.4.4 (vii). Members and their approved relatives who travel with the Member in connection with their parliamentary duties, may

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also claim reasonable expenses from this allowance on production of invoices or receipts, for specified amounts: cl 6.4.4 (ix).

- 197 The Presiding Officers proposed that this allowance be reviewed to support other forms of transport, to ensure that Members can effectively travel and meet constituents in remote and isolated communities. What they were was not identified, but reference has been made in past determinations to Members using caravans in the performance of their parliamentary duties.
- 198 One Member of the Legislative Council made submissions following his experience of a country trip, when accommodation was difficult to find because of the ongoing effects of earlier flooding, as well as a music festival and another community activity. He suggested that the Determination should recognise the use of caravans and motor homes, as well as providing for a camping equipment allowance, bedding and sleeping bag costs, as well the cost of food when Members travelled with a caravan or camped.
- 199 The Nationals sought additional travel allowances for Members who have to travel with dependent children, they not, as a result being able to use their own parliamentary travel for themselves, their partners and potentially staff. Such further funding was urged as being family friendly and properly addressed by a 10% increase in the allowance.

The amount of the allowance

- 200 I am not persuaded that the funds provided to Members by all these entitlements is not sufficient to meet travel expenses, including when

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Members travel with dependents, camp or use a caravan. Particularly given that it will be reviewed again in the next annual review.

201 Data kept by the Parliament about Members' use of their allowances showed that in 2021-22 very few Members used all of this allowance, which may be utilised in following years, if not all expended: cl 6.4.3. If it is not sufficient, travel expenses can also be met out of the Communications and Electoral Allowances. There is little suggestion that Members have used all of their Electoral Allowance to meet expenses.

202 An example given for the Coffs Harbour Electorate of the cost of staff travel in the 6th sitting week was:

- Flights - \$1044
- 2 nights accommodation -\$574
- Plus a meal allowance.

203 In this year there are 16 sitting weeks, that totalling \$25,888 for such flights and accommodation. Coffs Harbour falls into Group 3. This year these expenses may thus be met from:

- \$14,740 total General Travel Allowance;
- \$111,970 total Communications Allowance (\$21,600 Communications Allowance – base allocation and \$90,370 Communications Allowance – additional allowance); and

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- \$102,655 total Electoral Allowance.

- 204 This example thus does not establish any inadequacy in the allowance. Nor has it been established that use of the allowance to meet the cost of travel by dependants requires any increase in the allowance.
- 205 As earlier Determinations have noted, some Members have in the past funded mobile offices, including by use of a caravan, out of their Electoral Allowance. One Member was concerned about the cost of additional fuel required when towing a caravan or mobile home.
- 206 The allowance provides for reimbursement for the use of “private vehicles” using the ATO’s cents per kilometre method.
- 207 The Handbook could be improved by providing an explanation of how this reimbursement operates. But that this necessitates any amendment to the Determination has not been established by what was advanced.

Modes of Transport

- 208 The modes of transport for which the allowance may be used are for reasonable travel costs for parliamentary or electorate duties by private vehicles; car-with-driver transport (hire cars, taxi transport, regulated car sharing services; self-drive hire cars; air transport (including charter transport); and public transport costs (bus, train, ferry, light rail): cl 6.4.4(i) and (ii). The allowance can also be utilised to meet parking costs: cl 6.4.4(iii).

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- 209 Vehicles are not defined in the Determination, but in the Australian Road Rules that term is defined in r 15 to include a trailer, which is defined in the Dictionary to the Rules to include a vehicle that is built to be towed. A caravan is such a vehicle.
- 210 Clause 6.4.4(vii) in the Determination further provides that all of a Member's travel costs may be met from this allowance. It follows that this includes the cost of towing a caravan and any camping site costs incurred when a Member stays at such site, either in a caravan or a tent.
- 211 If this allowance is not sufficient to meet all travel costs the Communications and Electoral Allowances can also be utilised. That includes for the cost of the purchase of a caravan or camping equipment, that also involving a cost of travel: cl 6.4(xv).
- 212 I thus accept that reference to a caravan and camping costs can usefully be included in cl 6.4.4(ii), as well as a reference to a caravan and camping in cl 6.4.4(viii):

*“All associated travel expenses for Members and Members’ staff including registration costs for conferences, conventions, symposiums, forums or similar **and associated caravan, camping and other 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.**” (Emphasis added).*

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Cost of food

- 213 Associated costs for Members and their staff, including accommodation and meal costs approved by the Parliament, are already met from this allowance: cl 6.4.4(viii).
- 214 Clause 7.8 of the Handbook thus explains that a supermarket bill for the cost of food may be reimbursed out of the allowance, in light of the applicable daily cap.
- 215 No amendment is thus required to the Determination in respect of food expenses.

The Sydney Allowance

- 216 Some submissions raised the Sydney Allowance: cl 5.3. It is provided to Members who reside a minimum distance of 70 kms by road from Parliament House in non-metropolitan electorates to compensate for their additional costs. Such costs include commercial accommodation, meals and incidental costs associated with staying in Sydney to attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business.
- 217 Both the adequacy of the daily rate, which will also arise for consideration on the 2025 annual review and how claims for actual reasonable expenses for meals and incidentals, up to the specified maximum, are administered were raised. As was the meaning of “commercial accommodation”, which is not defined.

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- 218 The Presiding Officers raised the provisions made in Table 4, as well as some other proposed improvements in the clause, to reflect how this allowance is now actually paid and administered by the Department of Parliamentary Services, in accordance with the applicable Guidelines.

Definitions

- 219 A definition of both commercial costs and incidental expenses was sought. The Parliament presently defines commercial accommodation to mean accommodation in a commercial establishment such as a hotel, motel or serviced apartment, including Airbnb or similar accommodation.
- 220 I accept that such a definition can usefully be included in the Determination.
- 221 The Parliament applies Australian Tax Office advice about the meaning of incidentals, which the Presiding Officers described to be minor but necessary expenses associated with work related travel, such as a car parking fee, bus ticket or a charge for using the phone or internet for work related purposes at overnight accommodation.
- 222 Again, I accept that such a definition can usefully be adopted in the Determination.

When the allowance is paid

- 223 Members may elect to receive either the annual fixed allowance provided by this clause, or the daily rate. In the latter case without needing to substantiate to the Parliament expenses up to the daily rate, for the

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number of overnight stays per annum specified in Table 4: Sydney Allowance Daily Rates.

- 224 But if a Member exceeds that number of overnight stays, he or she will also be reimbursed actual additional costs, up to the daily maximum, upon the production of tax invoices/receipts for each such occasion: cl 5.3.3(v).
- 225 Necessarily, if a Member is staying in accommodation where no actual additional costs are incurred in the event of such further stays, there will be no tax invoice or receipt to produce. For example, when the Member stays in a property which he or she owns or has leased long term, the mortgage, if there is one, or rental costs being unaffected by the time that the Member actually stays in the property.
- 226 Clarification was sought by the Presiding Officers about whether, when a long-term rental is entered, actual rental costs can be claimed by a Member on a pro- rata basis. That is not provided for in the Determination.
- 227 An amendment was also sought to condition 5.3.3(i), to provide that Members who elect to be paid the annual fixed allowance will receive it in equal monthly instalments and those who choose a daily allowance will be paid after each stay.
- 228 I am not satisfied that it was intended that the annual fixed allowance be paid in monthly instalments. This according with the Determination encouraging non-metropolitan Members to make longer term accommodation arrangements in Sydney.

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- 229 Contrary to what is indicated in the Handbook at 8.5, the Determination does not provide at 5.3.3(i) for the annual allowance to be paid monthly. It requires the annual rate to be calculated by reference to the number of days specified in Table 4, which have regard to the distance from Sydney that the Member lives: cl 5.3.3 (ii). In the case of Members who are not Recognised Office Holders, either 105 days for those who live between 70 and 140 kilometres by road from Parliament House and over 140km, 135 days:5.3.3.
- 230 The Determination requires two six monthly reconciliations of the number of occasions a Member actually stayed in Sydney and repayment of any unsubstantiated part of the annual amount, which is then to be provided by 30 September, or 30 days of ceasing to be a Member: cl5.3.3(x). In the meantime he or she has the benefit of the annual allowance paid.
- 231 It follows that the clause can be amended to reflect that the daily allowance will be paid after the expense has been incurred and the question of the monthly payment of the allowance revisited in the 2025 review, if that is considered desirable.
- 232 The clause can be amended to provide:

“A Member can choose to receive the Sydney Allowance as either an annual fixed allowance or a daily allowance to be paid after each overnight stay. The election is to be made at the commencement of each financial year.”

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Reasonable expenses

- 233 In the case of expenses for meals and incidentals, what is reasonable involves the exercise of some discretion.
- 234 It was suggested in one submission that some claims, such as for a second soft drink or wine consumed with a meal, for example, had been rejected as not being reasonable. With the result that a better and administratively less burdensome outcome would be for the adoption of allowances fixed for public servants.
- 235 I am not persuaded that there is a problem with the current provision which needs to be addressed by amendment of the Determination.
- 236 What was proposed would appear potentially to leave some Members better off and others worse, but that comparison was not undertaken.
- 237 The Handbook requires claimed costs to be supported by a receipt. Where beverages are shared, that they be apportioned and that alcoholic beverages be limited to two per meal, as per the public sector standard. It follows that it would not be reasonable to reject a claim for more than one non-alcoholic beverage.
- 238 Problems with the implementation of this provision should be raised with the Department which administers it.

