

Annual Determination

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

15 June 2023

(as amended by erratum in Government Gazette of 14 July 2023)

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Section 1

Section 1 - Introduction

1. The Tribunal's 2023 annual review commenced in September 2022 when it sought submissions, including about matters identified in the 2022 determination as requiring further consideration in 2023.
2. The Tribunal initially received written submissions from the Presiding Officers, other Members of Parliament and the Chief Executive of Parliamentary Services, some of whom also provided further information and submissions when they met with the Tribunal. The Department of Parliamentary Services also provided other information requested by the Tribunal.
3. In 2023 it received further submissions discussed below in relation to the basic salary, and other matters, as well as a direction from the Special Minister of State, which precludes the basic salary from being increased this year.
4. The information the Tribunal received included:
 1. the challenges which the ongoing COVID-19 pandemic posed for the Parliament and the work of its Members, specified office holders and their staff;
 2. the impact on their work of severe flooding experienced in various parts of the State, in some cases repeatedly, which had

compounded the challenges posed in recent years by droughts, severe bushfires and the COVID-19 pandemic.

3. the Parliament's ongoing program to improve the technological support Members and their staff receive;
 4. what ongoing trials of altered working arrangements have demonstrated;
 5. how certain allowances are administered and implemented;
 6. needed improvements in both the Determination and the administrative arrangements by which it is supported, to help improve Members' understanding of the Determination, as well as the way the conditions and allowances it provides are implemented and managed;.
 7. the December 2022 Auditor General's Special Report about Members' additional entitlements, which audited Members' compliance with aspects of the Determination for the year ending 30 June 2022. It identified 38 administrative departures from the Determination which it was considered "may help identify areas in the current processes where greater clarity is needed or where training or education for members is warranted": at p1; and
 8. The May 2023 advice of the Acting Secretary of the Treasury.
5. The information received established that in the time since consideration was given to the 2022 Determination, the effects of the ongoing COVID-19

pandemic had eased, both globally and in the State. Even so, the ongoing evolution of the virus continued to present challenges for the people of NSW and its economy, although public health restrictions necessary to minimise the devastating consequences of the pandemic were able to be eased.

6. But other adverse local and global challenges presented other problems for the State.
7. Inhabitants of this continent have always been challenged by cycles of drought, fire, and flood, but the severe and repeated flooding experienced this year in the State was continuing at the time the Tribunal received submissions which explained some of their consequences. This experience had fuelled concerns that climate change is driving more frequent and more severe climactic cycles Australia wide, which will adversely impact not only the State's economy, but how life is lived here day to day, as well as the resulting work which Members are called on to perform.
8. The State has also been affected by Russia's war on Ukraine, which has not only affected energy supply in Europe and food supply there and elsewhere, but other economies, including Australia's. At the time of the Tribunal's hearing, while inflation had increased to 7.3%, unemployment had fallen to 3.4%, while by comparison to the same time in 2021, the rates were 3.0% and 5.2% respectively. The inflation figure for the December 2022 quarter was 7.8% and for the March 2023 quarter, 7%.
9. From the submissions and information provided to the Tribunal, it was apparent that the ongoing effects of all these significant changes and

challenges for constituents were having an impact on the work of the Members of the Parliament.

10. Submissions received in 2022 and 2023 urged that increases in the basic salary and additional allowances and other entitlements of Members were warranted in the 2023 Determination, to the maximum extent available. But the result of other developments is that this cannot all be accepted.
11. The result of this review will thus be to increase Member's additional entitlements from 1 July 2023 and to introduce alterations to the Determination which the Tribunal has determined are necessary. They have regard to the challenging times in which Members presently have to undertake their work, as well as problems which have been identified. Some matters will require ongoing consideration in the next review.

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Section 2 - Parliamentary Remuneration

Increases sought in the Basic Salary

12. It has long been the Tribunal's practice to annually review both the basic salary of members of Parliament, as well as their additional entitlements. The 2023 review process commenced in the usual way in the preceding year, with Members of Parliament and others then making both written and oral submissions to the Tribunal; it seeking other relevant information, including that which it is required to take into account under the statutory scheme; and preparation of the 2023 Determination.
13. In determining the basic salary, the Tribunal is required to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect to under s 146C of the *Industrial Relations Act 1996* (IR Act), when making or varying awards or orders relating to the conditions of employment of public sector employees: s 4(3) of the Act.
14. The current policy on wages referred to in s 146(1)(a) of the IR Act is articulated in reg 6 of the Industrial Relations (Public Sector Conditions of Employment) Regulation 2014. It now permits "increases in remuneration or other conditions of employment, but only if employee-related costs in respect of those employees are not increased by more than 2.5% per annum as a result of the increases awarded together with any new or increased superannuation employment benefits provided (or to be provided) to or in respect of the employees since their remuneration or other conditions of employment were last determined".

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15. Since the last Determination the 2014 Regulation was also amended to insert reg 6A, which introduced a temporary wages policy for the 2022–2023 and 2023–2024 financial years.
16. Regulation 6A relevantly provides for increases in remuneration or other conditions of employment for public sector employees in this financial year, only if employee-related costs are not increased by more than 3% per annum as a result, together with any new or increased superannuation employment benefits provided, or to be provided, to or in relation to the employees: reg 6A(2).
17. This is subject to reg 6A(5), which permits increases which result in an increase in employee-related costs which is greater than 3%. But they may be awarded only if the employer agrees both to the increase and any reforms required relating to that increase.
18. In this review submissions were advanced by Members that a 3% per annum increase was warranted in 2023, subject to necessary account being taken of superannuation increases this year. Some submissions again suggested that Members of Parliament were underpaid and that increases greater than 3% per annum were warranted, there having not for many years been any general consideration given by the Tribunal to the salaries of Members and whether they truly reflect the value of their work.
19. Other submissions were that increases should be consistent with other increases in the public sector, albeit attention should also be paid to the recent history of wage fixation for Members, as opposed to that of others

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working in the public sector, who had received increases in salary of 2.04% in 2021, when Members had received no increase in their basic salary.

The application to delay the determination of the Basic Salary

20. On 23 May 2023 the Tribunal received a submission from the Acting Secretary of the Department of Premier and Cabinet, asking it to consider delaying making its determination of the basic salary this year, in order to allow the Government time to implement its election commitment to freeze politician's wages.
21. Given the submissions already received and as a matter of procedural fairness, the Tribunal notified Members of Parliament of this submission and invited their submissions about this proposal. It also sought and obtained from the Chief Commissioner of the Industrial Relations Commission of New South Wales a direction that its annual determination be made on or before 30 June: s11(2) of the Act.
22. A submission was received from the then Speaker of the Legislative Assembly, Mr O'Dea. It urged the Tribunal not to take into account what was described as having been a "belated political request of the Government to freeze politician's wages in New South Wales", given the Tribunal's independent role. It also advanced other submissions not pertinent to the proposed delay of the determination.
23. Having considered what had been submitted I concluded that the proposed delay could not be acceded to, given the nature of the statutory scheme and what it requires of the Tribunal and what justice required.

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24. The purposes of the *Parliamentary Remuneration Act* include providing a system under which “all members are provided with statutory salaries (the basic salary) that are paid as personal income or received as employment benefits for the performance of their parliamentary duties as members”: s2A(1)(a). That system involves the Tribunal fixing those salaries, which are paid to members at an annual rate: s5.
25. The Tribunal has a discretion to determine what the basic salary should be from time to time: s4(1). Its determinations may be made at such time as the Tribunal thinks fit or the Minister directs: s4(2). Section 4 also currently restricts the Tribunal's otherwise wide discretion about the determination of the basic salary, by requiring the Tribunal to give effect to the policies earlier discussed. The Tribunal is also required to have regard to the financial implications of its determinations for the State and to have regard to the submissions of the Secretary of the Treasury about those financial implications: s12A.
26. Section 14I regulates the performance of the Tribunal's functions, empowering it to inform itself in such manner as it thinks fit; to conduct such inquiries as it thinks fit; invite and receive submissions; as well as requiring it to consider those which it receives from the Minister.
27. The proposed delay was sought at a time when the Tribunal's 2023 determination was close to finalisation. It was then only the financial implications of the determination for the State, which remained to be considered: s12A. That required a submission from the Secretary of the Treasury, which was due to be provided to the Tribunal by 12 May 2023.

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28. I considered that the statutory scheme necessarily required the Tribunal to exercise the discretions it is given judicially. That is, justly and having regard to considerations of procedural fairness.
29. The submission thus raised the question of whether the proposed delay, given foreshadowed alterations to the law, which would remove the Tribunal's discretion to increase the basic salary, could be entertained. Further, if it could, whether such a delay would be just in the circumstances in which it was proposed.
30. This was why members' submissions about the proposal were necessarily invited and considered.
31. There is no question that if the Tribunal was a court of law, the proposed delay would have to be rejected. That is because it is long settled that a court can only act upon the law as it is and has no right to, and cannot, speculate upon, alterations in the law that may be made in the future: *Ramsay v Aberfoyle Manufacturing Co (Australia) Pty Ltd* [1935] HCA 75; (1935) 54 CLR 230 at 253. Courts must thus usually deal with the law as it is, rather than speculate about changes in the law: *Murrumbidgee Groundwater Preservation Association Inc v Minister for Natural Resources* [2005] NSWCA 10; (2005) 138 LGERA 11 (at [49]).
32. Decisions to adjourn proceedings after announcement of proposed amendments to legislation have thus been set aside, because taking into account the prospect of legislative amendment in a decision to grant an adjournment involves error, which is compounded by the apparent intent that passing the amending legislation would permit a party to take

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advantage of it: *Meggitt Overseas Ltd & Ors v Grdovic* (1998) 43 NSWLR 527.

33. It has also been held that it would be a cause of injustice if courts could adjourn cases because of some real or imagined belief that the law might be amended: *Whiteway; Ex Parte Stephenson* [1961] VR 168 and *Sydney City Council v Ke-Su Investments Pty Ltd* (at 258). A possible change in the law is thus generally also not a justification for failing to hear a case: *Geelong Football Club v Clifford* [2002] VSCA 212 at [7].
34. Courts nowadays also have statutory obligations to seek to ensure that justice is done: s56 and 57 *Civil Procedure Act* 2005 (NSW). They govern adjournments sought when decisions to vacate hearings are made, because of anticipated change in the law: *City of Sydney Council v Satara* [2007] NSWCA 148 at [35].
35. These statutory requirements do not apply to the Parliamentary Remuneration Tribunal. It is not a court, but an administrative tribunal required to undertake its functions in accordance with the requirements of the *Parliamentary Remuneration Act*. Still, it is difficult to see, given those functions, that a different approach to that which courts are required to pursue when delay is sought because of anticipated legislative change, could be adopted by the Tribunal.
36. Under the statutory scheme it is for the Tribunal to fix the basic salaries which members of Parliament are paid as personal income, at such times as it thinks fit, or the Minister directs. At the time the delay was sought the Tribunal had not been given any direction by the Minister and so the times

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at which the basic salary might be reviewed was a matter left to its discretion.

37. It was also relevant to the proposed delay that for many years now the Tribunal has annually considered whether the basic salary should be adjusted, together with adjustments to additional entitlements, which s11 of the Act requires be determined annually, taking into account a range of relevant factors.
38. It was in September 2022 that the Tribunal had advised members of Parliament that it considered it appropriate to review salaries and allowances payable from July 2023 and so sought and received submissions from them about that review.
39. In making that determination the Tribunal was required to give effect to the same policies on increases in remuneration as those that the Industrial Relations Commission is required to give effect. They do not provide for a wages freeze.
40. But it is undoubtedly open to the Tribunal, as a matter of discretion, to decide not to increase the basic salary in a particular year, as it did in its 2021 Determination, for the reasons there explained: at [9]-[13]. They concerned the ongoing effects of the Covid-19 pandemic on the State and that no member of Parliament had sought any increase in the basic salary that year.
41. I was satisfied that it being possible that in July 2023 the legislative scheme might be amended, so as to preclude the Tribunal from determining that there should be an increase in the basic salary of members was not an

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available or just basis for delaying its determination. That involving as it necessarily would, revisiting the October 22 decision to conduct a review into whether the annual basic salary of members of Parliament should be increased in 2023, in accordance with the requirements of the current statutory scheme.

