

**ANNUAL REPORT AND DETERMINATION OF ADDITIONAL
ENTITLEMENTS FOR MEMBERS OF THE PARLIAMENT OF
NEW SOUTH WALES**

by the

PARLIAMENTARY REMUNERATION TRIBUNAL

pursuant to the

Parliamentary Remuneration Act 1989

15 AUGUST 2001

PARLIAMENTARY REMUNERATION ACT 1989

REPORT PURSUANT TO SECTION 13(1) OF THE ACT

INTRODUCTION

On 29 June 2001 the Parliamentary Remuneration Tribunal ("the Tribunal") issued a draft determination as to the provision of additional entitlements for Members of the Parliament of New South Wales arising from the annual determination for the year 2001. The Report which accompanied the draft determination was as follows:

Section 11 of the Parliamentary Remuneration Tribunal Act 1989 ("the Act") prescribes that the Parliamentary Remuneration Tribunal ("the Tribunal") shall make an annual determination as to the additional entitlements for Members and Recognised Office Holders (as defined under the Act) on or before 1 June in each calendar or on such later date as the President of the Industrial Relations Commission of NSW determines.

Section 13 (1) of the Act requires that the Tribunal make a report to the President of the Industrial Relations Commission of NSW for each determination made by the Tribunal. The President is then required as soon as practicable after receipt of the report to forward it to the Minister (see section 13(2)).

On 15 February 2001 the Tribunal commenced proceedings in relation to the annual determination required for the year 2001 by writing to all Members and inviting submissions.

The Tribunal received submissions from the Presiding Officers, the major political parties and some individual Members. The issues that were raised canvassed a broad range of matters dealing with particular aspects of the Tribunal's Determination of 4 December 2000.

The Annual Report and Determination of 4 December 2000 (the 2000 Determination) considered the entitlements of Members which had been established by the Initial Report and Determination of the Tribunal in December 1999 ("ID"). The genesis of the ID was the amendments to the Act made in 1998.

The ID introduced significant changes to the additional entitlements afforded Members and Recognised Office Holders including changes which fundamentally altered the conditions for the provision of such additional entitlements. In some significant areas the ID was made having regard to opinions received from the Crown Solicitor as to the operation of the Act.

The ID was to take effect on and from 1 January 2000. However, on 7 February 2000, the Hon Bob Carr MP, Premier of NSW, directed, pursuant to section 12(1) of the Act, that the Tribunal consider whether a special determination should be made in relation to the date of implementation of the ID. Having had regard to the scope of the ID, the various financial and budgetary considerations relating to it and the intended review of it within the annual determination process for the year 2000, the Tribunal determined that the date of operation of the ID would be varied.

As a result of that special determination (which was made on 11 February 2000) the date of operation of the ID was varied to 1 July 2000, subject to any variation in consequence of the 2000 Determination.

During the course of the year 2000 annual determination proceedings the Tribunal advised that it intended to determine, as part of the annual determination process, whether date of operation of the ID would be varied to coincide with the date of operation of the annual determination.

The review occasioned in the year 2000 annual determination proceedings was lengthy and complex. Detailed submissions were received from the major political parties, the Presiding Officers, individual Members, the Premier's Department, the Public Service Association and the Independent Commission Against Corruption.

Broadly, the submissions received as part of the year 2000 annual determination proceeding sought changes to the initial determination in three broad areas:

1. The provisions concerning financial management provisions and accountability;
2. The provisions relating to the repayment of the unspent portion of allowances;
3. Other miscellaneous changes including submissions seeking increases in the rates determined for the various entitlements as well as an expansion of entitlements to cover newer aspects of parliamentary duties.

Further, the parties to the proceeding debated a range of legal issues as to the construction of the Act and other issues concerning the legal obligations of Members and the financial management of such entitlements. In part, the considerations involved a consideration of the opinion expressed by the Crown Solicitor which had been taken into account in the Tribunal in reaching its ID. Further, it should be noted that the Presiding Officers produced an extensive set of proposals for changes in the conditions of Members which required the Tribunal to consider, in some detail, various facets of the additional entitlements for the Members and Recognised Office Holders including the terms under which the entitlements were granted and financial management considerations.

Following the review, the Tribunal issued a Draft Report and Determination on 13 November 2000 and sought comments from interested parties by 24 November 2000. After consideration of further submissions then received the Tribunal made the 2000 Determination.

This introduction serves to illustrate that over the past two years there has been a very comprehensive review of Members entitlements undertaken by the Tribunal. This is the context in which the Tribunal comes to consider submissions made by interested person in the year 2001 annual determination proceedings.