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Proof of travel

239 Clause 5.3.3 requires Members to maintain proof of the parliamentary purpose and occasions on which they travel to Sydney. When Parliament is not sitting, they are required to sign in and out of the Parliamentary Register, unless they are not required to attend Parliament House. In that event they must provide proof sufficient to satisfy the Chief Executive to substantiate their travel to Sydney.

240 What was proposed by the Presiding Officers was an alteration from Members being required to sign the Register, to being encouraged to sign it.

241 I am not persuaded that signing the Register should no longer be required when Members attend Parliament House. That providing as it does a practical and administratively simple and convenient record which establishes the Members' travel to Sydney and entitlement to payment of the claimed allowance.

242 But I am satisfied that the clause could be simplified to provide:

"Members are required to maintain records that clearly document the parliamentary purpose and occasions they stay in Sydney in connection with their parliamentary duties. Members attending Parliament House on parliamentary business when Parliament is not sitting are required to sign in and out of the parliamentary register. When a Member is in Sydney on parliamentary business which does not require them to attend Parliament House, the Member must provide sufficient documentary proof of each such occasion to the Chief Executive. A diary entry will provide such proof."

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Such records are to be retained for a minimum period of two (2) years, for the purpose of substantiating claims Members submit to Parliament.”

Electorate/Zone to Sydney Travel

243 Clause 6.2 deals with the cost of airfares for Members entitled to receive the Sydney Allowance. All eligible Members being entitled to receive 104 single economy class journeys a year, with additional entitlements for certain office holders: cl 6.2(iii) and (iv). It also permits Members to use these entitlements to meet the cost of a vehicle, if the Member chooses not to fly.

244 Condition 6.2.2 (ii) provides:

“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.”

245 The cost of commercial airfares now varies, with the result that the Department of Parliamentary Services has adopted a practice of determining an average flight cost, based on expenditure in a previous financial year. Actual costs may be higher or lower.

246 The Presiding Officers asked the Tribunal to “provide its methodology” for determining the “commercial airfare for an equivalent distance flight”. It does not have one.

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- 247 What the Determination envisages is that the actual cost of a commercial flight to Sydney at the time of the travel will be identified, that reflecting the Members' entitlement, in the event the Member elects to drive. It being for the Member to seek reimbursement of the cost of travel by a vehicle, not exceeding that amount.
- 248 It follows that the amount of a Members' entitlement can be established by the Member who seeks reimbursement of vehicle expenses, providing proof of the cost of air travel at the relevant time. The Handbook enables Members to utilise FM Travel Solutions to book their air travel, or to book directly with an airline: cl 7.11. Nowadays that can be done online. Information about such actual costs is thus readily available and no doubt taken into account by Members, when deciding whether to fly or drive.

- 249 Clause 6.2.2(ii) can thus be amended to provide that:

“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 cost of a commercial airfare for an equivalent distance flight, proof of which is to be provided by the Member, when seeking payment of this entitlement.”

Committee Allowance

- 250 Committee Allowances are paid to Chairpersons of Joint, Select and Standing Committees, those appointed by the Presiding Officers to the

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Temporary Chairs of Committees Panel, or the Panel of Temporary Speakers in recognition of their additional responsibilities: cl 5.4.1.

251 The Presiding Officers proposed changes to conditions (i) and (ii) of cl 5.4.2, to introduce a reference to schedule 1 to the Act and to restructure the clauses. They provide:

- (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 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.”*

252 What was proposed was:

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- *“Chairs of Joint Committees, Select Committee and Standing Committees specified in Schedule 1 of the Act will receive a salary of office.*
- *The below officeholders will receive a Committee Allowance of \$5,085 per annum paid through the Member’s payroll in monthly instalments, along with normal salary:*
- *Members of the Public Accounts Committee*
- *Panel of Temporary Chairs of Committees and Temporary Speakers Panel*
- *Chairs of Joint Committees, Select Committee and Standing Committees not specified in Schedule 1 of the Parliamentary Remuneration Act shall be paid a daily rate 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”*

253 I am persuaded that the clause could be amended to provide:

“5.4.1 Purpose and Operation of the Provision

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Committee Allowances are paid in recognition of additional responsibilities in the case of certain Chairpersons of committees, the Public Accounts Committee, the Temporary Chairs of Committees Panel and the Panel of Temporary Speakers.

5.4.2 Entitlement

Members:

- (i) serving as Chairpersons of Joint Committees, Select Committees and Standing Committees who are not in receipt of a salary of office as specified in Schedule 1 of the Act, 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.*
- (ii) 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 be paid a committee allowance of \$5,085 per annum.”*

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The Skills Development Allowance

254 This allowance is provided to Members and Members' staff for training that is directly relevant to the role of Members and their staff: cl 6.6.1. A non-inclusive list of such training is there provided.

255 The Presiding Officers proposed that the list be updated to provide:

- *“media skills training;*
- *public speaking and voice coaching;*
- *community and social media engagement;*
- *use of graphic design software;*
- *use of video editing software;*
- *website and social media design and maintenance;*
- *writing skills for reports and media releases; and*
- *conflict resolution and dealing with difficult constituents”*

256 I am satisfied that what is proposed is training relevant to the current roles of Members and their staff and so may be adopted.

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Electoral Allowance

- 257 The Statutory scheme contemplates that Members will receive additional entitlements, including the Electoral Allowance. It must be paid to Members in money: s10(2B)(b). Like other entitlements which are not paid in money, it is provided for the purpose of facilitating the efficient performance of the parliamentary duties of Members or Recognised Office Holders: s10(1)(a).
- 258 This allowance comprises a base allowance and additional allowances which differ between electoral groups in the Legislative Assembly and zones in the Legislative Council. Clause 5.2 provides that the quantum of this allowance is fixed in accordance with the electoral grouping or zone for the electorate of the Member. The Table provides:

| 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 |
| Zone 2 | \$70,140 | \$19,985 | \$90,125 |
| Zone 3 | \$70,140 | \$24,795 | \$94,935 |

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- 259 The Act also provides, however, that the Electoral 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)”: s10(1)(2B)(c).
- 260 Members raised various problems with the regulation, operation and administration of this allowance in the 2023 and 2024 annual reviews: see the 2024 Determination at [55]-[58] and the 2023 Determination at [99]-[107].
- 261 What was raised included matters such as pay equity between Members; the absence of any oversight by the Parliament of how this allowance is utilised by Members; as well as whether use of this allowance to meet the travel and accommodation costs of Members’ staff, who are employees of the State, best utilised such funds, given both the administrative costs involved and the result, the taxation of those funds in the hands of Members.
- 262 The problems raised resulted in the Tribunal obtaining advice from the Crown Solicitor and further submissions being invited from Members.

Submissions

- 263 No submission suggested that the Electoral Allowance should be abolished, required as it is by the Act. Most of the submissions finally made resisted any change to the way in which the allowance currently operates. Others raised problems and proposed changes. All of these submissions require consideration.

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- 264 The Crown Solicitor's advice highlighted that there is a tension in the legislative scheme which appears to have had some unanticipated, practical consequences.
- 265 That tension being between the allowance being paid in money so that Members can meet incidental expenditure incurred in discharging their responsibilities during the performance of their parliamentary and electoral duties. But Members also being entitled to retain as much of this allowance as personal income as they alone each decide from time to time, rather than using it to meet expenses.
- 266 Each Member is aware of what use they make of the allowance and what their resulting taxable income each year is. But this information is not available to the Parliament, the Auditor General or the Tribunal. The use made of the allowance is thus not transparent.
- 267 Some submissions raised an ongoing concern that the current arrangements encourage Members to take a substantial part, if not all of this allowance, as personal income, that leading to pay inequity. The Crown Solicitor's advice was that the Act permits this. The result of the current legislative regime is that the Parliament is not able to exercise any oversight over how the allowance is used.
- 268 Some submissions doubted that increased use was being made of the allowance as income. Other Members considered that it was their right to choose to use the allowance as income, rather than to meet expenses, that having been confirmed by the Crown Solicitor.

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269 Some submissions suggested that increasing use of the allowance as income had been driven by:

- the current statutory arrangements;
- increases in the basic salary having for a considerable time either been capped or frozen, that having effectively reduced Members' salary over time, reducing it by comparison to that paid to Members of other Parliaments;
- a resulting widely held view that the basic salary is now insufficient recompense for the increasingly difficult work which Members have to perform, with the result that some choose to supplement that salary by using their Electoral Allowance, which unlike salary has been adjusted by reference to CPI increases, as income.
- the Parliament's introduction of administrative arrangements which permit Members to elect to have PAYE deductions made when the Electoral Allowance is paid to them monthly; and
- the timing of the payment of the allowance in monthly instalments, the last of which is paid immediately before the end of the financial year, making it practically difficult to use to meet expenses.

270 Many Members indicated that they use all of their allowance to meet expenses which they incur in the performance of their duties. They considered that the current provisions of the Determination appropriately regulate the allowance and opposed any change being made. Some

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explaining that their use of the allowance included the purchase of vehicles or property in Sydney, as the Determination encouraged.