42. To the contrary, I considered that like a court, the Tribunal was rather obliged to act in accordance with the requirements of the statutory scheme, whatever they may be from time to time. Further, that it was not entitled to delay the exercise of its statutory powers, because the Act might be amended, as the submission necessarily speculated.
43. The Tribunal's role, powers and functions are always a matter for the Parliament to determine by the legislation it enacts. The statutory scheme does not contemplate any delay, because of a possibility that there may later be legislative change which will have an impact on the powers which the Tribunal is in the midst of considering exercising.
44. Whenever the Tribunal undertakes its statutory tasks, it is bound to act in accordance with the legislative scheme in force. It permitted the Minister to give the Tribunal a relevant direction, but none had been given.
45. I was thus satisfied that the proposed delay did not accord with the statutory scheme. Further, that justice also did not permit such a delay, the exercise of the Tribunal's functions being almost complete, because of the possibility of later legislative change.

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46. In arriving at that conclusion, I also took into account the public interest in Members of Parliament being adequately remunerated for the important work which they perform in the offices to which they are elected. Theirs is not only work important to the constituents who they serve, but also to the functioning of the economy and of the civil society which members of the community living and working together as they all do, create in this State.

47. This consideration helped persuade me that the review had to continue.

The Minister's direction

48. On 16 May 2023, however, the Tribunal received a written direction from Special Minister of State under s4(2) of the Act. It directed that “the Tribunal is to make a determination fixing the amount of the basic salary no earlier than 1 May 2025, for commencement on 1 July 2025.” No explanation was given for that direction, nor is one required by the statutory scheme.

49. At the time the direction was received the Tribunal had not completed its 2023 review, because the statutorily required advice from the Secretary of the Treasury had still not been provided or considered.

50. An opportunity was sought by some Members to make a further submission. Members were then all advised of the Ministerial direction and given an opportunity to make further submissions.

51. Only one submission was received, made on behalf of Greens members of the Parliament, who advised of their support of a salary freeze. This submission also addressed other matters. Some of these matters are not within the Tribunal's jurisdiction and some raise complex new questions,

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which cannot be investigated and considered as part of this review, given the time at which they were raised, shortly before the required completion of the Determination.

52. The Tribunal will thus invite Members to pursue these matters in the next review, which will commence later this year.
53. I have concluded, however, that the impact of the Ministerial direction was to restrict the Tribunal's exercise of its discretion to increase the amount of members' basic salary in both 2023 and 2024.
54. Section 4(2) provides that the Tribunal "may make a determination fixing the amount of the basic salary. Determinations are to be made at such times as the Tribunal thinks fit or the Minister directs."
55. There is a possibility that a tension might arise between what the Tribunal may think about the timing of a determination which should be made and what the Minister directs. I consider that this must be resolved by a Ministerial direction prevailing.
56. The Tribunal may consider, for example, in a particular year that Members' basic salary should not be reviewed and the Minister that it should. A direction from the Minister to the Tribunal requiring it to make a determination in relation to the basic salary that year would, it seems to me, then have to be complied with by the Tribunal. That would then require it to conduct a review of the basic salary, in accordance with the then applicable requirements of the statutory scheme.

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57. In this case the Tribunal had decided both that a review of the basic salary payable from 1 July 2023 should be undertaken and could not justly be delayed. But before its determination was finalised, the Minister directed that the Tribunal was to make a determination “no earlier than 1 May 2025, for commencement on 1 July 2025”.
58. I cannot see that this direction was not open to the Minister to make, given the statutory scheme. The result is that the Tribunal may not conclude its review of Members’ basic salary or exercise its discretion to increase that salary in 2023.

Legislative amendment

59. The government also then took steps to seek to amend the Act: Parliamentary Remuneration Amendment Bill 2023. The Second Reading Speech explains that the amendments are intended to freeze Members’ basic salary for two years, for reasons there explained.
60. By the time the Determination was finalised, however, the Bill had not yet been enacted and so could have no impact on the Determination.

No increase in the Basic Salary

61. As a result of the Minister’s direction it thus follows, nevertheless, that the basic salary cannot be increased, with the result that Members will continue to be paid the basic salary determined in the 2022 Determination after 1 July 2023. The 2023 Determination will be confined to annual increases in allowances and changes made to clarify and improve its operation, given

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problems raised for the Tribunal's consideration in various of the submissions it has received

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Section 3 – Additional Entitlements

Adjustment to quantum of entitlements

62. There was again no submission received which suggested that various allowances, which had been increased in 2021 and 2022 to reflect changes in the CPI, should not in 2023 also be increased in that way, given the expenses they are intended to provide for.
63. The May 2022 advice of the Acting Secretary of the Treasury is attached to the Determination. It had regard to both the draft determination which the Tribunal provided and the Ministerial direction it later received. In the draft determination regard was paid to the 7.8 per cent CPI increase for Australia for the twelve months to December 2022.
64. The Secretary observed that data for the March quarter of 2023 showed that such inflation had slowed to 7.0 per cent. Further, that the Sydney inflation figure was slightly different to the national figure, being 7.6 per cent over the year to the December quarter 2022 and 7.3 per cent as at the March quarter 2023.
65. The Secretary advised that final advice as to whether the Determination “can be accommodated within the existing budget as escalated for inflation could not be provided to the Tribunal.” That was because this “will depend on the escalation of expenditures to take account of inflation, which will take place closer to the Budget. It will also depend on the assessment of the impact arising from direction to not increase Members’ salaries as mentioned above.”

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66. There does not seem, in the past, to have been any such difficulty in providing the Tribunal with such advice in advance of budgetary processes.
67. I do consider that the improving inflation data should be taken into account in the Determination, but that additional entitlements should be increased in 2023 as they have in the past to reflect CPI increases, especially given that the result of the Ministerial direction is that there will be no increase in Member's basic salary in 2023.
68. No submission suggested that the Tribunal should alter its usual approach of increasing additional entitlements to reflect increases in Australia's CPI, when undertaking the annual review of those entitlements which the legislative scheme requires. Nor did the Ministerial direction require any change to that approach, despite Treasury's difficulty in giving final advice in relation to this year's Determination.
69. If any change to adjustments to Member's additional entitlements is considered desirable in the future, submissions can be advanced about this in the next review. If the timing of the annual review of additional entitlements needs to be reconsidered, that is a matter for the Parliament to consider, given the requirements of s11.
70. I have thus determined that in 2023 additional entitlements will be increased by 7%, including, as it has been in the past, the Electoral Allowance. Given its purpose and what Members may use it for, which is explained later in the report, it may be desirable to consider whether this allowance should in future be treated in the same way as other additional entitlements. Submissions will be invited about this in the next review.

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71. The following additional entitlements will thus be increased by that amount, to help ensure that these allowances continue to facilitate the efficient performance of Members' and recognised office holders' parliamentary duties:

- Electoral Allowance
- Communications Allowance: Base Allocation
- General Travel Allowance: Base Allocation and Additional Allocation
- Sydney Allowance (daily rate)
- Skills Development Allowance.

72. The Communications Allowance: Additional Allocation has been adjusted to account for constituent numbers only, based on the original costing factor which was adjusted in 2020, as there explained: 2020 Determination at p10.

73. The Committee Allowance will not be increased in 2023 because, as also explained in the 2021 Determination, this allowance has historically been increased in line with Members' salary increases: at [28].

Adoption of allowances and conditions applicable to Federal Members of Parliament

74. Some submissions again requested that various additional entitlements and the conditions that attach of Members of the Parliament of Australia be adopted in the Determination, including those which permit Commonwealth entitlements to be spent on pursuit of re-election.

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75. The Tribunal has repeatedly explained why this cannot be done, given the jurisdiction conferred upon it by the Act. Most recently in the 2021 Determination at [36]-[38] and the 2022 Determination at [71]-[73].
76. Again, no submission suggested any error in that approach, or an available basis for the adoption of the entitlements and conditions sought, given what they particularly provided for.
77. While in the past the legislative scheme expressly provided for how particular matters should be dealt with by reference to Commonwealth arrangements, that approach was abandoned by the Parliament. Section 10 of the *Parliamentary Remuneration Act 1989*, introduced by 1998 amendments, deals with both the electoral allowance and other additional entitlements, providing amongst other things that:

(1) In making determinations under this Part, the Tribunal is to give effect to the following principles—

(a) additional entitlements are to be provided for the purpose of facilitating the efficient performance of the parliamentary duties of members or recognised office holders,

(b) parliamentary duties of members and recognised office holders include participation in the activities of recognised political parties.

78. It is for the Parliament to amend the Act to permit adoption of Commonwealth entitlements and conditions, either by legislating expressly for that result, or by empowering the Tribunal to adopt them, if it considers that to be desirable. Instead, it currently requires the Tribunal to determine

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what Members and recognised office holders need, in order to facilitate “the efficient performance of their duties”.

79. This approach reflects the history of how Members of this State’s Parliament have long been remunerated and provided with allowances, in order to perform the work of their offices. That history was explained in the 1999 Determination as including a Royal Commission which determined in 1920 that there was then no supervision of Member’s expenditure of their allowances, with the result that they were expended on election expenses, expenses incurred in the performance of their duties and as a source of income.
80. The 1956 Wolfenden Inquiry, however, resulted in a system which precluded use of the payments received for electioneering expenses, the view taken being that “a Member should not be advantaged as against a prospective opponent for election”: at [7].
81. In the 2005 Determination reference was made to advice obtained from the Crown Solicitor about the operation of the statutory scheme after the 1998 amendments. At that time the Act required unspent portions of allowances, including the electoral allowance, to be repaid.
82. The Crown Solicitor’s advice included that additional allowances were not paid as personal income, but for the purpose of facilitating the efficient performance of parliamentary duties. Thus, a member had no entitlement to use such allowances for other purposes and if expended for such a purpose, would be at risk of civil proceedings for recovery of such amounts,

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as well as being involved in the commission of a criminal offence in doing so: at 21.

83. Section 10 of the Act was amended in 2001, however, to restore the position which prevailed in relation to the electoral allowance before the 1998 amendments. Section 10(2B) now still provides 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.
84. In the 2007 Determination it was explained that these amendments had had the effect of removing the requirement that the electoral allowance only be used for certifiable expenditure and that it compensated Members for all incidents of the performance of their parliamentary duties: at pp 4-5. Reference was also there made to the Minister's Second Reading Speech, where it was explained that the amendments to s10 had restored the traditional arrangements, so that members could retain the unspent portion of their electoral allowances, because it was not paid only for expense reimbursement. The result being that Members would have to acquit the unspent portions with the Tax Commissioner, but that it would not count for superannuation purposes.
85. It follows that the Act makes clear that Members may not use their additional entitlements to pay for their personal electioneering expenses, other than any portion of their electoral allowance which has been taxed as personal income, when the Member has not spent that part of the allowance on expenses incurred in the performance of his or her parliamentary duties. In

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practical terms this means that like other candidates for office, Members must meet their electioneering expenses from their post-tax income.

86. Section 10 and its history thus confirm that the Tribunal does not have the power to include conditions in the Determination, based on Commonwealth conditions which permit Members to spend their additional entitlements on the expenses which they incur when seeking re-election.
87. Changes sought to entitlements will thus be considered in the usual way, by having regard to their purposes, history, and relevant changes, in determining what should be provided in the Determination, so that the efficient performance of Members' parliamentary duties can be facilitated.
88. As was explained in the 2005 Determination, however, necessarily Members' entitlements will not always meet the specific needs of every Member. Data kept by the Parliament continues to show that some Members utilise all their entitlements and others do not. In arriving at its conclusions, the Tribunal must thus arrive at a fair result for the majority of Members, striving to provide both adequate entitlements and required flexibility, so that the various needs which arise for consideration can best be met, so that the efficient performance of their parliamentary duties are facilitated.

Parliamentary Duties

89. In the 2022 Determination the Tribunal concluded that given the statutory definition of parliamentary duties in s3 of the Act and the Guiding Principles which the Parliament had developed in consultation with the Tribunal, to

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assist members in identifying the activities that meet that definition, that it was not appropriate to include those Principles in the Determination.

90. This conclusion was driven by Condition 2.4.1, which provides that the use of members' additional entitlements is subject to Parliament's administrative guidelines, which include the Guiding Principles: at [91]. The Determination also deals with parliamentary work in the context of intermingling with non-parliamentary work, at 2.3.2.
91. The statutory definition has not been further amended and no submission suggested the need for any further consideration to be given to the inclusion of the Guiding Principles in the Determination. They have thus not been included.