The following sections of this draft Report outline the various submissions received in respect of the 2001 annual determination and provides the Tribunal's preliminary conclusions with respect to same (giving rise to a draft determination). As with the 2000 annual determination review process, the Tribunal has decided to issue a draft Report and Determination to provide interested parties with the opportunity to make any further submissions they may wish with respect of the proposed additional entitlements specified therein.

Any person or body who has previously made submissions in the 2001 annual determination proceedings may make additional submissions in relation to the draft review and determination. Submissions should specifically address the provisions of the determination and should avoid repetition of earlier submissions made. Those submissions are to be received by the Executive Officer for the Tribunal by 4pm Friday 13 July 2001. Submissions will not be accepted after this date.

Submissions received in 2001 Annual Determination proceedings

The Tribunal received extensive submissions in the proceedings. It is not feasible to identify in detail the entirety of the submissions made or give detailed reasons as to the Tribunal's conclusions with respect to each contention advanced.

In some cases the submissions warranted acceptance without the need for detailed separate reasons being provided by the Tribunal. In a number of cases, however, those submissions simply repeated earlier submissions which had been made during the 2000 Determination proceedings. In circumstances where no additional material or fresh argument has been raised to warrant a departure from the 2000 Determination the submissions have been rejected. Further, a number of these proposals sought adjustments to entitlements which were not warranted given that the existing prescription amply dealt with the matters raised in such submissions.

The following sections concern the Tribunal's deliberations in those areas which, in the view of the Tribunal, raise new or special issues which require more detailed reasons as to the determination made by the Tribunal.

Presiding Officers Submission

The legislation imposes on the Tribunal an obligation to determine additional entitlements and provide the rules on how they are to be used. One of the features of the current determination is the use of general conditions to govern the use of entitlements. This was an intentional feature of the 2000 Determination as the Tribunal had wished to avoid any reversion to the previous complex and prescriptive regime of conditions governing entitlements.

Notwithstanding these broad observations, it must be noted that the 2000 determination does contain a significant amount of detail as to the administration and management of the scheme for additional entitlements. This has been brought about, in part, due to the legislative requirements which impose a greater degree of accountability on members and the general community expectation for higher levels of transparency in the expenditure of public funds. It has also come about because of specific requests for the Presiding Officers to introduce new rules and guidelines which, one the one hand, are designed to enhance accountability and/or transparency in the use of entitlements by Members and, on the other, seek to have the Tribunal simply resolve a range of what might be described as ordinary administrative issues.

The Tribunal considers that, so far as practicable, it should avoid the establishment of conditions providing for the minutiae of administrative arrangements applicable to Members entitlements. This is a role that may be appropriately carried out by the Presiding Officers.

This is the context in which the detailed set of prescriptions sought by the Presiding Officers into the present matter have been considered. The Tribunal annexes a copy of the Presiding Officers' submission as Annexure 1 to this Report.

In many instances, once the conditions applicable to particular general entitlements and conditions have been determined administrative procedures in relation to these matters should be left to the Presiding Officers who are the administrators of the scheme. For example, the Tribunal has required that Members provide evidence of their attendance in Sydney on parliamentary business to receive the Sydney Allowance. It has, however, left the type of evidence required at the discretion of the Presiding Officers to give effect to this rule.

The system of additional entitlements has been developed gradually by the Tribunal. Each annual review will see refinements in that system. The Tribunal would be assisted greatly in its reviews if there were a greater degree of consultation between Members and the Presiding Officers as to the types of changes that may be required. Particular interpretations of the Determination can be sought from time to time if required.

The following aspects of the Presiding Officers' submission require, however, particular attention. The Tribunal decision in each case appears below:

1. *Audit of Members' entitlements accounts to be conducted on a three year cycle.*
This proposal has been rejected as the annual audit was a vital component of accountability measures in the 2000 Determination.
2. *Accounts to be submitted for payment within 90 days.*
The qualification proposed by the Presiding Officers would, in the view of the Tribunal, create unnecessarily complex and unworkable criteria in relation to additional entitlements.
3. *Separate electorate to Sydney travel entitlement for spouses and approved relatives*
The Logistic Support Allocation was calculated so as to include provision for spouse travel. There is insufficient evidence to demonstrate why the Logistic Support Allocation should now be further adjusted in relation to this matter.
4. *Amend the "Transport" particular conditions in respect of Members' staff travel.*
There is no basis demonstrated as to why the Tribunal should, of itself, determine conditions for staff in this respect. There are well established mechanisms for the review of such conditions for staff outside of the purview of the Tribunal.
5. *Reversal of the condition imposed in the 2000 Determination that Members pay the full amount of their electronic communication account and then seek reimbursement for the public use component from the Parliament.*
Upon the submission of the Presiding Officers, the Tribunal introduced a condition requiring Members to pay their electronic accounts in the first instance and seek reimbursement for the public use component from their Logistic Support Allocation. The Tribunal was also requested to include a condition requiring the Financial Controller to undertake a survey of Members telephone usage to ascertain the private/public use components. It was submitted that this was a Australian Taxation Office requirement to ensure no Fringe Benefits Tax was paid on the incidental private use component of Members' telephone accounts.