- 271 Some Members supported the introduction of a requirement for use of the allowance as income to be reported to the Parliament. Some explained how simple they found tracking their expenditure of this allowance by having it paid into a separate bank account and utilising software to track spending and maintain receipts, which they later use to make claims for tax deductions.
- 272 Other Members considered that any reporting to Parliament about use of the allowance would impose unnecessary administrative costs on them and the Parliament and would potentially require the employment of additional staff.
- 273 Some Members indicated that they valued not having to keep records of how they spent the allowance and were not concerned about how the ATO approached their claims for deductions, or how this allowance was taxed. Others were concerned that claims in respect of expenses incurred in the performance of their parliamentary duties were rejected.
- 274 The Presiding Officers provided information about Electoral Allowances now received by Members of the Commonwealth and other parliaments and whether any part of them could be retained as income. In summary the current position is:

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| Jurisdiction | Date of last adjustment | Electoral Allowance range |
|----------------------------------|-------------------------|--|
| Commonwealth ¹⁰ | 01 Jul 2024 | \$39,700 - \$57,100 |
| New South Wales ¹¹ | 01 Jul 2024 | \$77,985 - \$203,140 Independents Allowance of \$2,325 Additional ROH allowance of \$4,660 |
| Victoria ¹² | 01 Jul 2024 | \$46,643 - \$55,875 |
| Queensland ¹³ | 19 Feb 2024 | \$97,136 - \$133,350 |
| South Australia ¹⁴ | 01 Oct 2022 | \$17,815 - \$54,416 |
| Western Australia ¹⁵ | 01 Jul 2024 | \$88,000 - \$113,350 |
| Tasmania ¹⁶ | Nov 2020 | \$32,394 – 53,992 |
| Australian Capital Territory | - | No provision |
| Northern Territory ¹⁷ | 24 Apr 2024 | \$88,000 - \$113,350 |

275 This information reflects that the Electoral Allowance in this State generally exceeds that paid to Members of other Parliaments. Some other Parliaments do not permit their Members to use the allowance as personal income.

276 The Presiding Officers said that they welcomed the opportunity to revisit the Electoral Allowance matters in the context of any advice which the Tribunal received from the Australian Tax Office. Such advice is not

¹⁰ Remuneration Tribunal, *Remuneration Tribunal (Members of Parliament) Determination 2024 Compilation No. 1*, Remuneration Tribunal, 2024.

¹¹ Parliamentary Remuneration Tribunal, *Parliamentary Remuneration Tribunal Annual Determination 2024*, PRT, 2024

¹² Victorian Independent Remuneration Tribunal, *Members of Parliament (Victoria) Determination No. 01/2023 [varied by [2024] DMPA 01]*. VIRT, 2024

¹³ Queensland Independent Remuneration Tribunal, *Determination 30/2024 Remuneration Determination 2022-23 Review of Allowances*, QIRT, 2024; Office of the Clerk of the Parliament, *Legislative Assembly of Queensland Members' Remuneration Handbook*, Queensland Parliament, 2024

¹⁴ Remuneration Tribunal of South Australia, *No. 17 of 2022 Determination of the Remuneration Tribunal*, Remuneration Tribunal of South Australia, 2022

¹⁵ Salaries and Allowances Tribunal, *Members of Parliament Tribunal Determination No 1 of 2024*, SAT, 2024.

¹⁶ Tasmanian Industrial Commission, *Inquiry into the Parliamentary Salaries and Allowances by The Full Bench of the Tasmanian Industrial Commission*, TIC, 2020

¹⁷ Northern Territory Remuneration Tribunal, *Report and Determination No.2 of 2024 - Entitlements of Assembly Members - Electoral Redistribution*, NT Remuneration Tribunal, 2024

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appropriate for the Tribunal to pursue. It can, of course, be pursued by Members.

277 In the attachment to their submission the Presiding Officers also indicated in relation to conditions which attach to the allowance, that “it may be necessary to seek the advice of the Australian Taxation Office as to whether staff travel expenses are considered work related expenses for the Member and hence tax deductible”. They or the Parliament itself may, of course, pursue this and provide any advice obtained as a result to the Tribunal to consider.

278 The NSW Government submission included that the allowance “is functioning well and should remain in place in its current form” and that any alteration “would be inefficient and inequitable”, given that it facilitates “prudent long term decision making by Members”, as well as “best value for tax payers and the community”, the “unique nature of each electorate” meaning that expenses differed greatly between Members, that making essential the discretionary character of the allowance, in Members serving these diverse and unpredictable requirements.

279 Reference was made to regional Members utilising the allowance to supplement the Sydney Allowance, which it was submitted “no longer provides reasonable accommodation in Sydney”. It being noted that it now pays \$82.40 less per day than the ATO reasonable rate for travel allowances and that renting a property in Sydney provided a more cost-effective use of taxpayer money, but that such accommodation was increasingly difficult to procure at affordable rent. The Electoral Allowance was thus required to supplement the Sydney Allowance.

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280 Some Members reported using the Electoral Allowance to meet expenses not eligible to be claimed from other allowances such as:

- Sponsorship of local organisations such as purchasing memorial wreaths for ANZAC Day ceremonies; paying entry ticket costs; sponsoring a local children’s sports team; and
- Purchasing items to donate to fundraising raffles by community organisations like the Rural Fire Service.

281 Other Members reported using the allowance for purposes such as:

- *“Purchasing subscriptions to essential office software like Zoom, ChatGPT, Mailchimp, Media subscriptions, Apple, Canva, etc.;*
- *Staff amenities, including a water-cooling station, milk, butter, biscuits, toilet paper, cleaning items, and lunch for all staff after team meetings;*
- *Expenses related to training, seminars, events and associated accommodation costs.”*

282 That Members were using this allowance as income or salary due to a lack of substantiation to Parliament was disputed and submitted by some to be erroneous and misleading. Its essential character under the Act was argued by some to be compensation “for performance of the Parliamentary duties regardless of whether it is used for work expenses (as ordinarily

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understood), or other undefined expenses or income as defined by the ATO”.

- 283 It was also submitted that “current tax arrangements provide an elegant solution to questions of regulation” of this allowance, that holding Members to the same standard for tax deduction as all other Australians. An analogy was drawn with a conveyance allowance paid to office holders, Judges and Magistrates, which was taxable if not expended and only needed to be substantiated to the ATO. These arrangements were also submitted to “incentivise” Members to spend the complete allowance on distinctly electoral purposes, to avoid a tax deficit, with funds not so spent being returned to the community via taxation.
- 284 There was also a submission that the Determination could usefully be further amended to provide a checklist for what could be charged to this allowance and what Members had to pay out of pocket, given that this was currently not clear, so that Members often paid the whole of an out of pocket expense.
- 285 Given the current provisions of the Determination and the way in which this allowance is taxed, that does not seem to be a useful exercise.
- 286 It was also submitted that a reduction of the allowance would decrease Members’ compensation by approximately 45%, with a resulting adverse impact on residents of the State, because Members would then reduce support of many community organisations. How this calculation was arrived at is not clear.

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- 287 Attention was also drawn to the complexity of administering the Electoral Allowance in some different way, given the current length of time it takes the Parliament to administer Members' claims in respect of other allowances, despite increased Departmental staffing. This was exacerbated by the difficulty of obtaining receipts which could be reimbursed from some community groups.
- 288 The submissions of the Liberal Party included that "Flexibility for the Electoral Allowance is a requisite for Members to be able to fulfill these duties fully and appropriately. Each electorate has its own character. Each Member representing their electorate has their own approach to how they best and fairly represent their community."
- 289 Further, that "Duties that are called upon as an elected member are vast and varied and cannot be forensically audited to a thorough and fulsome list of 'claimable items'. Examples of these claims are "staff pay, vehicle expenses, office fit outs, community engagement, school activities, media subscriptions". These were "core expenses for the efficient operations for an electoral office, especially given that New South Wales appears as an outlier to their State and Territory counterparts, where vehicle costs, and accommodation, are taken into consideration for elected Members and their staff."
- 290 It was also submitted that "All costs payable by the Member from their Electoral Allowance are deductible, with the Electoral Allowance itself an accessible income." This was not the experience of all Members.

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- 291 The submissions of the National Party included that the Electoral Allowance is critical for Members to efficiently perform the duties of their Parliamentary Office and that each electorate “has unique needs and as such each Member has a personalised approach to representing their communities. This is particularly true for those Members representing rural and regional electorates that cover large geographical footprints.”
- 292 Further, that “Regional Members would be unfairly impacted should there be a change to how the electoral allowance payment is made. Given the geographical distance between communities within the same electorate, Members utilise the flexibility of the electoral allowance in its current form to efficiently cover necessary costs of travel within their electorates.”
- 293 It was also submitted that “The role of an elected member significantly transcends the requirements of a traditional employment contract, with extensive and varied duties performed outside standard working arrangements. As such, the Electoral Allowance payment is utilised for a variety of expenses and cannot be minimised to a ‘list of claimable items’.”
- 294 The Shooters, Fishers and Farmers Party also opposed any changes to the current Electoral Allowance scheme, submitting that if the allowance structure were to be altered, “specifically towards a refund-based system significant financial challenges and implications could arise.” It was also submitted that any change would disproportionately affect its Members, “as it would require them to front substantial expenses, with the hope that they will be eventually reimbursed. The current system, which provides an electoral allowance upfront, ensures that members can meet their electoral duties without unnecessary financial strain and uncertainty.”