Intermingling of Parliamentary and non-Parliamentary duties

92. One submission, however, called for increased clarity and/or relaxation of the provision made in the Determination for the permitted intermingling of a Member's parliamentary duties and nonparliamentary duties.
93. While no specific problem with the existing guidance was identified, it was submitted that increased use of social media to communicate with constituents made compliance with the requirements of the Determination difficult, especially when re-election is being pursued. This should be understood in the context of what the Determination provides:

2.3.1 Some intermingling of a Member's parliamentary duties and non-parliamentary duties is in practical terms not always easily avoided. The onus is always on the Member to show that expenditure or any claims for

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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.

94. Apart from the Electoral Allowance, Members' expenditure of their allowances is audited by both the Parliament and the Auditor General. In the case of the Electoral Allowance, it is the Tax Commissioner who may audit the use which Members' make of that allowance.
95. The Tribunal has no power to permit expenditure of the allowances provided by the Determination except for the performance of Parliamentary duties. It is for the Parliament to alter the jurisdiction which the Tribunal is given, if that is considered appropriate.
96. At present no basis on which the Determination could be altered in the way sought has been established.

Electoral Allowance

97. The allowance will again this year be adjusted by the CPI increase.
98. From the submissions received it is apparent that there is some misunderstanding of the Electoral Allowance, what it may be used for and how it is taxed.

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99. Members are required to establish the expenditure for which they claim particular payment under the Determination, by provision of relevant documentation. But that is not required for the Electoral Allowance. It is paid monthly, with PAYG tax not being deducted. But if requested by the Member, additional tax is withheld, to reduce tax liability when a return is later made by the Member. Members are also advised by the Parliament that for the Electoral Allowance to be deductible, expenditure must be in accordance with the Australian Tax Office's Tax Ruling 1999/10.
100. Thus, it is important for it to be appreciated that this is not intended to have the result that Members pay for expenses they incur in the performance of their parliamentary duties, for which they may use their Electoral Allowance, in post-tax dollars. From submissions received, it appears that this may at times be misunderstood.
101. I have concluded that the Determination could thus be improved, so that Members, those who have to administer the Determination and those from whom Members may seek advice, including in relation to taxation, can better understand its purpose and operation.
102. As already explained, the Electoral Allowance is intended to be used to meet expenses incurred in the performance of a Member's parliamentary duties. It is only that part of the allowance, if any, which is not so used, that comprises personal income on which income tax is payable. This should also be understood in light of the statutory definition of Parliamentary Duties and the Guiding Principles, as well as the applicable provisions of the Determination.

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103. The Guidelines and General Conditions Regarding Additional Entitlements for Members in Connection with Parliamentary Duties are to be found at s2 of the Determination. It will be amended to clarify the use of the Electoral Allowance to meet expenses incurred in performing Members' Parliamentary Duties.

104. The Determination specifies the circumstances in which additional entitlements may be used for Parliamentary Duties at 2.1 and when they should not be used at 2.2.2. Clause 2 includes:

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

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

105. But the Determination does not specify all the types of parliamentary and electoral expenses for which the Electoral Allowance is intended to be used, reflective as that Allowance is of the fact that the amount of Members' allowances differs, reflective of the sizes and locations of the different electorates.

106. The history of the allowance establishes that the types of expenses which may be met from the Electoral Allowance include:

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1. leasing or purchasing a motor vehicle to undertake Members' parliamentary duties: 2008 Determination at p 3;
2. additional vehicle equipment expenses: 2022 Determination at [165];
3. telephone, internet, and equipment expenses which are not met by the Parliament: 2016 Determination at p11 and 2020 Determination at p 30;
4. Office expenses not met by the Parliament: 2022 Determination at [161];
5. Member and staff travel expenses not compensated for by the Parliament and or the Sydney, Travel and Communications Allowances:
6. Expenses incurred in communicating with constituents not compensated for by the Communications and Travel Allowances; and
7. Staff expenses incurred in addition to those borne by the parliament.

107. The Determination has been amended to make this clear.

Proposed regrouping of some electorates

108. The grouping of electorates is relevant to additional entitlements such as the Electoral Allowance, the Sydney Allowance, Communications Allowance, and the General Travel Allowance. They were reviewed in the

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2022 Determination, following the redistribution of electoral boundaries which took effect after the 2023 election: at [10]-[41].

109. Submissions were received for the regrouping of the following electorates:

Electorate	Current Grouping	Requested Grouping
Murray	7	8
Wagga Wagga	4	5

110. These submissions had to be considered in light of the characteristics by reference to which electorates have been allocated into the various groups. They were explained in the 2022 Determination at [16] to be “location (i.e. metropolitan or non-metropolitan), size, population density, the distance from Sydney, their regional status and remoteness.”

111. While no submission suggested that this approach should be altered, each submission emphasised the peculiar nature of the electorate and the problems and challenges which they have recently generated. Particularly as the result of the pandemic and natural disasters, including recent flooding, which were submitted to warrant the changes sought.

112. These submissions must be considered in light of the description of the electorates allocated to the groups in question and the reason for the conclusions in the 2022 Determination, that changes in these groups were not warranted:

Group 4

28. There are currently 11 electoral districts in Group 4. These electorates have characteristics similar to Group 3 electorates, but they differ in that

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the majority of constituents in Group 4 electorates reside more than 200 kms, and generally much further, from Parliament House: 2014 Determination at 9. In addition, the average size of Group 4 electorates is considerably larger (14,838 sq. km) than the average of those in Group 3 (3,563 sq. km).

29. Before the redistribution electorates in Group 4 ranged in size from Oxley (9,239 sq. kms) to Tamworth (21,720 sq. kms). The redistribution has resulted in a number of boundary changes, the most notable to the district of Albury which has decreased from 19,687 sq. kms to 16,287 sq. kms, changing its ranking from the second largest to fifth largest in Group 4. There appear to be no other significant changes in the size of these electorates and/or their general characteristics.

30. Accordingly, the Tribunal is also satisfied that no change in group is warranted for any Group 4 electorates.

Group 5

31. There are currently three electorates in Group 5, Monaro, Cootamundra and Upper Hunter. Electoral districts in Group 5 predominately have an area of between 20,000 sq. kms and 35,000 sq. kms, with the majority of constituents residing a distance of more than 200 kms from Sydney: 2014 Determination at 10.

32. Before the redistribution these electorates ranged in size from Monaro (20,479 sq. kms) to Cootamundra (34,711 sq. kms). After the redistribution the size of Cootamundra increased to 37,289 sq. kms, while Upper Hunter decreased to 22,959 sq kms.

33. While the size of Cootamundra has increased, its other characteristics have not changed. Given the characteristics of the electorates in Group 6 and the nature of the increase in Cootamundra's size, the Tribunal is satisfied that its change in size does not warrant its categorisation in

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Group 6 with Northern Tablelands. It has decided, however, that the size criteria for Group 5 should be adjusted to a maximum threshold of 45,000 sq. kms, to better differentiate between electorates in Groups 5 and 6.

34. There will accordingly be no change to the allocation of electoral districts into Group 5.

Group 6

35. There is only one electoral district in Group 6 - Northern Tablelands, recognised to be sufficiently distinct from electorates in Group 5 to warrant categorisation in a separate group, given its size and that the majority of its constituents reside more than 500 kms from Parliament House: 2014 Determination at 11.

36. Under its pre-redistribution boundaries, it was 53,154 sq. kms, approximately 50 per cent larger than the next largest electorate, Cootamundra in Group 5. After the redistribution the size of Northern Tablelands increased to 59,412 sq. kms, still a far smaller geographical area than Murray in Group 7 and very considerably larger than Cootamundra.

37. The Tribunal is thus satisfied that there is also no change warranted to the allocation of electoral districts into Group 6.

Group 7

38. There is currently one electoral district in Group 7 - Murray. It is the second largest electorate in the State at 107,359 sq. kms, adjoining the borders of Victoria, South Australia and Queensland, covering some of the most remote towns and communities in NSW. After the redistribution the size of Murray has increased slightly to 110,699 sq. kms.

39. In those circumstances the Tribunal is satisfied that no change is warranted to the allocation of electoral districts into Group 7.

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Group 8

40. There is also currently one electoral district in Group 8 - Barwon. Barwon is the largest electorate in the State at 356,291 sq. kms, still some three times larger than Murray, adjoining the Queensland border and also covering the most remote towns and communities in NSW. After the redistribution there are no changes to the size of Barwon.

41. Accordingly, the Tribunal is also satisfied that no change is warranted to the allocation of electoral districts into Group 8.

113. While the Tribunal accepts the difficult problems which Members have had to contend with in these electorates, given the basis upon which electorates have long been grouped in the Determination, I have not been persuaded that what was advanced provides a fair basis for the changes in groupings which were pursued, or that they were required to facilitate the efficient performance of the parliamentary duties of the members of these two electorates.

114. To the contrary, the changes sought seemed likely to adversely affect the fair allocation of available resources between the State's electorates. This can be illustrated by the differences in the electoral allowances attaching to the respective groups, which in 2022 at the time of the review were:

Table 3: Electoral Allowance - Legislative Assembly and Legislative Council - 1 July 2022 to 30 June 2023 (inclusive)			
Electoral Group/Zone	Base Allowance	Additional Allowance	Total
Legislative Assembly			
Group 4	\$81,415	\$18,030	\$99,445
Group 5	\$86,590	\$18,030	\$104,620
Group 6	\$94,920	\$18,030	\$112,950

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Table 3: Electoral Allowance - Legislative Assembly and Legislative Council - 1 July 2022 to 30 June 2023 (inclusive)

Group 7	\$111,020	\$18,030	\$129,050
Group 8	\$151,820	\$31,435	\$183,255

115. While the changes sought were undoubtedly attractive, because additional funds are always desirable, given the work which arises to be performed in these electorates, that they were fairly available to be granted was not established.
116. Such proposed alterations in groupings would require an examination of the criteria by which electorates are grouped. If improvements in those criteria can be identified they will be considered by the Tribunal, but ad hoc alterations in groupings which do not pay necessary regard to them, cannot fairly be entertained.

Sydney Allowance

117. The Sydney Allowance is paid to members in non-metropolitan electorates whose principal place of residence is a minimum distance of 70 kms by road from Parliament House, “to compensate for the additional costs including commercial accommodation, meals and incidental costs associated with staying in Sydney to attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business.”: cl 5.3.1.
118. Such payments have a long history, reflective of travel for sittings of Parliament, sittings and meetings of Parliamentary Committees and other parliamentary business long being a required part of the work of Members of Parliament. The current provision was arrived at in the 2005 Determination. It previously provided for three levels – 90, 120 and 140

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overnight stays. In 2005 the Tribunal increased the number to 105, 135 and 140 and also introduced a fourth level of 180. The allowance can be paid at a daily rate or an annual basis.

119. In 2022 the Tribunal considered data for use of the Sydney Allowance reported in the annual reports of the Legislative Council and Legislative Assembly and supplementary data provided by the Department of Parliamentary Services for the financial years 2020-21, 2019-20 and 2018-19. It was noted that a small percentage of members had used their total entitlement over the past three financial years, with a minor increase in 2020-21, when there was also an increase in the number of members who used 80% or more and in the number of members who used 50% or more: at [135].
120. It was also noted that the effects of the COVID-19 pandemic included that members were unable to travel to Sydney at times: at [136].
121. The data for 2021-22 provided by Department of Parliamentary Services showed that one Member used their full Sydney Allowance entitlement and one Member exceeded their entitlement.
122. One submission requested an increase to the number of overnight stays, currently 135, to cover the number of nights regionally based members of the Legislative Council are required to spend away from home.
123. Others that Members be paid for all nights they are required to spend away from home. What was paid, was also raised.

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What is payable under the Allowance?

124. The Electorate/Zone to Sydney Travel entitlement, which applies to Members of non-metropolitan electorates who are eligible to receive the Sydney Allowance, provides for specified numbers of return air travel warrants between the Members' electorate or principal place of residence: cl6.2.1 These entitlements may also be used to meet the cost of using a private motor vehicle or rental vehicle in lieu, if the Member drives to Sydney: cl 6.2.2(ii).
125. The Sydney Allowance compensates members for the additional costs associated with staying in Sydney to attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business, including commercial accommodation, meals, and incidental costs: cl 5.3.1. It also deals with expenses when overnight stays are not required.
126. The purpose of the General Travel Allowance is specified to be that it "is provided to Members to meet all travel costs associated with their parliamentary or official duties within Australia": cl 6.4.1. But clearly, they do not include the costs dealt with in the Electorate/Zone to Sydney Travel entitlement. Nor with the expenses dealt with by the Sydney Allowance.
127. The Determination specifies at cl 5.3.2 a daily rate for the Sydney Allowance where accommodation costs are incurred and where no overnight stay is involved, for actual reasonable expenses for meals and incidentals, up to a specified maximum. What "incidentals" are covered is not explained. Nor is that explained in the Members' Entitlements Handbook.