The Tribunal has been now informed by the Presiding Officers that both of these conditions have caused some concern to Members. In the result, a review of the conditions imposed in the 2000 Determination is sought.

The Tribunal has undertaken a review of these conditions in the light of this reformulation of the Presiding Officers submission and in the light of submissions received by Members as to the new accountability requirements of the 2000 Determination. The Tribunal has also considered the conditions imposed in other relevant sections where a case has been established for a relaxation of this condition.

The current condition requires Members to pay essentially business costs from their own funds and then seek reimbursement. The administration and management facility earlier sought by the Presiding Officers needs to be counter-balanced against considerations going to the effective workings of the systems governing additional entitlements (exposed during these proceedings). Furthermore, it would appear that changes can be made to the existing determination without infringing upon financial controls or accountability considerations.

Officers in the public sector do not have to pay total telephone accounts but only the private use proportion. The Tribunal sees no reason why the same principle should not apply to Members and will, in this determination, amend the relevant condition accordingly.

Electoral Allowance

In the ID, the Tribunal increased the quantum of this allowance by 2.1 percent to reflect CPI movements for the period July 1997 to June 1999. The Tribunal noted that:

"The redistribution may have resulted in changes in electorates which warrants a more substantial adjustment that arises from a CPI increase in the allowance. However, no submissions were received by the Tribunal in relation to that matter. Further, the Tribunal has partly compensated for the effects of the redistribution by some alterations in electorate groupings."

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

The Tribunal received submissions as part of the 2000 Annual Review proceedings based upon this intimation in the ID. In those submissions it was contended that the electoral allowance did not adequately reflect the changed economic circumstances, the introduction of the GST or additional costs associated with the 1999 redistribution of electorates. It was also put to the Tribunal that there should be an increase in the electorate allowance commensurate with the increase in number of electors ie an average of 12 percent.

In its annual Report of 4 December 2000 the Tribunal made the following observations in respect of the quantum of the electorate allowance.

"Quantum of Electoral allowance"

"The Tribunal received submissions from some Members and organisations arguing for an increase in the quantum of the electoral allowance specified in the draft determination. It should be noted that some of the arguments raised in support of this contention (and the information advanced in support of same) were entirely new in the sense that they had not been advanced at any earlier stage of the proceedings. Some of the submissions were also erroneous. For example, a submission was put as to the appropriate effect of CPI increases without recognising that the Tribunal had awarded in the draft determination an increase in allowance which represented a 2.1% CPI adjustment (arising from the initial determination) from the period 1 July 1997 to 30 June 1999 and 3.2% for the 12 month period ending 30 June 2000. These are reasonably generous adjustments by community and industrial standards."

"The Tribunal has also considered submissions dealing with a variety of other matters such as the reconstitution of electorates. However, these considerations need to be balanced against the already substantial averaging undertaken in the assessment of the electoral allowance and the contentions advanced by Members as to potential losses occasioned by any repayment provisions in relation to the electoral allowance."

"The Tribunal has decided that the draft determination will not be altered with respect to quantum of electoral allowances. The Tribunal is, however, prepared to consider in the future, on a case by case basis, the particular circumstances of individual Members which might warrant an adjustment to electoral allowances for a particular group or zone."

Submissions were received on this occasion contending for an increase in the allowance along similar grounds to those advanced in the 1999 and year 2000 annual determination proceedings. No case has been made for a departure from the Tribunal's findings in the 2000 Determination. Having regard to the previous approach of the Tribunal to adjustments in the allowance (and its expenses related nature) the Tribunal will, however, increase the allowance in line with the adjustments in the Consumer Price Index increase since the last adjustment in the allowance by the Tribunal ie 6 percent.

Sydney Allowance

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.