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- 295 It would also raise tax problems, which would “disproportionately affect our members, as it would require them to front substantial expenses, with the hope that they will be eventually reimbursed. The current system, which provides an Electoral Allowance upfront, ensures that members can meet their electoral duties without unnecessary financial strain and uncertainty.”
- 296 It would also impose a complex administrative burden on the Parliament, with resulting additional cost as well as increased workload for Members. The example given being of travel expenses over the past three years 2021, 2022 and 2023 of \$52,994, \$57,664 and \$60,628 respectively, with each year involving more than 10-line items and hundreds of invoices and receipts. There was thus no need to change a system which had worked effectively for many years.
- 297 A submission advanced for the “Independent Cross Bench” was that there should be no change, no proposed changes available to be considered by Members. Acquittal and expenditure of the allowance should be left to Members in accordance with the applicable Tax Ruling, it being observed that the support provided to Members of this State’s Parliament was modest, compared to that of other States and the Commonwealth, which also provided a vehicle or vehicle allowance.
- 298 In one case it was accepted that while it was possible for Members to take the allowance as income to varying degrees, they did not report doing so and that many Members reported having overspent their allowance. It was also submitted that the 2016 changes to the Determination had dealt more appropriately and flexibly with the funds transferred into the Electoral Allowance, the use of which was significantly directed to vehicle expenses

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and other expenses not claimed under other allowances provided by the Determination. Any substantiation of such expenditure would result in administrative burdens requiring the employment of additional staff and costs far outweighing any problems sought to be addressed.

- 299 Comparison was also drawn with higher salary and allowances paid in Victoria and Queensland, where it was claimed that Members had less than half the constituents to service.
- 300 One Member drew comparisons between allowances paid to Members of the Assembly and those paid to Members of the Council which were submitted to have the result that Council Members had to rely more heavily on their Electoral Allowance. An explanation was given of expenditure in which receipts were not readily available, the time it took the Parliament to process claims and the effort made to comply with the Tax Ruling.
- 301 Further complications for a tax return were resisted, as were any changes during to the Electoral Allowance during the life of this Parliament.

The relevant history of the statutory regulation

- 302 Necessary background to a consideration of all the matters Members have raised is an understanding of the history of the allowance and its statutory regulation, which predates the current legislative scheme.
- 303 Importantly, the Act was amended in 2001 to alter the regulation of this allowance following advice from the Crown Solicitor, the then determination requiring Members to repay any unspent portion of their Electoral Allowance. The amendments were made in order to remove “the

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narrow requirement that the allowance was used only for certifiable expenditure, the allowance compensating members for all incidents of the performance of their parliamentary duties.”: 2007 Determination at p4.

304 The Crown Solicitor’s recent advice was that the central purpose of the 2001 amendments was “to articulate in a clearer way the fact that members are entitled to retain their electoral allowances”.

305 The purpose of the current regulation of the allowance was explained in the 2001 Second Reading Speech at p 5:

“... By removing the requirement to repay the unspent portions of electoral allowances, the tribunal has restored the traditional arrangements in respect of this allowance. This Government will address the issues raised by the Crown Solicitor by legislating to retain the historical practice in respect of the electoral allowance—a practice common throughout all jurisdictions in Australia. The bill will make clear the Intention of Parliament. It will overcome the present uncertainty as to what is required to happen to the unspent portions of electoral allowances. The bill provides that the tribunal will determine the quantum of the allowance. The bill makes a separate provision for electoral allowances and states explicitly that electoral allowances will be paid as compensation in respect of all incidents of the performance of parliamentary duties. In other words, it is intended to compensate all aspects of a member's responsibilities in his or her electorate and not merely matters within the narrow definition of expense reimbursement.

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This amendment does nothing more than provide greater certainty that members may continue to receive their electoral allowances as they have since their introduction in 1956. The bill articulates in a clearer way the fact that members are entitled to retain their electoral allowances. Members will continue to acquit the unspent portions of the allowance with the taxation commissioner, as has historically been the case. It treats electoral allowances no differently from what occurs in Federal and other State and Territory jurisdictions. Electoral allowance will not count for superannuation purposes. The bill also provides a transitional provision to ensure the clarifying amendments apply to the electoral allowances payable under the current determination."

306 It was also observed at p 6 that "If any greater certainty or clarity is required in respect of the Electoral Allowance, it should be sought and, if necessary, legislated."

307 I am satisfied that the problems repeatedly raised for the Tribunal's consideration has now triggered the need for the legislative scheme to be further considered by the Parliament.

Legislative and administrative changes for the Electoral Allowance

308 A simple change to the Act which could help address the concerns which have been raised would be one which required Members, or which permitted the Tribunal to require Members, to report to the Parliament each year the proportion of the Electoral Allowance which they received as income.

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309 That would ensure that both the Parliament and the Tribunal had pertinent information relevant both to the assessment of Members' basic salary, as well as the annual determinations of other entitlements which the Act requires, including the Electoral Allowance, which is not presently available to either of them.

The 2016 changes to allowances

310 Such a reporting requirement arises for the Parliament's consideration in the context that the allowances provided by the Determination were significantly altered in 2016, in response to a proposal from the then Presiding Officers. It was intended to achieve administrative simplicity, not to increase income for Members.

311 What was then transferred to the Electoral Allowance included funds formerly allocated to the logistical support allowance for printing, stationary, office supplies and services, as well as those allocated to electronic communication: 2016 Determination p 8.

312 Other funds became part of the General Transport and Communications Allowances: 2016 Determination at p 8-9. Unlike the Electoral Allowance they remain payable by the Parliament after claim by the Member.

313 The result is that since the 2016 changes, Members have been entitled to retain the funds provided by the Parliament to meet printing, stationary, office supplies and services, as well as electronic communication costs, as income. That this was not envisaged by the Tribunal, is apparent.

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- 314 It was noted at p 10 of the 2016 Determination that under the current provisions of the legislative scheme:

“The electoral allowance is paid to all Members for the performance of parliamentary or electoral duties and is paid to cover incidental expenditure incurred in discharging these responsibilities. The electoral allowance can be used by a member in undertaking either parliamentary or electorate duties.

Members are not required to account for the use of this allowance to the Parliament. Instead Members are subject to the substantiation rules determined by the Australian Taxation Office (ATO). If the allowance is not fully expended or the expenditure incurred is not allowed as a tax deduction by the ATO, that portion is subject to the same tax rates as normal income.”

- 315 The aim of the 2016 amendments was thus described to be to give Members “greater flexibility and control over their expenditure while reducing the cost of the administration of these entitlements.”: at p11.
- 316 The changes were also explained by the removal of the administrative burdens involved in the administration of other allowances then provided by the Determination.
- 317 What was not anticipated was that Members might prefer to retain the increased Allowance as income, rather than utilising it to meet expenses which they would otherwise incur in the performance of their parliamentary duties, including in respect of staff travel.

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Transparency

- 318 Reference was also made in the 2016 Determination to the “considerable scrutiny of the use of Members’ entitlements from the media and integrity agencies such as the NSW Audit Office and the Independent Commission Against Corruption. It was also noted that “The Parliament’s administrative procedures are in place to ensure that the use of entitlements complies with the Tribunal’s Determination, the relevant legislation and the NSW Audit Office requirements.”: at p12.
- 319 This was a reference to the 1998 Independent Commission against Corruption’s O’Keefe report, which considered Members’ travel, the reimbursement of their expenses, as well as accounting, auditing and record keeping in respect of entitlements and their acquittance. Various improvements in the Parliament’s practices were then recommended, the Commission having expressed concern about the inadequacy of the auditing of Members’ use of their entitlements which was not disclosed to the public: at 87.
- 320 It was also there observed that adoption of a transparent and open approach to entitlements would help deter abuse, encourage due economy and enhance public confidence in the Parliament’s system: at 88.
- 321 Contrary to what was then proposed, there is at present still no transparency in the use Members make of their Electoral Allowance, given the current statutory scheme.

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Utilising the allowance to enhance income

- 322 The changes made in 2016 were plainly not intended to enhance Members' income. In 2016 the Tribunal decided to adopt the changes proposed by the Presiding Officers, being satisfied that they were "aimed at simplifying and reducing the cost of administration of allowances, while providing Members with greater flexibility": 2016 Determination at 12.
- 323 It was concluded that "The new entitlement model will not significantly alter the overall cost of providing allowances, entitlements and services to Members.": at p 13.
- 324 The submissions which the Tribunal has received underscore the continuing administrative benefits of the current arrangements. But they also establish that the Parliament does not now have any actual oversight of how the funds provided to Members by way of the Electoral Allowance are utilised and that Members use their allowance in very different ways. Nor can the Auditor General exercise any oversight of this allowance. While there is a tax ruling which the ATO administers, the results are unknown, including to the Parliament and the Tribunal.
- 325 One of the consequences of the current arrangements is thus that what total income individual Members actually receive each year for the performance of their parliamentary duties, is known only to them. That depending on how much of the allowance they each use to meet expenses, how much they choose to retain as income and how their expense claims are dealt with by the ATO.

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326 The submissions about resulting pay inequity must be considered in that context. That such concerns have a foundation, given the current system and the submissions made, must be accepted. The extent of any such inequity is not clear. But the real possibility of its existence is presumably important to the Parliament, as it is to the Tribunal.

Staff expenses

327 Another matter which the Parliament may wish to consider is the apparent adverse consequences of meeting staff expenses out of funds given to Members as part of the Electoral Allowance, rather than the Parliament paying all such staff expenses itself, already discussed. The Parliament presently pays staff salary, some staff expenses and in the first instance, other expenses which are then recouped from Members' allowances.

328 One result of this arrangement appears to be that tax is unnecessarily being paid on the funds Members use to meet staff expenses. The amounts involved may not cause the Parliament concern, but the Crown Solicitor has advised that a different approach can be taken. It, of course, always being a matter for the Parliament to determine how Members' entitlements and the expenses incurred in the performance of their parliamentary duties are regulated.

329 How much of their Electoral Allowance Members spend on staff expenses may already be known to the Parliament, given that it presently appears to meet them in the first instance, rather than staff paying those expenses and later seeking reimbursement, as was the former practice. The Parliament could thus adopt a system which did not involve Members in

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the payment of such expenses. From some Members' submissions, that would be an attractive outcome. Others did not agree.