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128. In the 2016 Determination, when the General Travel and Communications Allowances were established and the Electoral Allowance reviewed, some of the then existing allowances were abolished, becoming part of these allowances. But the Sydney Allowance was not altered.
129. There, the Tribunal explained, it had encouraged the Parliament to work with Members to streamline existing administrative practices and procedures to reduce the administrative burden both for Members and Parliamentary administrative staff. That had resulted in a proposal from the Presiding Officers, which the Tribunal accepted.
130. In s1 of the 2016 Determination both those entitlements which had been changed and those which remained the same, were explained. A table in s 2 General Summary of the Determination explained the then determined changes by way of a graphic table. It did not deal with the Sydney Allowance, which was not changed as part of this exercise.
131. The Sydney Allowance was not then altered by the Tribunal, other than by a 2.5% increase, additional entitlements remaining the same: at p 15. In the result, the 2016 Sydney Allowance continued what had first been determined in 2005.
132. In its 2005 Report the Tribunal explained the Special Reference which the Premier had made in 2003 about the review of the Sydney Allowance and what had been involved in the resulting investigation, which had included submissions from the Auditor General and ICAC.

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133. The history of the allowance from 1975, as well as its predecessors were there explained, as well as its purpose. That was identified to be to assist Members with the cost of overnight accommodation whilst in Sydney, but on a basis intended to encourage them to make longer term arrangements, at cheaper rates, it being envisaged that they would rent or buy accommodation, rather than staying at hotels. The rate fixed was pitched to encourage this, it being significantly lower than the normal capital city travelling allowance rate for public servants to meet the full cost of commercial and/or hotel/motel accommodation: at p13.
134. How the annual rate had been struck was also there explained, as was how members had to account for their expenditure.
135. In 1991 there was a special reference to the Tribunal, which resulted in a determination that permitted Members to receive the allowance daily, or by way of an annual allowance. But an upper limit on the number of occasions when Members could claim the daily amount was imposed. While additional night stays were permitted, with reimbursement of actual and reasonable expenses, not exceeding the daily rate, that was subject to the production of accommodation and other expense receipts: at 14.
136. In 1995 the Tribunal was asked to provide an advisory opinion about the allowance, the purpose of which it advised was to reimburse the cost of living away from home; that it was not limited to accommodation; and that it was immaterial whether the member stayed at a hotel, motel, flat, residence, or with a friend or relative: at 15. In 1997 a restriction on entitlement to the allowance when staying at government funded accommodation was introduced, as were substantiation requirements: at 16.

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137. The “Sydney Allowance” was introduced in the 1999 Initial Determination, which included costs associated with living away from home and in transit to and from Sydney, with members having to substantiate expenses which exceeded the daily rate: at 16.
138. In 2005 retention of the annual allowance was considered, as well as applicable conditions, including in relation to repayment, if the days the Member spent in Sydney fell below those on which the annual allowance was calculated. Crown Solicitors advice was obtained, which included that the allowance was not paid as personal income and so the Tribunal could not determine conditions which permitted unspent parts of the allowance to be retained by members.
139. The Tribunal explained that “the Sydney Allowance has a strictly limited purpose and that is to cover daily costs associated with staying in Sydney for parliamentary business”: at 23. The required record keeping was also considered, and the annual allowance retained, while its basis and the daily rates were all reviewed. It was also explained that “Members will be able to claim reasonable meal and incidental expenses up to a daily maximum on such trips to and from Sydney”: at p 31.
140. The need to repay unspent portions of the allowance and to provide documentary evidence of what was spent was revisited in the 2006 and 2008 Determinations, when retention of the annual allowance was also considered. So was what the allowance was provided for, namely, “the additional expenses associated with staying and living in Sydney throughout the year”, which was why members were encouraged to buy or lease accommodation: at 7.

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141. In the result, while Members who stay in Sydney may elect to receive either the daily rate, or the annual rate, those who travel to Sydney without an overnight stay are entitled to be paid for “actual reasonable expenses for meals and incidentals up to a maximum of \$169.25 per day” which they incur during such travel. They must be substantiated, with the result, it appears, that incidentals have not been paid. This is not what the Determination intended and so it will be amended, to ensure that incidentals are paid, but without causing unnecessary administrative burdens.
142. Travel expenses for public servants are governed by the *Government Sector Employment Act 2013* and the *Government Sector Employment Regulation 2014*. Public Service senior executives are entitled to be paid travelling and subsistence allowances determined by their employer from time to time: reg 38.
143. The practice of NSW Government agencies generally is to apply the non-executive arrangements applying to Crown employees under the Crown Employees (Public Service Conditions of Employment), Reviewed Award 2009. It specifies rates set by the ATO, including specific daily rates for meals, accommodation and incidental expenses which are set for capital cities and numerous country towns. The current incidental allowance, applying from 1 July 2022 is \$21.30 per day in all locations. They are described as those “expenses properly and reasonably incurred during the time actually spent away from the staff member’s residence in order to perform the work”: cl 26.6

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Alterations to the allowance

144. I have concluded that in relation to incidentals, there is desirable efficiency to be achieved in requiring them to be paid at the same rate as public servants are paid from time to time, rather than requiring members to provide documentation for such small expenditures. The Determination has been amended to reflect this.
145. Submissions received in this review have also led me to conclude that a further condition should be added to the Sydney Allowance:
146. As I have explained, given the Tribunal's powers and the resulting way in which the allowance is structured, Members who elect to receive the Sydney Allowance annually are required to repay part of the allowance, if it eventuates that they have not been required to stay in Sydney for the specified days, to perform their Parliamentary duties. While a member who elects to receive the allowance on a daily basis is entitled to receive the allowance for all such days.
147. I am satisfied that it is just to provide that in the event that a Member who receives the annual allowance is required to stay in Sydney for more than the specified number of days, in order to perform his or her parliamentary duties, the Member should also be entitled to receive the allowance for all of the days they were required to stay in Sydney to perform those duties.
148. There is an obvious advantage in a member being paid the allowance annually. But that there should be a penalty flowing from that election if that member has to stay in Sydney longer than the days on which the allowance

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is calculated, does not follow. That can arise if, for example, the Member is appointed to additional Parliamentary Committees.

149. Presently, in that event the expenses which the allowance is intended to provide for could be met out of the Electoral Allowance, but that was not part of its intended purpose.

150. In the result, the conditions will permit the allowance to be claimed if additional days have to be spent in Sydney to attend to parliamentary duties, in excess of those provided for by way of the annual allowance, with expenditure up to the daily maximum having to be substantiated.

Staff

Additional Staff

151. One submission suggested that an additional member of staff in a research officer role would be beneficial for Independent and Cross Bench members, who are not supported by the Government or Opposition.

152. Members elected as independents receive an additional staff member in each of their electoral offices: That was the result of conclusions reached in the 2020 Determination, that Independent Members require additional support: pp 21-22.

153. The result is that electoral offices are staffed with three staff members other than in the case of elected Independent Members, whose electoral officers are staffed with four staff members

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154. The Tribunal has not been persuaded that yet another research officer is warranted for Independent and Cross Bench members, despite the submission that two staff members may be left to work in an office when one member of staff is in Sydney and if another is ill or attending an external meeting, the office must close.
155. If such an event arises in the office of other Members, the office must also be closed to the public to ensure safety of the one staff member then left working there, who can, of course, be contacted by phone. That is the result of the Staff Determination, which requires that “A minimum of two Electorate Officers should be present at every Electorate office during public contact hours.” chp 2, p 6 – Minimum Staffing Requirements.
156. That yet another research officer is required for Independent and Cross Bench members to efficiently perform their parliamentary duties has thus not been established, given that in the circumstances raised, such Members still have two members in the office, which can then remain open to members of the public, unless available staff drops to one.

New classification

157. One submission raised the need for a new staff classification of manager, which would not have responsibility towards constituents, but be concerned with changes in the work which Members are called on to perform and the resulting increased complexity of the operation and management of the Member’s electoral office or offices and the Member’s activities. Attraction and retention of staff issues were also raised.

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158. As explained in the 2022 Determination when other matters in relation to staff were raised, conditions of their employment are determined by the Presiding Officers in accordance with the *Members of Parliament Staff Act 2013* (MoPS Act) and not by the Tribunal: at [167].

159. The Tribunal's function is to determine the number of persons who a member or special office holder is entitled to employ: s18. While conditions under which staff are employed can be relevant to such a determination, the classification question raised must be pursued with the Presiding Officers. What was raised does not establish a need for any additional staff.

160. The Tribunal also notes advice from the Presiding Officers that staffing in general will be reviewed following implementation and recommendations from a review of the MoPS Act, which is due to be finalised.

Allowance for additional hours - Research Officer positions for Members of Legislative Assembly

161. One submission concerned Research Officer positions, granted to Legislative Assembly Independent Members of Parliament were not receiving the All Incident of Employment Allowance to compensate them for additional hours of work beyond their rostered hours of work.

162. As explained in previous Determinations, the terms and conditions of employment of staff, the proper determination of their classification and the value of their work are all determined by the Presiding Officers under the MOPS Act and not for the Tribunal to determine under the Act.

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163. The Tribunal will, however, inform the Presiding Officers of the matters raised by this submission, so that they may receive appropriate consideration.

Emergency relief

164. Other submissions raised the ongoing exercise of the emergency power the Presiding Officers have given the Chief Executive to provide members with additional temporary staffing, in the event of an emergency or public health order. That has been utilised to help members deal with the consequences of the very severe and repeated flooding which in 2022 has caused serious emergencies across different parts of the State.

165. The Determination has been amended to reflect that 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.

Additional staff for Deputy Leader of the Opposition in the Legislative Assembly and Deputy Parliamentary Leader

166. A late submission was received in June 2023 about the Determination being ‘tweaked’ to permit, at no additional cost, an additional staff entitlement being transferred between the positions of Deputy Leader of the Opposition in the Legislative Assembly and Deputy Parliamentary Leader.

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167. Both Members and Special Office Holders may employ staff to assist them in exercising the functions of their offices: s14 and 15 MoPS Act. Special office holders are specified in schedule 1 to the Act to be:

- “Government Whip
- Opposition Whip
- Whip of a recognised party with 10 or more members in the Legislative Assembly (other than the Government or Opposition Whip)
- Speaker of the Legislative Assembly
- Deputy Speaker of the Legislative Assembly
- President of the Legislative Council
- Deputy President of the Legislative Council
- Leader of the Opposition in the Legislative Council
- Deputy Leader of the Opposition in the Legislative Council
- Deputy Leader of the Opposition in the Legislative Assembly”

168. Holders of “political office” may employ staff in accordance with arrangements approved by the Premier: s5. That term is defined in s4 to mean:

“(a) a Minister, or

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(b) the Leader of the Opposition in the Legislative Assembly, or

(c) the holder of a Parliamentary office in respect of which a determination under section 4 is in force.”

169. The Tribunal is empowered to determine the number of staff that Members and Special Officeholders other than the President or Deputy President of the Legislative Council or the Speaker or Deputy Speaker of the Legislative Assembly may employ: s18 MoPS Act.

170. The current staffing provision was introduced in the 2020 Determination for reasons explained at pp10-12 of the 2020 report, when the Tribunal reviewed the staffing provision introduced by the 2018 Determination, after extensive consultations. It had provided:

“3.6 The Whip of each recognised political party of not less than 10 Members to each shall be provided with one member of staff.

3.7 Ministers shall receive a reasonable allocation of staff members.

3.8 The Leader of the Opposition in the Legislative Council and Deputy Leader of the Opposition in the Legislative Council shall be provided with one member of staff to assist both recognised office holders.”

171. In 2020 the Tribunal replaced cl3.8 with:

“Clause 7.1.25 (viii) 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.”