For the purpose of this allowance the non-metropolitan electorates (Electorate Groups 2-8) have been divided into two categories based on distance from Sydney. Members whose principal place of residence is in either Category 1 or Category 2 electorates, as specified in Schedule 2, are eligible to receive the Sydney allowance.

In the ID the Tribunal made a number of changes to the operation of the allowance. Further, in order to better reflect its purpose the allowance was retitled as the "Sydney Allowance" and the internal barriers as to the number of occasions the allowance could be used for "other parliamentary duties" was removed.

The Tribunal also considered the quantum of the allowance and noted:

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

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

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

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

The Tribunal did indicate it would be examining further both the quantum of the allowance and the methodology used to determine the quantum as part of the 2000 annual review. The Tribunal stated:

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

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

During the 2000 annual determination proceedings Members provided a range of recommendations in respect of the Sydney Allowance. An additional number of overnight stays were sought by some office

holders. The quantum of the allowance was also addressed in the submissions with various recommendations being made to increase the daily rate. These contentions varied with Members recommending various adjustments to the allowance in a range extending from \$209 per day to \$259 per day. Various submissions were put forward in support of the increases proposed. The most commonly put submission was that there had occurred increases in the motel/hotel accommodation rates as a result of the GST and that rental accommodation has increased due the escalation in Sydney property prices.

In addition some submissions sought to limit the allowance to a daily rate whereas other submissions argued to retain the annual allowance as it better suited members who had purchased property in Sydney.

The Tribunal's consideration of these matters was expressed in the following terms;

Sydney Allowance

The Parliament proposed that the Sydney Allowance be restricted to a daily rate. This proposition was advanced having regard to the requirement to repay the unspent portions of the annual Sydney allowance and having regard to various taxation and administrative considerations. The Tribunal considers that there has not, as yet, been demonstrated a sufficient case for the abolition of the annual component of the Sydney allowance but will reconsider this matter, if appropriate submissions are made, during the annual determination for the year 2001. If necessary, the removal of the transit rate can be considered at the same time.

The Liberal and National Parties proposed adjustments to the quantum of the allowance and also that the unused portion of the allowance not be repaid. As to the second of those considerations, the Tribunal does not depart from the conclusions which it reached in the initial determination and its Statement. Both the Sydney allowance and the fixed allocations require appropriate accountability provisions which include in the Tribunal's view, the repayment provisions specified in the draft determination.

As regard to the quantum, the submission fails to recognise the historical, underlying principle governing the determination of the allowance. That is, that members will be required to spend a considerable period of time each year in Sydney on parliamentary business, and as such should be making longer term accommodation arrangements. The rate determined is lower than the ad hoc overnight rate (where commercial hotel accommodation is envisaged), because it is expected that Members will find cheaper accommodation when in Sydney. No evidence was presented to warrant a contrary conclusion being reached and some of the submissions alluding to private accommodation arrangements would seem to support the retention of the principle.

It should also be noted that the quantum of the Sydney allowance was adjusted in both the initial determination and the draft determination so as to maintain the real value of the provision. If a case is to be mounted, in due course, for a fundamental restructuring for the basis for this allowance then such a case should be mounted specifically and with the view to establishing why the long term historical principles underpinning the allowances should be now altered. This is a matter that can be considered in due course, if appropriate submissions and materials are advanced.

For the 2000 Annual Review the Tribunal increased the daily rate of the Sydney allowance by 3.2% in line with the Consumer Price Index.

In this matter the Tribunal received a number of submissions from Members in respect of the Sydney Allowance. Some submissions contended that the Sydney Allowance should be increased in recognition of increased costs and to reflect comparable overnight travelling allowances to Sydney. It

was submitted that overnight rates for Sydney had varied from \$155 per night to \$259.40 per night.

The Tribunal made adjustments to this allowance in both the ID and 2000 annual determination. The rate was increased by 2.1% in the ID and a further 3.2% in the 2000 Determination. These increases reflected increased costs and were based on movements in CPI over that period. Overnight rates for the Sydney Allowance, as suggested by Members, reflect overnight travelling allowances provided to public services and rates approved by the Australian Taxation Office (ATO). As discussed in the 2000 annual determination, the Tribunal has previously dismissed the application of such rates on the basis that the Sydney Allowance is established as a rate lower than the ad hoc overnight rate (where commercial hotel accommodation is envisaged), because it is expected that Members will find cheaper accommodation when in Sydney.

It was submitted by some interested parties that the maximum annual Sydney Allowance should be retained. As previously discussed, the Tribunal does not intend to depart from the repayment procedures established in respect of this allowance in the ID and 2000 annual determination. The accountability provisions are a vital component of the 2000 Determination.