- 330 Nevertheless, the Parliament may wish to consider that the current statutory scheme and its administrative arrangements are seemingly contributing to the ATO not accepting that Members' claims in relation to staff expenses are deductible, despite them having been incurred as the result of the Members' performance of their parliamentary duties.
- 331 Another problem identified in one submission was that it may not be practically possible to spend a significant part of the Electoral Allowance on the performance of parliamentary duties, because of the time at which the final payment of the allowance is made, very close to the end of the financial year.
- 332 That is a relatively small difficulty which could also be addressed by an administrative change in the timing of that payment. This is also a matter for the Parliament to consider.

Possible changes to the Determination to reduce funds which can be taken as income

- 333 Legislative change is not necessary to achieve the result that the cost of staff travel is not met out of the Electoral Allowance.
- 334 If the Parliament decided to bear all such costs itself, the Determination would no longer have to deal with staff expenses. There could also be consequential administrative improvements, which could not only streamline all that is presently involved in the administration of staff travel

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costs, which on all accounts is a slow process, but also reduce administration expenses.

335 As for the expenses which in 2016 became a part of the Electoral Allowance, which were not intended to result in Members' income increasing, a relatively simple calculation can establish their present value. The allowance could be reduced by this amount, which could be included in another allowance in respect of which Members must make claims. A research paper which addresses such a calculation appears at appendix 3 to this report.

336 Such a change would, of course, give rise to the administrative burdens which many Members have resisted, which thus require further consideration.

337 Members will be invited to make submissions about such possible changes to the Determination, in the 2025 annual review, as well as any other changes considered necessary or desirable, in the event that the Parliament revisits the statutory scheme.

Future adjustment of the Electoral Allowance?

338 The Act requires the Tribunal to make an annual determination regarding "additional entitlements" s11(1). They are defined in s3 to mean "the electoral allowance and other additional entitlements under Part 3". This is not an obligation imposed in respect of the "basic salary", which is dealt with in s4. It requires the Tribunal to determine the amount of the basic salary from time to time when it thinks fit, or as the Minister directs.

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- 339 In the past the Tribunal has also considered Members' basic salary annually when adjusting allowances. In recent determinations the Tribunal raised the question of how the Electoral Allowance should be adjusted, given submissions advanced about its use as income, rather than being used to meet expenses incurred in the performance of parliamentary duties. Members then submitted that it should continue to be adjusted in the same way as other allowances.
- 340 Given submissions advanced on this review about Members' right to use the allowance as income, that question may need to be revisited in the 2025 annual review.
- 341 It should also be noted that one submission was that the Electoral Allowance was no longer adequate, because expenses such as running costs of vehicles used to drive long distances exceeded the inflation rate and that there had been increased cost of insurance, because of thefts in regional communities. While Members are using this allowance to enhance their income, such a submission would be difficult to accept.
- 342 Some Members indicated that in future they would be prepared to voluntarily disclose to the Tribunal how they had used the allowance. At present, that is the only way in which reliable information about the actual use being made of this allowance can be obtained.
- 343 When inviting submissions for the 2025 annual determination the Tribunal will thus ask Members to advise what proportion of the Electoral Allowance they have received as income. They will also be invited to make

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submissions about how this allowance should be adjusted, given what proportion of the allowance is being taken as income.

- 344 This will be taken into account when the annual adjustment of the allowance is considered in the 2025 annual review.

A proposed new condition in relation to the Tax Ruling

- 345 The Presiding Officers also proposed that a new condition be provided for this allowance in cl 5.2.1. It explains the basis of the allowance in (i), by identifying “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”.

- 346 The types of expenses which it is envisaged may be met from the allowance are dealt with in (iii). The Presiding officers proposed that this be amended to include at (f) “other costs as contained in the Australian Tax Office Ruling – TR 1999/10”.

- 347 Given all that I have discussed in relation to this allowance, I do not consider that to be an appropriate amendment to the Determination.

- 348 On the limited information available about the way in which the Tax Office actually administers the applicable ruling, that its approach accords with the statutory purpose, of facilitating the efficient performance of the parliamentary duties of Members or Recognised Office Holders, is not

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apparent. This accords with the Tax Office being rather concerned with the different purposes to which Commonwealth tax legislation is directed.

Independents

349 Conditions 5.2.2 (ii) and (iii) provide:

“(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”

350 The Presiding Officers proposed that condition (ii) be amended to remove the exception in relation to Independents, to reflect that an Independent is now the Speaker of the Legislative Assembly and other Independents have been appointed as Chairs of Committees.

351 Given the work involved in these offices, the resulting additional needs these allowances are intended to address, and the positions which Independents now hold, I am satisfied that the proposed change should be made to (iii), but that there then needs to be a consequential amendment to (ii), so that they provide:

“(ii) A further allowance of \$4,660 per annum is payable to each Recognised Office Holder in the Legislative Assembly and Legislative Council.

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(iii) A further allowance of \$2,325 per annum is payable to each Independent in the Legislative Assembly and Legislative Council, who is not a Recognised Office Holder.

Recognised Office Holders' entitlements

352 The Presiding Officers asked that consideration be given to the alignment of various provisions of the Determination with Schedule 1 of the *Parliamentary Remuneration Act 1989*, which specifies the Recognised Office Holders for whom the Tribunal may provide additional entitlements in the Determination.

353 Recognised Office Holders are dealt with in s6 and Schedule 1 of the Act. As well as receiving the basic salary which all Members receive, they are also entitled to the additional salary and expense allowances specified in Schedule 1. Since its enactment, that Schedule has been repeatedly amended, most recently in 2019.

354 The Determination also provides various additional entitlements for Recognised Office Holders in relation to staffing, the Sydney Allowance, the General Travel Allowance, the Communications Allowance and the Zone to Sydney allowance. The Presiding Officers requested an indication of which specific Recognised Office Holders were entitled to those entitlements, given that the Determination does not accurately reflect those named in Schedule 1.

355 Given that the Tribunal's power to provide additional entitlements is limited to the recognised officers provided by the Schedule, it must be accepted

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that references in various clauses of the Determination need to be updated to reflect those now specified in the Schedule. Additional staffing entitlements has earlier been dealt with.

- 356 The problem is explained by Tables 4 and 10 of the Determination, the former presently providing

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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 |

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| | | | | |
|--|--|-----|----------|----------|
| 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 |

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- 357 The office of “Leader of Third Party in Assembly with not less than 10 Members”, for example, does not appear in Schedule 1. The relevant office is there described to be “Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which no member is a Minister”.
- 358 The Table also refers to “Chairs of Standing/Select Committees”, while the Schedule refers to the Chairs of named committees and standing committees. The Table must thus be amended to refer to “the Chairs of Committees specified in schedule 1 to the Parliamentary Remuneration Act.”
- 359 It follows that Table 4 and other provisions of the Determination must be amended to correctly reflect the statutory provision. They appear at appendix 4.
- 360 It is possible that such changes will have the result that some Members who are presently receiving such additional entitlements will no longer be entitled to receive them.
- 361 But it should be noted that the Schedule to the Act may be amended or substituted by Regulation. That is not a matter for the Tribunal. If the Schedule is amended, further consideration can be given to whom these provisions of the Determination should refer.

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Members' caring responsibilities

- 362 The Tribunal was advised that the Parliament at present makes no formal arrangements and has no guidelines for maternity or parental leave, its Members not being employees.
- 363 One submission drew attention to the absence of any formal provision for support for Members who are new mothers, even for leave on birth of a child, with their needs presently being dealt with by ad hoc arrangements. Leave requiring the relevant House to vote on a motion, which in the past has been negotiated by way of “a pair”, which is forfeited if the Member attends the chamber or a committee.
- 364 It was suggested that consideration should be given to appropriate provision in the Determination for the caring responsibilities of mothers and non-gestational parents of newborns and adopted children. Such needs also not presently being able to be accommodated under the Determination's emergency relief staff provision, such Member support needs not involving any ‘emergency’.
- 365 It was suggested that like employees, Members have family responsibilities which can impact the performance of their parliamentary duties. And, that this might be addressed by the introduction of an entitlement to additional staff for a period preceding the due date of a child, until it is 6 months of age, with an option to extend and giving the Member the right to choose to utilise such support by using part time, full time or casual support for some or all of that period.

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- 366 It was also submitted that while in practice such a benefit would be unlikely to be much utilised, it would also help remove barriers to young women's participation in the Parliament.
- 367 Another submission drew attention to consideration now given in the Local Government sector to the expenses councillors face in meeting the cost of childcare, with the adoption of a Councillor Expenses and Facilities Policy to allow councillors to claim costs for "Special requirement and carer expenses". The example given was Lake Macquarie Council, which was claimed to offer up to \$6,000 per annum to ensure that there is widespread participation and interest in civic office.
- 368 It was submitted that there was no such allowance for Parliamentarians who thus had to use their salary or the Electoral Allowance to meet such expenses. That allowance differing significantly between electorates was claimed to have the result that it was not appropriate to fund carer costs out of it, given that large country electorates benefitted from larger allowances than smaller geographic electorates.
- 369 The perverse current situation was also submitted to be that for some people, especially mothers, the need to organise and fund childcare was a factor in making decisions about seeking representative office and that for some Members, high childcare costs precluded them from fully participating in their civic roles.
- 370 A new allowance, similar to the Communications and Travel Allowances which require proof of cost and are audited, which recognised childcare costs as a valid and necessary work-related expense, was thus proposed.