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172. The reasons given in the 2020 Report included that:

“In recognition of the workload, the role these offices play in the business of Parliament, and to ensure consistency with the provision of resources to other Recognised Office Holders, the Tribunal determines that the Deputy Leader of the Opposition in the Legislative Assembly shall receive one staff resource and that the Leader and the Deputy Leader of the Opposition in the Legislative Council shall have their current entitlement of 0.5 FTE extended to 1 FTE each. These staff are to work from Parliament House and are not to undertake work associated with the Member’s electorate or other constituent duties. The terms and conditions of employment are to be determined by the Presiding Officers in accordance with the MOPS Act.”

173. Necessarily, any further alteration to this staffing entitlement must have regard to the efficient performance of the parliamentary duties of the Members or recognised office holders affected by the proposed alteration. That was what the examinations pursued in 2018 and 2020 had both considered.

174. The submission which the Tribunal received in 2023 indicated the agreement of the members concerned to the proposed staff transfer. But it did not address how this would facilitate the performance of either Members’ duties, nor what had been accepted in the 2020 Determination as warranting the staffing allocation then determined. Nor did it identify any relevant changes since then, which would warrant the altered staffing

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arrangement proposed, such as changes in the respective roles, work or workload of the two affected positions.

175. It may be that there have been relevant changes which would establish that the proposed change is warranted, but they have not sought to be identified. In the time available, that has not been investigated by the Tribunal.

176. In the result, I am not persuaded that the alteration sought to the Determination can be made at this time.

177. Further information will thus be invited to be provided, so that consideration may be given to whether there is a proper basis for the proposed alteration, in the next review

Transition or separation payments

178. The need for such a payment was again raised by submissions received, NSW now being out of step with the Commonwealth and other State Parliaments which make provision for such a payment when a Member loses office. This had earlier been raised for consideration in the 2018, 2020, 2021 and 2022 Determinations.

179. The Tribunal was provided with a copy of the recent Transitioning to Life after Parliament report provided by Deakin University, which was commissioned by the Parliament of Victoria in conjunction with the Victorian Parliamentary Former Members' Association. It examined the challenges experienced by former members in transition to life after Parliament, existing available support structures and provided recommendations for programs and strategies to better support former MP's.

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180. The submissions recognised, however, that the Parliament has still not given the Tribunal the power to provide for such payments. Accordingly, the Tribunal makes no further comment on the desirability of such a mechanism, given that its consideration requires legislative amendment.

Communications Allowance

181. One submission was that the current allowance for country electorates is inadequate, despite changes made in the 2021 Determination: at [49]. Changes then introduced allowed for greater flexibility in the use of the Communications Allowance, the Tribunal determining that Members could use funds from the General Travel Allowance, if their Communications Allowance is exhausted in any one year.

182. A further allocation for a newsletter was also sought, given the average cost of mailing, the cost of radio and newspaper advertising and the loss of local newspapers.

183. Another submission suggested that the allowance was no longer sufficient, since it was amended to permit the allowance to be used for social media costs.

184. I am not persuaded the allowance has become inadequate.

185. The current Communications Allowance was created by the combination of the non-electronic component of the Logistics Support Allocation (LSA) and the Electorate Communication Allowance (ECA), in the 2016 Determination. There it was explained at p 10:

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“The Communications Allowance (CA) will be used to meet the production and distribution costs of communicating with constituents including newsletters, brochures, the printing of letterheads, flyers, e-publications, developing, hosting and maintaining a website and/or other social media, email distribution services, advertisements and any other forms of communication approved by the Parliament.

“The establishment of the Communications Allowance (CA) is intended to streamline the administrative practices currently associated with the use of the LSA and ECA. The Tribunal notes that the Parliament will need to amend the Publication Guidelines and establish social media guidelines to ensure compliance with the Determination. It is envisaged that the new global communication allocation will make it easier for Members to communicate with their constituents.”

186. Nor am I persuaded that use of social media has the negative consequences some submissions claimed. Other information which the Tribunal has received is to different effect, given the limited cost of advertising on social media, for example.

187. It is a matter for Members how they use their various entitlements, in accordance with the requirements of the Determination. It does not follow from a Member's decision to pursue a costly approach to the management of social media by engagement of an independent contractor, as was advanced by one submission, that the communications allowance is inadequate. Other information received suggests that communication by social media has enabled Members to address the problems caused by the decline of local newspapers and the increasing cost of other forms of communication over time.

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188. This allowance has been adjusted by CPI increases in recent years and on this occasion will again be significantly increased. That it is not sufficient has not been established.

General Travel Allowance

189. There was one submission that the General Travel Allowance was also inadequate in the country, given the distances to be travelled and the costs involved, although it was accepted that establishing a satellite office could help address some of this.

190. Another was that the requirement for a member of staff to travel to Sydney with the Member meant that most of the allowance was spent on staff travel costs. Another that a separate travel program for staff should be established, as applies in the Commonwealth and that employee travel be separated from the electoral allowance.

191. That Commonwealth conditions may not be so adopted and that staff conditions are for the Presiding Officers to determine has already been explained. While staff travel costs may be met by use of the Electoral Allowance, it is the General Travel Allowance which has been specifically directed to such costs.

192. I have also not been persuaded that this allowance is inadequate.

193. The General Travel Allowance was also established in 2016, by combining the former LSA Transport Allocation and former Electorate Charter Transport Allowance.

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194. Apart from what was earlier explained in relation to travel to Sydney, the General Travel Allowance is provided to members to meet all travel costs associated with their parliamentary or official duties within Australia. It comprises a base annual allocation for members of the Legislative Assembly and Legislative Council (formerly LSA) and an additional allocation (formerly Electorate Charter Transport Allowance) for members in Groups 5 to 8.
195. The 2021 Determination amended the General Travel Allowance to clarify that it may be used for travel by parliamentary staff of recognised office holders.
196. The Staff Determination also provides for authorised official travel and associated expenses to be met. In determining amounts, the Australian Taxation Office determination on reasonable travel and meal allowance expenses is used.
197. I am thus not persuaded that this allowance is inadequate, for the efficient performance of Members' parliamentary duties. Change of the kind sought would require examination of actual expenditure by Members, but information which was provided did not establish a basis for the conclusion that this Allowance needed to be increased, other than to reflect changes in the CPI.
198. While actual costs were provided by one Member, what allowances were used to meet those costs was not explained. That funds available to this Member, including the electoral allowance, were inadequate, was thus not apparent.

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199. Other information provided indicated that the cost of staff travel to Sydney from three electorates, with three nights' accommodation there, ranged from \$1300 to \$2,000. But without any analysis of what funds were utilised by the Members to meet these and other costs which they have to meet in performing their parliamentary duties, this still did not establish that this or other allowances were inadequate.
200. That cannot be established on the basis of guesswork. In the result the only adjustment to this allowance will be a CPI increase.

Additional and satellite electoral offices

201. Additional electorate offices or establishment of a new Satellite Office Allowance for geographically dispersed electorates has been under review since the 2020 annual review.
202. On this occasion satellite offices were pursued by the members for Wagga Wagga and Murray. The member for Cootamundra made a request for an additional electorate office. Additional offices were also again pursued for the Upper Hunter and Monaro.
203. Murray is a Group 7 electorate with a population of 85,919 and size of 110,699km square, while Wagga Wagga falls in Group 4 and has a population of 82,326 and a size of 12,135km square. Cootamundra falls in Group 5, with a population of 72,435 and size of 32,289km square. The Upper Hunter with a population of 78,827 and size of 22,958 km square is a Group 5 electorate, while Monaro, also a Group 5 electorate, has a population of 84,972 and size of 20,479 km square.

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Additional offices

204. The Tribunal dealt with requests for additional electorate offices in the 2021 and 2022 Determinations, including in 2021 for Cootamundra which has two electoral offices at Young and Junee, and Monaro, which has one electoral office at Queanbeyan and sought another at Cooma. In 2022 that was pursued again, together with an additional office in the Upper Hunter which has an electoral office at Muswellbrook. They were all refused.
205. In the 2021 Determination it was concluded that “it is also apparent that in larger electorates, the location of a second or subsequent electoral office, whether permanent, temporary or mobile, can have a significant impact on Members and the personal access which constituents can have to them. But a further permanent office in a location only an hour or an hour and a half’s travel from another electoral office, for example, rather than in a more distant part of an electorate, may not have sufficiently beneficial impacts on the assistance which an additional electorate office may provide to the Member, in the performance of their Parliamentary duties, to warrant the establishment of such an office”: at 134.
206. In 2021 the Tribunal was not satisfied that there was a need for the provision of additional permanent electoral offices or staff in any of these Group 5 electorates, or that the additional cost involved was warranted. That was because of the use which could be made of additional funds, in providing further technological support, or temporary or mobile electoral offices in larger electorates: at [136].
207. In 2022 a similar conclusion was reached: at [154].

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208. The Tribunal now still considers that there is no warrant for electoral offices in non-metropolitan electorates to be located within a distance of an hour or an hour and a half's travel of each other. To the contrary, such offices do not appear to be appropriately located, especially if other parts of a large electorate are not served by any electoral office.
209. While face to face communication with constituents living in under resourced communities in the country is undoubtedly important, over time factors relevant to the location of electoral offices change. They include not only roads, but the safety of motor vehicles and the availability of other modes of travel and communication. Improvements in technology by which constituents can communicate with their Members must also be taken into account. This all has an impact on the number and location of electoral offices, as do changes in populations and electoral boundaries.
210. On election Members are provided with established electoral offices which are located, fitted out and paid for by the Parliament. From time to time such offices have to be relocated, for a variety of reasons. In the past that has included because of a reconsideration of where in larger electorates offices should be located, to best serve remote communities. Barwon, for example: see 2015 Determination at p 14
211. Information provided by the Chief Executive was that in 2019 the Member for Cootamundra had been granted approval to relocate a full-time staff member from the Junee to the Young electoral offices.
212. Given that Cootamundra, the largest of the Group 5 electorates by far, has two electoral offices which are located only an hour or so's distance from

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each other, as well as its population and size, I have not been persuaded that another electoral office is required for the efficient performance of parliamentary duties in that electorate. Consideration could, of course, be given to the relocation of one of the existing offices to better serve the needs of this electorate, given its geography. That is a matter for the Parliament and the Member to consider.

213. No new information was provided in relation to the additional offices sought for Monaro or the Upper Hunter. That the efficient performance of parliamentary duties in these electorates requires the establishment of additional offices is still not apparent.

214. In 2022 what was relied on in relation to the Upper Hunter included changes as a result of a redistribution with the inclusion of new communities on the eastern side of the electoral district and resulting difficulty for constituents accessing the electorate office due to geographical barriers and road closures: at [151].

215. The Tribunal then accepted that this supported the establishment of the proposed satellite allowance: at [152]. But establishment of a second electoral office was rejected.

216. Similar changes were again relied on in this review, with return travel times to Muswellbrook from parts of the electorate ranging from 80 minutes to 2.5 hours, to support the establishment of a second electoral office.

217. In the Monaro, the growth over 70 years in the population of the Snowy region was relied on to again support the establishment of a second

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electoral office at Cooma. But that is still not far distant from Queanbeyan. Undoubtedly there is travel required in this electorate, both by the Member and staff who need to meet constituents in areas far from Queanbeyan. But that is a considerable part of the reason for the additional electoral allowance which regional members receive.

218. It is also pertinent that the Tribunal has not received a submission, from any Member, that the entirety of that Allowance has been utilised to meet the costs associated with performance of their parliamentary duties.

219. In the result, I am still not persuaded that an additional electoral office is warranted for the efficient performance of parliamentary duties in these electorates.

Satellite and mobile offices

220. Some Members have been funding satellite or mobile offices with their Electoral Allowance and there has also been an ongoing trial in respect of such offices in larger electorates. That trial was discussed in the 2020, 2021 and 2022 determinations and the Tribunal received some further information about that ongoing trial, on this review.

221. The Presiding Officers were again asked to provide an update on the ongoing trial arrangements being conducted with the assistance of the Department of Parliamentary Services in various electorates and the discussions they had foreshadowed pursuing with Members. They were also invited to address the amount, structure, and conditions of a new allowance for satellite or mobile offices.

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222. The written submission was that one satellite office exists in the electorate of Murray. The satellite office has been in operation since 2019 and is funded by the Member. It was further reported that Members often establish mobile or pop-up offices to engage with constituents. No comment was made on the establishment of a new allowance, rather than continued use of the Electoral and other allowances to fund their operation.

223. The information otherwise provided included that mobile offices open in public places across an electorate are operated in some electorates, including smaller ones, which are funded by Members' electoral allowances. As for the satellite office trial:

1. Members have continued using their Electoral Allowances to meet costs of the trial arrangements, but there have been accommodations made for staff.
2. The premises have been located in other government offices.
3. The Presiding Officers have approved the staffing of these offices by only one staff member, while permanent electoral offices must be staffed by two members, in order to be open to the public.
4. Detailed information was provided only about one satellite office. It has been in operation since 2019 in Murray, where the Member estimates personal travel of over 60,000km per year in the electorate. Its electoral offices are located in Griffith and Deniliquin and the satellite office in Buronga. That office is:

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- located within shared Council premises, where others are always present to ensure staff safety;
- staffed by 0.5 staff member for whom approval was given in 2019 to relocate from the office at Deniliquin;
- open for 2.5 days per week; and has incurred specified additional costs for rent, equipment, branding and supplies.

153. This information also supports the conclusion that like fixed electoral offices, the need for satellite offices to be located relatively close to a fixed office, has not been established.

224. A satellite office was pursued for Wagga Wagga, because of travel over difficult terrain to service a distant part of the electorate, where there is a large population centre. What is proposed, however, is still another office located only about one and a half hours travel from the electoral office at Wagga Wagga, which has four staff members servicing a Group 4 electorate of moderate size, compared to the larger Group 6, 7 and 8 electorates.

225. I have thus still not been persuaded that establishment of a satellite office is required for the efficient performance of parliamentary duties in that electorate.

226. But on the other available information, an allowance which would permit the establishment of one satellite office, in a suitable town and building, located to serve distant parts of the larger Group 6, 7 and 8 electorates, which is located more than two hours travel from the closest electoral office and operates for limited hours over the course of a week, may be warranted.

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227. These electorates range in size from 59,412 sq. kms to 356,291 sq. kms, all have two and in the case of Barwon three electoral offices, and still require members and their staff to regularly travel considerable distances to access parts of the electorate located more than two hour's travel from those offices. It must be accepted that real efficiencies may be achieved if a satellite office located in a suitable, distant part of the electorate, is able to operate for limited hours, with locally employed staff, as Members have proposed.
228. That there is a need for such an office to operate for more than two days per week has not yet been established, however. Nor has it been established that where the electorate already has more than two electoral offices, that additional staff are required to man a satellite office.
229. That is because each electoral office is staffed by three staff members and in the case of Independent and Cross Bench Members, by four. That any electorate requires more than nine staff members, for the efficient performance of the Members' parliamentary duties, even if a satellite office is established, has not been demonstrated.
230. These conclusions reflect the ongoing trial arrangements pursued in 2022 in some electorates. While information provided has again persuaded me that the establishment of an allowance for a satellite or mobile offices might be warranted, particularly in the larger electorates, this still requires further consultation, given all that is involved.
231. It thus appears that what would be warranted is staffing of a satellite office from the Member's existing staffing allocation, if there are more than two

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electoral offices and where there are only two, funding a further staff member employed two days per week.

232. An allowance would also either have to cover the cost of the rent of the office, unless that cost is born by the Parliament, as well as the cost of the usual fit out and equipment, unless that is also provided. The Presiding Officer's Staff Determination would also have to be amended to permit staff to work alone in such an office, that having been the basis on which the trials have been conducted. That requires further consultation.

233. The conditions of the allowance would also have to require prior approval of the suitability of the satellite office, given its particular location and that staff members would work alone there.

234. That is because staff safety would have to continue being assured, as it has been during the ongoing trial, by a satellite office being co-located with other Government services, so that the member of staff working there will not be alone with constituents with whom they have to meet.

235. Given the submissions advanced on this review by the Presiding Officers, the changes which would have to be introduced to the Staff Determination, and the need to establish the amount of the allowance I have described, further consultation with the Presiding Officers is required, before any provision for satellite offices is introduced in the Determination.

236. That will be pursued in the next review.

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Additional offices for regionally based members of the Legislative Council

237. One submission again sought the establishment of an additional office located near the home of Members of the Legislative Council who live outside Sydney, with one additional staff member, it being pointed out that the Victorian Parliament provides such offices.
238. Such an additional office was considered and rejected in the 2021 and 2022 Determinations: at [41]-[46] and [139] - [142]. No additional information which would support the establishment of such offices, which would involve considerable cost, more if additional staffing resulted, was advanced. While undoubtedly convenient, no information yet provided establishes the need for either such an office, or any additional staffing, in order that these members can perform their parliamentary duties. Further, staffing of an office with only one staff member does not accord with the Presiding Officer's Staffing Determination.
239. These Members already have a Sydney office and they are also supported by the Parliament, in order to also establish a home office. They do not represent an electorate, notwithstanding internal party arrangements to ensure constituents across the State are served by such Members.
240. These Members also receive an electoral allowance which will be significantly increased this year. It is available to fund an office away from home, if the Member considers that to be preferable to arranging other suitable places to meet those who wish to meet with them.

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241. I am thus still not persuaded that the efficient performance of these Members' parliamentary duties requires the establishment of such an additional office.

Skills Development Allowance and relief for staff

242. One submission was that the allowance was inadequate, given the cost of travel in the country and to Sydney, including for bringing trainers to the country.

243. Another was that access for staff to training was challenging due to the lack of available relief staff hours. It was suggested that relief staff hours should be available, to ensure service provision to the Member's electorate.

244. The allowance is intended to provide professional development for the Member and their staff. Its history is that it was a new entitlement introduced in the 2018 Determination, with a specific focus on training directly relevant to the role of the Member and their staff, including but not limited to:

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

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These costs had previously been provided for in the Logistics Support Allocation until absorbed into other allowances in 2014.

245. In the 2019 and 2020 Determinations additional changes to the Skills Allowance were made to allow pooling of budget allocation between Members and staff in the same office. However, Members are not to use funds allocated to staff for their own development training. Pooled funds cannot exceed the total budget allocation provided to a Member.
246. The Tribunal was provided with information about staff training that included that training courses were offered and paid for by Parliament in FY2021/2022, including travel costs when staff were required to travel to Sydney. Some such training is mandatory, but much is conducted online, as is a great deal of other training which staff members undertake, which is offered by the Parliament itself and by various universities.
247. The Staff Determination provides for the use, with approval, of short-term relief staff for skills development training of one day or more relevant to the staff member's role, where minimum staffing levels cannot be met.
248. On the information available I have not been persuaded that staff undertaking training at times when they are not replaced by relief staff disrupts the operation of Members' electoral offices in such a way as to interfere with the efficient performance of their parliamentary duties.
249. If further information about such situations is provided, it will of course be considered.

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250. The allowance has been increased by CPI increases in 2021 and 2022 Determinations and is currently \$1,585 for Members and \$530 for each full-time equivalent staff member. It will again be adjusted by a CPI increase.
251. Further changes were made in the 2021 Determination that permitted the allowance to be carried over from one year to the next, within a parliamentary term, in order to make available larger amounts of funds to be used for appropriate training.
252. I am not persuaded that the allowance is inadequate, given that its purpose is to assist Members in the performance of their Parliamentary duties, not to permit staff to pursue training which they may be personally interested in. Such training certainly does not necessarily require travel to Sydney, let alone bringing trainers to country centres. I have thus not been persuaded that any other changes are required to facilitate the efficient performance of Members' parliamentary duties.

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Section 4– General Summary of the Determination

2023 Adjustments

Basic salary and additional entitlements	Per annum adjustment
Basic Salary	No Increase
Electoral Allowance:	
Base Allowance	7.0 per cent increase
Additional Allowance	7.0 per cent increase
Recognised Office Holder Allowance (except Independents)	7.0 per cent increase
Independents Allowance	7.0 per cent increase
Sydney Allowance	7.0 per cent increase
Communications Allowance:	
Base Allocation	7.0 per cent increase
Additional Allocation	Adjusted to reflect changes in constituent numbers.
Committee Allowances	No Increase
General Travel Allowance:	
Base Allocation	7.0 per cent increase
Additional Allocation	7.0 per cent increase
Skills Development Allowance	7.0 per cent increase
Travel Allowances	As per Australian Tax Office Determination TD2022/10

The Parliamentary Remuneration Tribunal



Hon A/Justice Schmidt AM
Parliamentary Remuneration Tribunal

The Hon Acting Justice M Schmidt
Dated: 15 June 2023

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The Determination

Pursuant to ss 10(2) and 11(1) of the Act, the Tribunal makes the following Determination:

With effect on and from 1 July 2023 and pursuant to s 10(6) of the Act, all previous Determinations of the Tribunal are revoked. This Determination shall constitute the annual Determination and shall operate on and from 1 July 2023.

1. Definitions

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

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

“Basic salary” has the meaning given by s 4 of the Act.

“Parliamentary duties” has the meaning attributed to it by s 3 of the Act.

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

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

“Approved relatives” means:

- One person who meets any of the following criteria:

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

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

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

Every class of “additional entitlements” described in this Determination is provided pursuant to s 10(1)(a) of the Act “for the purpose of facilitating the efficient performance of the parliamentary duties of Members.” The following guidelines shall apply to the receipt, use and operation of additional entitlements

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

- 2.1 Additional entitlements, including the Electoral Allowance, are provided to facilitate the efficient performance of the following particular parliamentary duties of Members as follows:
 - 2.1.1 Activities undertaken in representing the interests of constituents but excluding activities of a direct electioneering or political campaigning nature.
 - 2.1.2 Performing electorate work for a Member's electorate and participation in official and community activities to which the Member is invited because of the Member's status as a parliamentary representative.
 - 2.1.3 Attending and participating in sessions of Parliament.
 - 2.1.4 Participation in the activities of parliamentary committees.
 - 2.1.5 Attending Vice-Regal, parliamentary and State ceremonial functions.
 - 2.1.6 Attending State, Commonwealth and Local Government functions.
 - 2.1.7 Attending official functions to which a Member is invited because of the Member's status as a parliamentary representative, e.g., receptions and other community gatherings hosted by Members of the diplomatic corps, educational and religious institutions, community and service organisations, business associations, sporting bodies or other special interest groups.

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- 2.1.8 Participation in the activities of recognised political parties, including participation in national, State and regional conferences, branch meetings, electorate council meetings, executive meetings, committee meetings, and meetings of the Members of the parliamentary political party, its executive and committees.
- 2.1.9 For a Member elected to the Parliament as an independent, participation in activities that are reasonable alternatives to participation in the activities of recognised political parties.
- 2.1.10 A Member who is elected to the Parliament as a representative of a recognised political party and who subsequently resigns from that party Membership and thereafter sits as an independent Member, howsoever described, shall continue to receive the same entitlements as they received as a Member of the party prior to resignation and not the additional entitlements provided to elected independents. The Member is also not entitled to the benefit of the rule in cl 2.1.9 above.
- 2.1.11 Participation within Australia in the activities of the Commonwealth Parliamentary Association (CPA) organised by the CPA provided such activities arise directly from Membership of the New South Wales Branch and officially endorsed by the Branch. Members may utilise Frequent Flyer Points which have been accrued as a result of the use of public funds to purchase international flights or obtain an upgrade in seat class in order to attend CPA activities.
- 2.1.12 Participation in a parliamentary Group such as the Asia Pacific Friendship Group; provided that, such group is approved in writing

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by the President of the Legislative Council and the Speaker of the Legislative Assembly.

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

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

2.2.2 Additional entitlements should not be used to fund:

- (i) activities such as those associated with party Membership drives;
- (ii) mail distributions for non-electorate or non-parliamentary activities;
- (iii) costs associated with election campaigning for an individual Member;
- (iv) party fundraising for a Member's own political use and/or other party political Members such as the purchase of raffle tickets, raffle prizes or tickets to attend functions etc;
- (v) costs previously borne by political parties which are not principally related to a Member's parliamentary or electorate duties; and

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(vi) costs associated with pre-selection activities.

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

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

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

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

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

2.4 Conditions

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

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

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

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

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

2.5 List of Tables Relating to Additional Entitlements

Table 1	Electoral Groupings for the Legislative Assembly
Table 2	Zones for Legislative Council
Table 3	Electoral Allowance Legislative Assembly and Legislative
Table 4	Sydney Allowance Daily Rates
Table 5	Electorate/Zone to Sydney Travel Entitlements – Additional Entitlements for Recognised Office Holders
Table 6	Communications Allowance – Base Allocation
Table 7	Communications Allowance – Additional Allocation
Table 8	General Travel Allowance
Table 9	Travel Allowances Indicative Upper Limits for Members
Table 10	Recognised Office Holder and Other Member Additional Entitlements
Table 11	Skills Development Allowance

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3. Basic Salary

With effect from 1 July 2023 the basic salary of Members, pursuant to s 4 of the Act, shall be \$172,576 per annum.