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371 The Local Government model criteria proposed for adoption were:

- Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$6,000 per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- Childcare expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- In the event of caring for an adult person, councillors will need to provide suitable evidence to the general manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

372 I consider that adoption of such proposed benefits requires further consideration.

373 Most members of the community have to bear childcare costs out of their post-tax income. Contrary to the submission advanced, as I have explained, Members are already entitled to use their Electoral Allowance as income and so can access it, instead of their basic salary, to meet their childcare expenses. That local councillors have access to such funds was not suggested.

374 What has actually been adopted by Local Government or Lake Macquarie Council was not provided. If such a proposed allowance is to be pursued,

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such information, as well as the amount of the benefit sought and the form of the clause proposed to be adopted in the Determination, needs to be provided.

375 If the introduction of such new entitlements for Members is to be pursued, further information also needs to be provided about the Parliament's current ad hoc arrangements and Members' experience of their operation. Whether they can be better dealt with by provision made in the Determination, to facilitate the efficient performance of the parliamentary duties of such Members, can then be determined. That will also require a consideration of the cost involved.

376 Thus far the Tribunal has insufficient information to be able to come to any conclusions about such matters, which can be pursued in the annual review, if pursued by Members.

Groupings

377 Electorate groupings impact the amount of the General Travel, Communications and Electoral Allowances that Members receive under the Determination. Changes sought in the grouping of electorates have been dealt with in a number of recent determinations: see 2024 Determination at [179]-[185].

378 On this review the Member for Wollondilly sought to have that electorate regrouped from Group 2 to 3. The submission included that the electorate covers 3200 square kilometres, with most other electorates in that group

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ranging up to 1432 square kilometres, apart from one which is 3016 square kilometres and those in group 3 ranging from 512 kilometres to 5180.

- 379 The regrouping sought was supported by this electorate covering two local council areas, one metropolitan and one regional, with travel by car for up to 4.5 hours to reach some parts of the electorate required by the Member or constituents, because of limited public transport and internet access.
- 380 The criteria for groupings do not rest on size alone. In the 2022 Determination it was explained that alterations in groupings require the criteria by which electorates are grouped to be addressed and that they cannot be entertained on an ad hoc basis.
- 381 How electorates are assigned to groups was explained in the 2014 and 2023 Determinations. The criteria have regard to location (i.e. metropolitan or non-metropolitan), size, population density, the distance from Sydney, their regional status and their remoteness: 2014 Determination at [7-12]
- 382 In the 2023 Determination it was explained that there were 16 electoral districts in Group 2 with the majority of constituents in these electorates residing within 150 kms of the Sydney CBD, the electorates being well serviced by major road networks and public transport infrastructure. These districts usually contain a range of demographic types including residential, suburban, industrial and/or rural and are classified as either outer-metropolitan, provincial or rural.
- 383 There were 10 electoral districts in Group 3. They usually hosting a major regional centre and generally being located in coastal regions or adjoining

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larger provincial areas. The majority of constituents of these electorates residing more than 150 kms from Sydney and the electorates generally being well serviced by major roads or regional transport facilities. They also contain a range of demographic types, mostly classified as being rural and many also have significant towns which provide regional services.

- 384 In the 2024 Determination it was again explained that proposed alterations in groupings require an examination of the criteria by which electorates are grouped. Ad hoc alterations in groupings which do not pay necessary regard to those criteria, cannot fairly be entertained: at [182].
- 385 The submission advanced on this review did not address the applicable criteria, nor suggest how they could be improved in ways which would warrant the regrouping proposed. The result is that a basis for the regrouping sought has not been established.
- 386 If a further submission is advanced, which does address the grouping criteria, their application to this electorate or how they might be improved, so as to warrant a regrouping it will, of course, be considered.

Anomalies, ambiguities, inconsistencies and updates

- 387 The Presiding Officers raised various matters which they considered needed to be addressed by way of an attachment to their submissions, which had been prepared by the Department of Parliamentary Services. Not all of these suggestions were simple or have been accepted.

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- 388 Those accepted raised typographical and other inconsequential matters such as updating changed nomenclature or reflecting that the Parliament now makes payments monthly rather than fortnightly. Proposed changes included, for example, from “the Parliament’s purchasing policies” to “the Parliament’s Procurement and Contract Framework”. They are not necessary to explain further and appear at appendix 1.
- 389 Conditions of use of Members’ entitlements are provided in cl 2.1. An alteration to cl 2.1.12 to restrict groups which may be approved by the President and Speaker to Parliamentary Friendship Groups was also proposed. I am satisfied that this should be accepted as reflecting current practice.
- 390 An alteration to remove a repeated sentence in cl 6.6.4 should also be made.

Definitions, replacement of terms and proposed clarifications

- 391 The insertion of various definitions, to aid in the understanding of the Determination was also proposed. Those accepted appear at appendix 1.
- 392 Changes not accepted include:
- (1) Unnecessary definitions of allowances, the purposes of which are already specified in the Determination and thus require no further definition.

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- (2) Renaming “additional entitlements” as “parliamentary work expense”. That is because the proposed term is not used in the Act, which rather empowers the Tribunal to provide for additional entitlements. That being defined in s3(1) to mean the Electoral Allowance and other additional entitlements under part 3. The Tribunal is thus not empowered to make determinations in respect of “parliamentary work expenses”.
- (3) The proposed definition of Electoral Allowance, given the various problems earlier discussed and the provisions of s10.
- (4) Other definitions which did not accurately reflect provisions of the Determination.

393 I consider that some of the problems sought to be addressed by proposals not accepted, will be assisted by the adoption of a more detailed index for the Determination. That will better assist Members and those who have to administer the Determination, to navigate its provisions. That can be dealt with in the 2025 annual review.

394 Additions to cl 2.3.1 were sought to clarify that there should be no intermingling of parliamentary and non-parliamentary duties and expenditure in respect of Members’ staff, offices, business stationery and allowances relating to travel. I accept that this will make an improvement to the clause.

395 Condition 2.4.3 requires Members “to ensure that they have sufficient funds to meet the costs associated with their parliamentary duties”. This

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was sought to be altered to “funds in their allocated budgets”. I consider it would be preferable to require Members to ensure that they have “sufficient funds to meet expenses which they claim to have reimbursed out of their additional entitlements”. This reflects that the Determination specifies the amounts of the various entitlements from which Members may claim to have particular expenses reimbursed.

- 396 The change proposed to Condition 2.4.4, which refers to entitlements being “established and maintained” by the Chief Executive, I agree should be amended to provide that they are “administered” by the Chief Executive.

Transition or Separation payments

- 397 The need for such payments was again raised in a number of submissions. This State continues to be out of step with the Commonwealth and other States whose Parliaments have made provision for such payments to be made, when a Member loses office.
- 398 The reason why the Tribunal has never included such a provision in the Determination, despite repeated submissions about the real need for such payments, given the demonstrated challenges experienced by former Members in transition to life after they lose their Parliamentary office, has been repeatedly explained in past Determinations: see 2018, 2020, 2021, 2022 and 2023 Determinations.
- 399 In short, the Tribunal does not have legislative power to include such a payment in the Determination. That remains a matter for the Parliament to

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consider. This will again be referred to the Parliament for its consideration and so is referred to in Section 3.

The 2025 Determination

400 As earlier explained, there will be a further opportunity for Members to make submissions about the foreshadowed amendments to the Determination, as part of the 2025 annual review process. It is anticipated that submissions will be invited for that review in October 2024.

Section 3

Section 3 – Legislative arrangements for the Parliament to consider

401 In summary, the legislative arrangements which have been raised and appear appropriate for the Parliament to consider further are:

- (1) The way in which *the Members of Parliament Staff Act 2013* regulates staffing matters;
- (2) That the *Parliamentary Remuneration Act 1989*:
 - (a) does not permit the Tribunal to include in the Determination any transition or separation payment to be made to Members who are not re-elected, to assist them in what has in other Australian jurisdictions been recognised to be a difficult transition back to the private workforce, with which they should be assisted.
 - (b) regulates the Electoral Allowance in such a way that Members may refrain from using any of it to meet expenses incurred in the performance of their parliamentary duties and instead, utilising it entirely as personal income, without either the knowledge of or oversight by the Parliament, the Auditor General or the Tribunal, with potential resulting pay inequity between Members.
 - (c) whether the Act should be amended to:

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- (i) require Members to report annually to the Parliament what proportion of the Electoral Allowance they receive as personal income; or
- (ii) permit the Tribunal to impose conditions in relation to Members' use of the Electoral Allowance to require them to report annually to the Parliament what proportion of the Electoral Allowance they receive as personal income.

The Parliamentary Remuneration Tribunal



Hon A/Justice Schmidt AM
Parliamentary Remuneration Tribunal

The Hon Acting Justice M Schmidt

Dated: 21 October 2024

Appendix

Appendix

Appendix 1 – Proposed changes to the Parliamentary Remuneration Tribunal determination

| Additional entitlement area | Clause No. | Details of Proposed Change | Para. discussed |
|-----------------------------|------------|---|----------------------------|
| Definitions | 1 | Insert the following definitions as appropriate in section 1: “Parliamentary Remuneration Act 1989”, referred to hereinafter in this Determination as ‘the Act’ “Recognised Office Holder”, as contained in Schedule 1 of the Act | 219 – 222 391 – 392 |

Appendix

| | | | |
|---------------------------|--------|---|---------|
| | | <p>“Parliamentary Resources” means Parliament House offices, electoral offices, staff, equipment and hardware provided by the Parliament to Members</p> <p>“Commercial costs” means accommodation in a commercial establishment such as a hotel, motel, or serviced apartment, including Airbnb or similar accommodation.”</p> <p>“Incidental expenses” means minor but necessary expenses associated with work related travel, such as a car parking fee, bust ticket or a charge for using the phone or internet for work related purposes at overnight accommodation.”</p> | |
| Guidelines and Conditions | 2.1.12 | <p>Omit “parliamentary Group such as the Asia Pacific Friendship Group”</p> <p>Insert instead “Parliamentary Friendship Group”.</p> | 389 |
| Guidelines and Conditions | 2.3 | Insert after 2.3.1. | 53 – 57 |

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| | | <p>“2.3.2 The Member entitlements and resources which should not be intermingled under any circumstances include:</p> <ul style="list-style-type: none">• Parliamentary staff;• Parliamentary offices; and• Official business stationery.” <p>Adjust numbering of current 2.3.2 and 2.3.3</p> | 394 |
| Guidelines and Conditions | 2.4.2 | <p>Omit “purchasing policies”</p> <p>Insert instead “Procurement and Contract Framework”</p> | 388 |
| Guidelines and Conditions | 2.4.3 | <p>Omit condition 2.4.3</p> <p>Insert instead “Members must ensure they have sufficient funds to meet expenses which they claim to have reimbursed out of their additional entitlements.”</p> | 395 |

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| Guidelines and Conditions | 2.4.4 | Omit “established and maintained” from 2.4.4. Insert instead “administered”. | 396 |
| Guidelines and Conditions | 2.4.9 | Insert “community groups and” after “other persons and organisations including” | 388 |
| Electoral Allowance | 5.2.2 (ii) and 5.2.2 (iii) | Omit matter relating to 5.2.2(ii) and 5.2.2 (iii). Insert instead: (ii) “A further allowance of \$4,660 per annum is payable to each Recognised Office Holder 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, who is not a Recognised Office Holder.” | 349 – 351 |
| Sydney Allowance | 5.3.2 | Amendment to Table 4 to reflect titles used in Schedule 1 of the PR Act | 352 – 359 |

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| Sydney Allowance | 5.3.3 (i) | Omit matter relating to 5.3.3 (i) and insert instead: “A Member can choose to receive the Sydney Allowance as either an annual fixed allowance or a daily allowance to be paid after each overnight stay. The election is to be made at the commencement of each financial year.” | 388 |
| Sydney Allowance | 5.3.3 (ii) | Omit “of the Legislature” | 388 |
| Sydney Allowance | 5.3.3. (iii) | Insert at the end of 5,3,3 (iii), “in accordance with Parliament’s administrative guidelines.” | 388 |
| Sydney Allowance | 5.3.3. (i) | Omit “rate”. Insert instead “allowance to be paid after each overnight stay”. | 227 – 232 |
| Sydney Allowance | 5.3.3 (viii) | Insert “will be subject to a bi-annual reconciliation and” after “annual allowance Members” | 388 |

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| Sydney Allowance | 5.3.3 (ix) | <p>Omit the matter relating to 5.3.3 (ix).</p> <p>Insert instead:</p> <p>“Members are required to maintain records that clearly document the parliamentary purpose and occasions they stayed in Sydney in connection with their parliamentary duties. Members attending Parliament House on parliamentary business when Parliament is not sitting are required to sign in and out of the parliamentary register. When a Member is in Sydney on parliamentary business which does not require them to attend Parliament House, the Member must provide sufficient documentary proof of each such occasion to the Chief Executive. A diary entry will provide such proof. Such records are to be retained for a minimum period of two (2) years, for the purpose of substantiating claims Members submit to Parliament.”</p> | 239 – 242 |
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| Committee Allowance | 5.4.1 | Omit the matter relating to 5.4.1. Insert instead: “Committee Allowances are paid to recognition of additional responsibilities in the case of certain Chairpersons of committees, the Public Accounts Committee, the Temporary Chairs of Committees Panel and the Panel of Temporary Speakers.” | 250 – 253 |
| Committee Allowance | 5.4.2 | Omit the matter relating to 5.4.2. Insert instead: “Members: (i) Serving as Chairpersons of Joint Committees, Select Committees and Standing Committees who are not in receipt of a salary of office as specified in Schedule 1 of the Act, shall be paid the sum of \$220 for each day upon which they attend a | 250 – 253 |

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| | | <p>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.</p> <p>(ii) 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 be paid a committee allowance of \$5,085 per annum.”</p> | |
| Electorate/Zone to Sydney Travel | 6.2.1 (i) | Omit “warrants”, insert instead “journeys” | 388 |
| Electorate/Zone to Sydney Travel | 6.2.1 (iv) | Amendment to Table 5 to reflect titles used in Schedule 1 of the PR Act | 352 – 359 |

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| Electorate/Zone to Sydney Travel | 6.2.2 (ii) | Insert “, proof of which is to be provided by the Member, when seeking payment of this entitlements.” at the end of condition 6.2.2 (ii), | 243 – 249 |
| Communications Allowance | 6.3.1 | <p>Omit the current lists of examples in 6.3.1 for the Communications Allowance.</p> <p>Insert instead:</p> <ul style="list-style-type: none">• “paper-based and electronic communications including translation services;• Software subscriptions;• Advertising costs – print, digital ads, radio and television;• Website and social media costs including design, hosting and domain name renewals;• Email distribution services;• Video conferencing software and subscriptions;• Interactive voice responses and surveys; | 178 – 179 |

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| | | <ul style="list-style-type: none"> Engaging a consultant to devise, implement or manage a Member's electronic communications system and/or to use it to communicate on behalf of the Member; and Other forms of communications and software approved by Parliament." | |
| Communications Allowance | 6.3.5 (ii) | <p>Omit "purchasing policies".</p> <p>Insert instead "Procurement and Contract Management Framework".</p> | 388 |
| Communications Allowance | 6.3.5 (vi) | <p>Omit "Each Member is to receive the details of the prospective constituents from the NSW Electoral Commission." from 6.3.5 (vi)</p> <p>Insert instead "Each Member is to be provided with the details of the prospective constituents, obtained from the NSW Electoral Commission".</p> | 165 – 167 |
| Communications Allowance | 6.3.5 (viii) | <p>Insert at the end of the condition, "as defined by Parliament's administrative guidelines."</p> | 388 |

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| General Travel Allowance | 6.4.4 | Omit references to the cost of staff travel in the Determination and reduce Members' entitlements to reflect that they will no longer be responsible for meeting staff expenses out of their various allowances. Insert provisions to support Parliament funding Members' staff expenses. | 97 – 116 327 – 337 |
| General Travel Allowance | 6.4.4 (viii) | Insert after “forums or similar and associated”, “caravan, camping and other” | 208 – 212 |
| Recognised Office Holder Additional Entitlements | 6.5.1 | Amendment to Table 10 to reflect titles used in Schedule 1 of the PR Act | 352 – 359 |
| Skills Development Allowance | 6.6.1 | Omit examples provided in 6.6.1. Insert instead: <ul style="list-style-type: none"> • “media skills training; | 254 – 256 |

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| | | <ul style="list-style-type: none">• Public speaking and voice coaching;• Community and social media engagement;• Use of graphic design software;• Use of video editing software;• Website and social media design and maintenance;• Writing skills for reports and media releases; and• Conflict resolution and dealing with difficult constituents’. | |
| Skills Development Allowance | 6.6.4 | Omit the second “The following conditions shall apply in respect of this allowance:” | 390 |
| Equipment, Services and Facilities | 7.1.2 | Insert “which must have regard to safety requirements ” after “maintained to an appropriate standard”, in 7.1.2. | 133 – 149 |

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| Staffing | 7.2 | Omit current references to Recognised Office Holders in 7.2. Insert instead relevant Office Holders as they appear in Schedule 1 of the PR Act. | 117 - 122 |
| Staffing | 7.2 (i) | Insert “ one of whom shall work at Parliament House with the Member, when the Parliament is sitting.” at the end of condition 7.2 (i). | 84 – 96 |
| Staffing | 7.2 (ii) | Omit “of the Legislative Assembly, and who is elected as an Independent Member, shall be entitled to four staff members employed in each electorate office.” Insert instead “elected as an Independent Member of the Legislative Assembly shall be entitled to one additional member of staff.” | 67 – 69 |
| Staffing | 7.2 (viii) | Omit “The Whip of each recognised political party of not less than 10 Members to each shall be entitled to one staff member.” from condition 7.2 (viii). | 123 – 127 |

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| | | Insert instead: “The Whip of each recognised political party not fewer than 10 Members of which are Members of the Legislative Assembly, shall be entitled to one staff member.” | |
| Staffing | 7.2.1 | <p>Omit the matter in 7.2.1 (i)</p> <p>Insert instead:</p> <p>(i) Members are entitled to make a request to the Chief Executive, Department of Parliamentary Services for short term staffing assistance:</p> <p>(a) 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;</p> | 70 – 75 |

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| | | <p>(b) In order to respond to a work health and safety issue, including in relation to security;</p> <p>(c) on a temporary basis to permit handover and training where required on departure of staff to ensure the smooth running of the Members' office.</p> | |
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Appendix

Appendix 2 – Statutory amendments which the Parliament may wish to consider

| | Details of Proposed Change | Para. discussed |
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| Parliamentary Remuneration Act 1989 | | |
| S10(1)(c) | Providing for transition or separation payments to be made to a Member who is not re-elected | 397 – 399 |
| S10(2A)(c) | Require Members to provide Parliament with an annual report about the proportion of their Electoral Allowance they have received as income or permit the Tribunal to impose conditions in relation to Members' use of the Electoral Allowance to require them to report annually to the Parliament what proportion of the Electoral Allowance they receive as personal income | 29 – 44 302 – 309 |
| <i>Members of the Parliament Staff Act 2013</i> | | |

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| S16 | Reconsidering determination and approval of staffing arrangements by the relevant Presiding Officer | 59 – 66 401 |
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Appendix

Appendix 3 – Research paper regarding redistribution of Electoral Allowance and Communications Allowance

The Electoral Allowance changes in 2016

In 2016, the Tribunal modified the structure of the Electoral Allowance by adding the 'Printing and Stationery' and the "Communication Electronic" components of then Logistics Support Allowance (LSA), as well as the Recognised Office Holder and Independent loadings for the Logistic Support Allowance to create the Electoral Allowance – Additional Allowance outlined below in table 1.