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4. Electoral Groupings and Zones for Fixing Additional Entitlements

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

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

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Table 2: Zones for Legislative Council

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

5. Additional Entitlements in the Nature of Allowances

5.1 Summary

The entitlements in this category comprise the following:

Electoral Allowance

- Base Allowance
- Additional Allowance
- Recognised Office Holder Allowance (except Independents)

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Electoral Allowance

– Independents Allowance

Sydney Allowance

Committee Allowances

5.2 Electoral Allowance

5.2.1 Basis

- (i) The allowance is based upon those factors which have historically been taken into account in assessing the quantum of the allowance (including the additional costs associated with the performance by Members of their parliamentary duties in their electorates) and such other factors as may be determined from time to time as appropriate to be taken into account by the Tribunal under the Act.
- (ii) The establishment of the additional allowance took into account the costs previously met from the abolished LSA – Communications (electronic) and LSA - Printing and Stationery, Office Supplies and Services.
- (iii) The allowance is intended to be used by Members to pay for expenses incurred in the performance of their duties. The types of expenses which it is envisaged may be met from the Electoral Allowance include:
 - a) leasing or purchasing a motor vehicle and additional vehicle equipment expenses;
 - b) telephone, internet, office and equipment expenses which are not met by the Parliament;

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

5.2.2 Entitlement

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

Table 3: Electoral Allowance - Legislative Assembly and Legislative Council - 1 July 2023 to 30 June 2024 (inclusive)			
Electoral Group/Zone	Base Allowance	Additional Allowance	Total
Legislative Assembly			
Group 1	\$57,810	\$17,445	\$75,255
Group 2	\$67,705	\$19,290	\$86,995
Group 3	\$79,795	\$19,290	\$99,085
Group 4	\$87,115	\$19,290	\$106,405
Group 5	\$92,650	\$19,290	\$111,940
Group 6	101,565	\$19,290	\$120,855
Group 7	\$118,790	\$19,290	\$130,080
Group 8	\$162,445	\$33,635	\$196,080
Legislative Council			
Zone 1	\$67,705	\$18,375	\$86,080
Zone 2	\$67,705	\$19,290	\$86,995
Zone 3	\$67,705	\$23,935	\$91,640

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- (ii) A further allowance of \$4,500 per annum is payable to each Recognised Office Holder (except an Independent) in the Legislative Assembly and Legislative Council.
- (iii) A further allowance of \$2,245 per annum is payable to each Independent in the Legislative Assembly and Legislative Council
- (iv) The electoral allowances shall be payable per calendar month in arrears in conjunction with salary payments.

5.3 Sydney Allowance

5.3.1 Purpose and Operation of the Provisions

- (i) The Sydney Allowance is provided to Members who reside in non-metropolitan electorates to compensate for the additional costs including commercial accommodation, meals and incidental costs associated with staying in Sydney to attend sessions of Parliament, meetings of parliamentary committees or other parliamentary business.
- (ii) Members whose principal place of residence is a minimum distance of 70 kms by road from Parliament House are eligible to receive the Sydney Allowance.
- (iii) Members may receive the lower or greater amount of overnight stays based on the following distance criteria:
 - Members whose principal place of residence is between 70 kms and 140 kms by road from Parliament House are eligible to receive the Sydney Allowance at the lower amount of overnight stays.

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

5.3.2 Entitlement

- (i) The daily rate (including the number of overnight stays) for the Sydney Allowance for eligible Members shall be in accordance with *Table 4: Sydney Allowance Daily Rates - 1 July 2023 to 30 June 2024 (inclusive)* below. Where a Member elects for a daily rate, he/she shall be entitled to the daily rate for the number of overnight stays per annum specified in that Table, except as provided in the conditions.

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Table 4: Sydney Allowance Daily Rates – 1 July 2023 to 30 June 2024 (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	\$356.00	Actual reasonable expenses for meals and incidentals up to a maximum of \$173.55 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	A minimum of 70 kms by road from Parliament House	140	\$356.00	As above

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Council, Deputy Leader of Third 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	\$356.00	As above
Legislative Council Members	Greater than 140 kms by road from Parliament House	135	\$356.00	As above
	Between 70 kms and 140 kms by road from Parliament House	105	\$356.00	As above
Legislative Assembly Members	Greater than 140 kms by road from Parliament House	135	\$356.00	As above
	Between 70 kms and 140 kms by road from Parliament House	105	\$356.00	As above

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5.3.3 Conditions

The following conditions apply to the Sydney Allowance:

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

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

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

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

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

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- (xii) Members are not to claim the Sydney Allowance if they stay in Government owned or funded accommodation including Parliament House.
- (xiii) In determining eligibility Members will need to nominate their principal place of residence immediately following their election to Parliament. Members are not to relocate during the parliamentary term for the purposes of meeting the eligibility criteria.

5.4 Committee Allowances

5.4.1 Purpose and Operation of the Provision

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

Because of the statutory nature of the Public Accounts Committee and their role in Government activities, the annual rate of allowance is payable to Members of these Committees.

5.4.2 Entitlement

- (i) Members of the Legislative Council and the Legislative Assembly serving as Chairpersons of Joint Committees, Select Committees and Standing Committees shall be paid the sum of \$220 for each day upon which they attend a meeting or an official visit of inspection if that day is one upon which the Legislative Council (so far as a Member of the Council is concerned) or the Legislative Assembly (so far as a Member of the Assembly is concerned) is not sitting. This allowance is not payable to Chairpersons in receipt of a salary of office as specified in Schedule 1 of the Act.

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

6. Additional Entitlements in the Nature of Fixed Allocations

6.1 Summary

The entitlements in this category comprise the following:

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

6.2 Electorate/Zone to Sydney Travel

6.2.1 Purpose and Operation of the Provisions

- (i) Members who are eligible to receive the Sydney Allowance qualify for return air travel warrants between their electorate or principal place of residence and Sydney.

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

Table 5: Electorate/Zone to Sydney Travel Entitlements – Additional Entitlements for Recognised Office Holders – 1 July 2023 to 30 June 2024 (inclusive)	
Office holder	Electorate to Sydney travel entitlement
Minister of the Crown	32 single journey entitlements
Speaker of the Legislative Assembly	32 single journey entitlements
President of the Legislative Council	32 single journey entitlements
Leader of the Opposition Assembly and Council	32 single journey entitlements
Leader of Party (not less than 10 Members in the Legislative Assembly)	32 single journey entitlements
Deputy President and Chair of Committees, Legislative Council	32 single journey entitlements.
Assistant Speaker, Legislative Assembly	32 single journey entitlements.
Assistant President, Legislative Council	32 single journey entitlements.
Deputy Speaker	32 single journey entitlements
Deputy Leader of the Opposition Assembly and Council	16 single journey entitlements
Deputy Leader of Party (not less than 10 Members in the Legislative Assembly)	16 single journey entitlements

6.2.2 Conditions

- (i) All travel between the Member's electorate or principal place of residence and Sydney and return is restricted to economy class.

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

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

6.3 Communications Allowance

6.3.1 Purpose

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

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

6.3.2 Entitlement

- (i) The Communications Allowance comprises a base annual allocation and an additional allocation for Members of the Legislative Assembly based on the number of enrolled voters.

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- (ii) The base annual allocation for each electoral group or zone shall be as follows:

Table 6: Communications Allowance – Base Allocation – 1 July 2023 to 30 June 2024 (inclusive)	
Member	Base Allocation
Legislative Assembly	\$20,850
Legislative Council	\$5,315

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

Table 7: Communications Allowance – Additional Allocation		
Electoral District	Predicated Number of Electors¹	Annual entitlement
1. Albury	59,935	\$92,300
2. Auburn	59,261	\$91,262
3. Badgerys Creek	60,090	\$92,539
4. Ballina	58,911	\$90,723
5. Balmain	58,973	\$90,818
6. Bankstown	59,270	\$91,276
7. Barwon	54,369	\$83,728
8. Bathurst	59,649	\$91,859
9. Bega	59,983	\$92,374
10. Blacktown	58,603	\$90,249
11. Blue Mountains	59,199	\$91,166
12. Cabramatta	61,310	\$94,417
13. Camden	61,586	\$94,842
14. Campbelltown	58,087	\$89,454
15. Canterbury	58,482	\$90,062
16. Castle Hill	60,384	\$92,991
17. Cessnock	61,969	\$95,432
18. Charlestown	61,122	\$94,128
19. Clarence	57,366	\$88,344

¹ The Tribunal has had regard to the predicted enrolment statistics contained in the Electoral Commissioner's Report and the average increase in enrolled voters over the last 5 years, based on NSW Electoral Commission data.

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Table 7: Communications Allowance – Additional Allocation		
Electoral District	Predicated Number of Electors ¹	Annual entitlement
20. Coffs Harbour	57,913	\$89,186
21. Coogee	59,734	\$91,990
22. Cootamundra	56,192	\$86,536
23. Cronulla	58,965	\$90,806
24. Drummoyne	58,979	\$90,828
25. Dubbo	58,222	\$89,662
26. East Hills	59,609	\$91,798
27. Epping	58,778	\$90,518
28. Fairfield	59,924	\$92,283
29. Gosford	58,346	\$89,853
30. Goulburn	57,664	\$88,803
31. Granville	62,300	\$95,942
32. Hawkesbury	60,880	\$93,755
33. Heathcote	58,370	\$89,890
34. Heffron	56,685	\$87,295
35. Holsworthy	57,965	\$89,266
36. Hornsby	60,387	\$92,996
37. Keira	57,573	\$88,662
38. Kellyville	58,712	\$90,416
39. Kiama	60,090	\$92,539
40. Kogarah	59,758	\$92,027
41. Lake Macquarie	58,938	\$90,765
42. Lane Cove	58,540	\$90,152
43. Leppington	60,372	\$92,973
44. Lismore	57,718	\$88,886
45. Liverpool	60,563	\$93,267
46. Londonderry	61,047	\$94,012
47. Macquarie Fields	59,428	\$91,519
48. Maitland	60,376	\$92,979
49. Manly	61,106	\$94,103
50. Maroubra	59,576	\$91,747
51. Miranda	59,723	\$91,973
52. Monaro	59,672	\$91,895
53. Mount Druitt	62,371	\$96,051
54. Murray	59,267	\$91,271

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Table 7: Communications Allowance – Additional Allocation		
Electoral District	Predicated Number of Electors ¹	Annual entitlement
55. Myall Lakes	61,530	\$94,756
56. Newcastle	59,589	\$91,767
57. Newtown	59,913	\$92,266
58. North Shore	56,683	\$87,292
59. Northern Tablelands	58,203	\$89,633
60. Oatley	57,503	\$88,555
61. Orange	58,111	\$89,491
62. Oxley	62,949	\$96,941
63. Parramatta	57,847	\$89,084
64. Penrith	59,675	\$91,900
65. Pittwater	56,058	\$86,329
66. Port Macquarie	61,080	\$94,063
67. Port Stephens	60,358	\$92,951
68. Prospect	58,834	\$90,604
69. Riverstone	62,675	\$96,520
70. Rockdale	56,909	\$87,640
71. Ryde	61,820	\$95,203
72. Shellharbour	60,775	\$93,594
73. South Coast	60,736	\$93,533
74. Davidson	60,009	\$92,414
75. Strathfield	58,733	\$90,449
76. Summer Hill	57,644	\$88,772
77. Swansea	61,099	\$94,092
78. Sydney	63,101	\$97,176
79. Tamworth	60,896	\$93,780
80. Terrigal	58,186	\$89,606
81. The Entrance	58,808	\$90,564
82. Tweed	57,655	\$88,789
83. Upper Hunter	62,396	\$96,090
84. Vaucluse	59,418	\$91,504
85. Wagga Wagga	57,526	\$88,590
86. Wahroonga	59,223	\$91,203
87. Wakehurst	58,018	\$89,348
88. Wallsend	60,288	\$92,844
89. Willoughby	60,483	\$93,144

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Table 7: Communications Allowance – Additional Allocation		
Electoral District	Predicated Number of Electors ¹	Annual entitlement
90. Winston Hills	61,390	\$94,541
91. Wollondilly	59,689	\$91,921
92. Wollongong	58,939	\$90,766
93. Wyong	56,921	\$87,658

- (iv) Recognised Office Holders receive an additional loading on the Communications Allowance Base Allocation in accordance with *Table 10 Recognised Office Holder and Other Member Additional Entitlements -1* July 2023 to 30 June 2024 (inclusive).