The 2016 annual determination merged the following allowance components into the current Electoral Allowance:

Table 1: Comparison of the pre-2016 Electoral Allowance to the Current Electoral Allowance

| Previous Electoral Allowance | Current Electoral Allowance |
|---|--|
| 'Electoral Allowance' | Electoral Allowance – Base Allowance |
| LSA – Printing and Stationery' <ul style="list-style-type: none">Intended for Members to purchase printing, stationery, office supplies and services from the Parliament or other providers and in accordance with Parliamentary procurement policies and practices.¹⁸ | Electoral Allowance – Additional Allowance |
| 'LSA – Communications Electronic' <ul style="list-style-type: none">Intended to reimburse Members for their usage of telecommunication services or network features (except for overseas calls, charged information/service calls and reverse charge calls).¹⁹ | |

¹⁸ PRT, *Parliamentary Remuneration Tribunal Annual Report and Determination 2015*, PRT, 2015; at condition 4.2, page 42

¹⁹ PRT, *Parliamentary Remuneration Tribunal Annual Report and Determination 2015*, PRT, 2015; at condition 2.1, page 41

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| <p>Recognised Office Holder Member entitlements for LSA-Printing and Stationery</p> <ul style="list-style-type: none"> Additional entitlements for the LSA-Printing and Stationery entitlement for Recognised Office Holders.²⁰ These funds are to be available only for Recognised Office Holder duties.²¹ | Recognised Office Holder Allowance (except independents) |
| <p>Independents Members additional entitlement for LSA-Printing and Stationery</p> <ul style="list-style-type: none"> Additional entitlement for the LSA-Printing and Stationery entitlement for Independent Members. | Independents Allowance |

Implementing the electoral allowance breakdown

The proposed method is to reduce the Electoral Allowance by the amount introduced in the 2016 allowance (i.e. the additional allowance) and transfer it to the Communications Allowance. Therefore, the Electoral Allowance would consist of the base allowance amount only, as set out in Table 2.

Tables 2 and 3 provide an example of how the 2024 Electoral Allowance and Communications Allowance funds could be modified, using the proposed method above:

Table 2: Proposed Modifications to the Electoral Allowance

| Electoral Group/Zone | Base Allowance |
|-----------------------------|----------------|
| Legislative Assembly | |
| Group 1 | \$59,890 |
| Group 2 | \$70,140 |
| Group 3 | \$82,670 |
| Group 4 | \$90,250 |
| Group 5 | \$95,985 |

²⁰ PRT, *Parliamentary Remuneration Tribunal Annual Report and Determination 2015*, PRT, 2015; at page 39

²¹ PRT, *Parliamentary Remuneration Tribunal Annual Report and Determination 2015*, PRT, 2015; at page 54

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| Group 6 | \$105,220 |
| Group 7 | \$123,065 |
| Group 8 | \$168,295 |
| Legislative Council | |
| Zone 1 | \$70,140 |
| Zone 2 | \$70,140 |
| Zone 3 | \$70,140 |

- Removal of the Independents allowance of \$2,325
- Removal of the 'further allowance of \$4,660 per annum being payable to each Recognised Office Holder (except an Independent) in the Legislative Assembly and Legislative Council.

Table 3: Proposed Modifications to the Communications Allowance (excluding Additional Allocation which is an annual entitlement ranging from \$84,903 to \$101,526 depending on the number of electors)

| Electoral Group/Zone | Current Base Allocation | Additional amount from EA | Total: (proposed new Base Allocation) |
|-----------------------------|--------------------------------|----------------------------------|--|
| Legislative Assembly | | | |
| Group 1 | \$21,600 | \$18,075 | \$39,675 |
| Group 2 | \$21,600 | \$19,985 | \$41,585 |
| Group 3 | \$21,600 | \$19,985 | \$41,585 |
| Group 4 | \$21,600 | \$19,985 | \$41,585 |
| Group 5 | \$21,600 | \$19,985 | \$41,585 |
| Group 6 | \$21,600 | \$19,985 | \$41,585 |
| Group 7 | \$21,600 | \$19,985 | \$41,585 |
| Group 8 | \$21,600 | \$34,845 | \$56,445 |

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| Legislative Council | | | |
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| Zone 1 | \$5,505 | \$19,035 | \$24,540 |
| Zone 2 | \$5,505 | \$19,985 | \$25,490 |
| Zone 3 | \$5,505 | \$24,795 | \$30,300 |

Appendix

Appendix 4 – Amended tables from the PRT Determination to reflect the statutory provision

Appendix 4.1 – Amended 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 who is Leader of Government Members in the Legislative Council | 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 |
| Minister who is Deputy Leader of Government Members in the Legislative Council | | | | |
| Senior Ministers, being Ministers not referred to above who are designated as Senior Ministers by the Premier | | | | |
| Other Ministers | | | | |
| President of the Legislative Council | | | | |
| Speaker of the Legislative Assembly | | | | |

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| Leader of the Opposition in the Legislative Council | | | | |
| Deputy Leader of the Opposition in the Legislative Council (when leader of a party) | | | | |
| Deputy Leader of the Opposition in the Legislative Council (when not leader of a party) | | | | |
| Leader of the Opposition in the Legislative Assembly | | | | |
| Deputy Leader of the Opposition in the Legislative Assembly | | | | |
| Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which no member is a Minister | | | | |
| Deputy Speaker of the Legislative Assembly | A minimum of 70 kms by road from Parliament House | 140 | \$368.00 | As above |
| Deputy President and Chair of Committees in the Legislative Council | | | | |
| Government Whip in the Legislative Council | | | | |
| Deputy Government Whip in the Legislative Council | | | | |

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| Opposition Whip in the Legislative Council |
| Deputy Opposition Whip in the Legislative Council |
| Government Whip in the Legislative Assembly |
| Opposition Whip in the Legislative Assembly |
| Whip in the Legislative Assembly of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly |
| Deputy Whip in the Legislative Assembly of a recognised political party not fewer than 40 members of which are members of the Legislative Assembly |
| Parliamentary Secretary to the Premier (Leader of the House) in the Legislative Assembly |
| Parliamentary Secretary in the Legislative Council |
| Parliamentary Secretary in the Legislative Assembly |
| Assistant Speaker to the Legislative Assembly |
| Assistant President in the Legislative Council |
| Deputy Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the |

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| Legislative Assembly and of which no member is a Minister with not less than 10 Members. | | | | |
| The Chairs of Committees specified in Schedule 1 of the <i>Parliamentary Remuneration Act 1989</i> . | 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 |

Appendix

Appendix 4.2 – Amended 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 entitlements |
|--|--|
| Minister who is Leader of Government Members in the Legislative Council | 32 single journey entitlements |
| Minister who is Deputy Leader of Government Members in the Legislative Council | |
| Senior Ministers, being Ministers not referred to above who are designated as Senior Ministers by the Premier | |
| Other Ministers | |
| Speaker of the Legislative Assembly | 32 single journey entitlements |
| President of the Legislative Council | 32 single journey entitlements |
| Leader of the Opposition in the Legislative Council | 32 single journey entitlements |
| Leader of the Opposition in the Legislative Assembly | |
| Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which not member is a Minister | 32 single journey entitlements |
| Deputy President and Chair of Committees in the Legislative Council | 32 single journey entitlements |
| Assistant Speaker of the Legislative Assembly | 32 single journey entitlements |
| Assistant President in the Legislative Council | 32 single journey entitlements |

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| Deputy Speaker of the Legislative Assembly | 32 single journey entitlements |
| Deputy Leader of the Opposition in the Legislative Council | 16 single journey entitlements |
| Deputy Leader of the Opposition in the Legislative Assembly | |
| Deputy Leader in the Legislative Assembly (other than the Leader or Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which no member is a Minister | 16 single journey entitlements |

Appendix

Appendix 4.3 – Amended 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 |
|---|--|--|
| President of the Legislative Council | 30% | 175% |
| Speaker of the Legislative Assembly | 30% | 55% |
| Leader of the Opposition in the Legislative Assembly | 20% | 140% |
| Leader of the Opposition in the Legislative Council | | 175% |
| Deputy Leader of the Opposition in the Legislative Council | 10% | 15% |
| Deputy Leader of the Opposition in the Legislative Assembly | 10% | |
| Government Whip in the Legislative Council | | 15% |
| Opposition Whip in the Legislative Council | | 15% |
| Deputy Opposition Whip in the Legislative Council | | 15% |
| Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which not member is a Minister | 15% | |
| Deputy Leader in the Legislative Assembly (other than the Leader of the Opposition or the Deputy Leader of the Opposition) of a recognised political party not fewer than 10 members of which are members of the Legislative Assembly and of which not member is a Minister | 10% | |

Appendix

| Recognised Office Holder | General Travel Allowance Base Allocation | Communications Allowance Base Allocation |
|---|--|--|
| 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 | 10% | |