6.3.3 Carry over/forfeiture of entitlement

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

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

End of parliamentary term/earlier dissolution of LA:

Base Allocation and Additional Allocations: Remaining balances are forfeited

6.3.4 Special Conditions

- (i) Upon the gazettal of new electoral districts following an electoral redistribution (undertaken pursuant to s 27(1)(c) of the *Constitution Act 1902*), Members of the Legislative Assembly may use their Communications Allowance to communicate with prospective constituents from neighbouring electorates who at the time of the next election following the gazettal of the new electoral districts will become constituents of the Member's electorate.

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

6.3.5 Conditions

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

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

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distributing promotional material including but not limited to fridge magnets, calendars, wall planners, rainfall/tide charts, notepads, shopping lists, bowling scorecards, pens, key rings, balloons, clothing etc.

- (x) Members are required to maintain records that clearly document the costs claimed against the Communications Allowance budget. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

6.4 General Travel Allowance

6.4.1 Purpose

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

6.4.2 Entitlement

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

Table 8: General Travel Allowance			
Electoral Group/Zone	Base Allocation	Additional Allocation	Total General Travel Allowance
Legislative Assembly			
Group 1	\$7,085		\$7,085
Group 2	\$10,645		\$10,645
Group 3	\$14,230		\$14,230
Group 4	\$14,230		\$14,230
Group 5 (and Port Macquarie)	\$14,230	\$12,005	\$26,235
Group 6	\$17,780	\$19,590	\$37,370

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Table 8: General Travel Allowance			
Group 7	\$17,780	\$36,230	\$54,010
Group 8	\$40,830	\$71,925	\$112,755
Legislative Council			
Zone 1	\$7,085		\$7,085
Zone 2	\$7,085		\$7,085
Zone 3	\$17,715		\$17,715

- (ii) Recognised Office Holders receive an additional loading on the General Travel Allowance - Base Allocation in accordance with *Table 10 Recognised Office Holder and Other Member Additional Entitlements – 1 July 2023 to 30 June 2024 (inclusive)*.

6.4.3 Carry over/forfeiture of entitlement

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

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

Additional Allocations: Unexpended amounts are forfeited

End of parliamentary term/earlier dissolution of LA:

Base Allocation and Additional Allocations: Remaining balances are forfeited

6.4.5 Conditions

- (i) A Member may use the General Travel Allowance to travel to any place in Australia, subject to the following requirements:
- (a) Travel must be for parliamentary or electorate duties.
 - (b) The cost of travel must be reasonable.

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

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- (v) The Member for Port Macquarie shall receive a General Travel Allowance - Additional Allocation commensurate with that provided to Members located in electoral Group 5 and shall include costs associated with up to four return trips to Lord Howe Island per year, flying from Port Macquarie or from Sydney subject to available flights.
- (vi) A Member representing the Electorate of Murray and a Member representing the Electorate of Barwon who flies his/her own aircraft, may claim reimbursement against this allowance for the cost of fuel, landing fees and one annual service.
- (vii) All travel costs associated with Members' staff travel and with the travel of staff of Recognised Office Holders provided for by this Determination, may be met from this entitlement. Such travel shall be paid in accordance with the *Members' Staff Conditions of Employment – Determination of the Presiding Officers*.
- (viii) All associated travel expenses for Members and Members' staff including registration costs for conferences, conventions, symposiums, forums or similar and associated accommodation and meal costs approved by the Parliament shall be met from this entitlement. Such costs shall however exclude professional development for Members, overseas travel, electorate to Sydney travel and costs met from the Sydney Allowance.
- (ix) Members and their approved relatives, when travelling in connection with the Member's parliamentary duties, may claim reasonable actual accommodation and meal expenses from the Member's General Travel Allowance. The payment of actual travelling expenses will be paid subject to the production of tax invoices/receipts. The reimbursement of these expenses may not exceed the travel allowance rates as

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determined for Members in *Table 9: Travel Allowances – Indicative Upper Limits for Members*.

Table 9: Travelling Allowances Indicative Upper Limits for Members – 1 July 2023 to 30 June 2024 (inclusive)		
Destinations	Amount	Where no overnight stay is required
Adelaide	\$407.40	Actual reasonable meal expenses
Brisbane	\$455.40	
Canberra	\$444.40	
Darwin	\$491.40	
Hobart	\$394.40	
Melbourne	\$463.40	
Perth	\$463.40	
Other areas	\$362.90	

- (x) The entitlement may not be used to meet or defray the cost of any individual, office holder or other party not included in these conditions.
- (xi) Those Recognised Office Holders for whom non-parliamentary funded budgets are provided are to meet travel allowance costs from those budgets and not from the Parliament.
- (xii) Members should ensure that records are maintained that clearly document each occasion and the parliamentary purpose of any travel met from this entitlement for stays in Sydney or other locations when travelling in connection with the Member's parliamentary duties. Such documentation including airline boarding passes if applicable is to be retained for subsequent review by internal and external auditors if required. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.
- (xiii) A Member and his or her approved relatives may travel together or separately in connection with attendance at a function in the course of

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Parliamentary duties. Dependent children may only travel in the company of the Member or other approved relative.

- (xiv) Members undertaking training using the Skills Development Allowance may use the General Travel Allowance to meet their travel costs. Other staff training costs are to be met by the Legislature.
- (xv) Where funds are exhausted, any additional costs may be met from unexpended funds from the Member's Communications Allowance or from the Member's Electoral Allowance. The conditions that apply to the use of the General Travel Allowance apply when using funds from the Communications Allowance to meet travel costs.

6.5 Recognised Office Holder Additional Entitlements

6.5.1 Additional loadings

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

Table 10: Recognised Office Holder Additional Entitlements – 1 July 2023 to 30 June 2024 (inclusive)		
Recognised Office Holder	General Travel Allowance Base Allocation	Communications Allowance Base Allocation
Presiding Officer	30%	55%(A) 175%(C)
Leader of the Opposition	20%(A)	140%(A) 175%(C)
Deputy Leader of the Opposition	10%	15%(C)
Whips		15%(C)
Party Leader (not less than 10 Members)	15%	
Deputy Party Leader (not less than 10 Members LA or 9 Members LC)	10%	

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Table 10: Recognised Office Holder Additional Entitlements – 1 July 2023 to 30 June 2024 (inclusive)		
Recognised Office Holder	General Travel Allowance Base Allocation	Communications Allowance Base Allocation
Leader of the National Party (in Opposition with not less than 10 Members in LA)	15%	15%

6.5.2 Carry over/forfeiture of entitlement

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

Balance of loadings forfeited

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

Balance of loadings forfeited

6.5.3 Conditions

The following conditions shall apply in respect of this allowance:

- (i) Recognised Office Holders referred to in Table 10: Recognised Office Holder and Other Member Additional Entitlements may receive this additional entitlement for only one office; that office being the office which attracts the greater level of entitlement.
- (ii) These entitlements, as they apply to Recognised Office Holders, are to be available only for Recognised Office Holder duties.
- (iii) Where entitlements formerly provided for the Recognised Office Holder's approved relatives these have been included in the allocation.

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- (iv) Where an entitlement is followed by (A) or (C) it applies only to the Office Holder in either the Assembly or the Council.

6.6 Skills Development Allowance

6.6.1 Purpose

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

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

6.6.2 Entitlement

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

Table 11: Skills Development Allowance – 1 July 2023 to 30 June 2024 (inclusive)	
Member/Members' Staff	Annual entitlement
Members of the Legislative Assembly and Legislative Council	\$1695
Members' staff (each full-time equivalent position)	\$565

6.6.3 Carry over/forfeiture of entitlement

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

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

End of parliamentary term/earlier dissolution of LA:

Balance of allowances forfeited

6.6.4 Conditions

The following conditions shall apply in respect of this allowance:

- (i) Entitlements are not transferable between Members.
- (ii) Entitlements may be transferred from Members to staff and between staff in the same office subject to the expenditure not exceeding the total budget allocation provided to a Member for skills training. Members may not however use training funds available to staff to meet their own training needs.
- (iii) As a general principle, the Member should ensure that the training requirements of staff members are considered equitably. Where a staff member does not get an opportunity to use the allowance during one financial year, they should where possible, be given priority in the subsequent year.
- (iv) Members should prioritise the training of full-time and part-time staff members. Training from the allowance should only be provided to short term temporary staff members if resources remain from the allocation of training to full-time and part-time staff members.
- (v) No supplementation to the allocation will be considered.
- (vi) All travel expenses for Members and Members' staff and associated accommodation and meal costs to attend training under the Skills Development Allowance may be met from the General Travel Allowance subject to Parliament's administrative guidelines. Such travel for Members' staff shall be paid in accordance with the *Members' Staff Conditions of Employment – Determination of the Presiding Officers*.
- (vii) Members are required to maintain records that clearly document the costs claimed against the Staff Development allocation. Records are to be retained for a minimum period of two (2) years for the purpose of substantiating claims submitted to Parliament.

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7. Additional Entitlements/Resources

7.1 Equipment, Services and Facilities

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

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

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

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

7.1.2 Staff

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

- (i) Each Member of the Legislative Assembly shall be entitled to three staff members employed at each electorate office.
- (ii) Each Independent Member of the Legislative Assembly, and who is elected as an Independent Member, shall be entitled to four staff members employed in each electorate office.

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- (iii) Each Member of the Legislative Council shall be entitled to one staff member.
- (iv) Each Member of the Legislative Council who is elected as a cross bench Member shall be entitled to two staff members.
- (v) The Parliament will provide relief arrangements to Members of the Legislative Assembly and Legislative Council when any staff member is absent on approved leave on any full working day. Parliament will be fully funded to provide relief arrangements to comply with this condition.
- (vi) Relief arrangements and minimum staffing requirements will be provided in accordance with the provisions set out in the *Members' Staff Conditions of Employment Determination of the Presiding Officers*.
- (vii) The Whip of each recognised political party of not less than 10 Members to each shall be entitled to one staff member.
- (viii) 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.
- (ix) Nothing in this determination removes from the employer of staff other obligations arising under the *Work Health and Safety Act 2011*.

7.1.3 Emergency Relief Staff

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

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emergency or public health order such as border closures during a pandemic or as a result of a natural disaster or declared emergency pursuant to s 44 of the *Rural Fires Act 1997* and the aftermath of such incidents.

The Parliamentary Remuneration Tribunal



Hon A/Justice Schmidt AM
Parliamentary Remuneration Tribunal

The Hon Acting Justice M Schmidt
Dated: 15 June 2023

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Appendices

Appendix 1 - Submission of the Acting Secretary of NSW Treasury

In a letter dated 23 May 2023 the acting Secretary Treasury, Mr Michael Coutts-Trotter, provided the following statement in respect to the financial implications of the Determination pursuant to section 12A of the Act



Treasury

Advice of the Secretary of NSW Treasury

The following comments on the Parliamentary Remuneration Tribunal's 2023 Determination are made pursuant to Section 12A of the *Parliamentary Remuneration Act 1989*.

Based on information provided by the Public Service Commission on 17 May 2023, I understand a direction was issued from the Special Minister of State to not increase Members' salaries. However, I understand the scope of the direction does not include entitlements and allowances.

Treasury estimates the additional cost of the proposed increase in entitlements and allowances is around \$1.6 million, rising from \$26.8 million in 2022-23 to \$28.3 million in 2023-24. The financial impact arising from the Minister's direction on wages and potential savings will be confirmed in the lead up to the 2023-24 Budget in September 2023.

I note the increase for entitlements and allowances is largely based on the increase in the Consumer Price Index of 7.8 per cent (for Australia for the twelve months to December). However, data for the March quarter of 2023 shows that through the year, inflation for Australia has slowed to 7.0 per cent. Additionally, the Sydney inflation figure is slightly different to the national figure, and over the year to the December quarter, the comparable Sydney headline inflation figure was 7.6 per cent. This has since slowed to 7.3 per cent as at the March quarter 2023.

The 2023-24 Budget is planned to be delivered in September 2023. Therefore, I cannot provide final advice as to whether the Determination can be accommodated within the existing budget as escalated for inflation. This will depend on the escalation of expenditures to take account of inflation, which will take place closer to the Budget. It will also depend on the assessment of the impact arising from direction to not increase Members' salaries as mentioned above.