The Tribunal does not consider, on the basis of submissions received, that sufficient evidence has been provided to warrant any adjustment to the methodology by which the quantum of the Sydney Allowance is determined. However, the Tribunal has determined, having regard to its previous approach, an increase in the Sydney Allowance in line the adjustments in the Consumer Price Index increase since the last adjustment in the allowance by the Tribunal ie 6 percent.

Logistic Support Allocation

The ID introduced the "Additional Entitlements Account" as a means of grouping a broad range of entitlements available to members in various forms. To simplify these entitlements the Tribunal determined that each Member would be allocated an additional entitlements account to which various expenditures incurred by each member would be debited. The Tribunal found that:

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

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

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

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

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

For the 2000 Annual review the Tribunal received numerous submissions as to various aspects of the Additional Entitlements Account. One recommendation adopted by the tribunal was to rename the Additional Entitlements Account as the Logistic Support Allocation (LSA). Another change adopted by the Tribunal was to remove the electorate to Sydney travel component from the LSA and revert to the warrant system for that type of travel.

Many of the changes sought by the Presiding Officers and individual Members concerned particular conditions applicable to various components of the LSA or an increase in the quantum.

The Tribunal made the following findings in relation to the submissions made on that occasion:

Logistic Support Allocation (Additional Entitlements in the Nature of Fixed Allocations)

The draft determination proposes that the four sub-accounts of the former additional entitlements allowance be merged into one Logistic Support Allocation. Members will be able to spend this allowance on specified items, in accordance with the conditions applying in the attached draft determination. In determining the quantum of the Logistic Support Allocation the Tribunal has given consideration to the level and format of entitlements formerly available to Members, the allowances proposed in the initial determination, and advice and data received from Members and the Presiding Officers of Parliament.

Members will be required to meet expenditure on communication, printing and stationery expenses as specified in the draft determination. The Tribunal has determined these allowances on the basis of those amounts calculated for the initial determination and increased them by a factor which takes into consideration population increases, inflation and GST. These adjustments reflect advice received from Members and the Presiding Officers of the Parliament in regard to the quantum of these allowances.

In determining the quantum of the transport component of the Logistic Support Allocation the Tribunal gave careful consideration to comments received from Members and the Presiding Officers of the Parliament. These submissions called for either an increase in the quantum of the allowance or, alternatively, a return to the warrant system. A number of submissions sought a differentiation between Sydney/electorate transport and other transport.

The Tribunal has considered the evidence given by Members (particularly country Members) to the effect that the incorporation of a monetary amount in the Additional Entitlements Account created a significant anomaly for some Members due to the averaging that is required in order to provide for monetary entitlements (even if the allowance is graded or scaled in a group or zone basis). Country Members, in particular, were disadvantaged as amounts proposed in the initial determination proved insufficient to cover electorate to Sydney travel for some Members. Upon the evidence now available to the Tribunal, the Tribunal considers that these submissions are well made and will revert to a warrant system for electorate to Sydney travel. It is proposed that the pre-existing levels for warrants should be restored. Eligible Members will receive 104 single journey entitlements.

All other forms of transport, including interstate travel, intrastate travel and spouse travel, are to be funded by Members from the Logistic Support Allocation. In calculating the quantum of the transport component of this allowance, the Tribunal gave consideration to actual expenditure by Members in 1997/98, the levels determined by the Tribunal in its initial determination, advice from Members and sample costings received from the Presiding Officers of the Parliament.

Given particular consideration were the sample costings received from the Presiding Officers of the Parliament in regard to the level of likely expenditure on these items. The Presiding Officers of the Parliament recommended that each Member should receive \$9,500. These costings were based on the number of interstate, intrastate and spouse travel warrants currently available to Members and estimated additional costs for taxis and parking. The Presiding Officers of the Parliament estimate assumes that every Member will use the full allocation currently available to him or her. This assumption is not supported either by the documentary evidence provided to the Tribunal or other evidence provided as part of this review process. Nor is it supported by the historical data considered by the Tribunal at the time of preparing the initial determination. This is particularly the case for Group 1 electorates. The Tribunal has therefore decided to discount the figure recommended by the Presiding Officers of the Parliament to more accurately reflect actual historical usage.

However, the Tribunal acknowledges that there still exists an absence of comprehensive data with respect to actual usage of transport by Members, notwithstanding the evidence placed before the Tribunal. The Tribunal would encourage Members to address any concerns as to the quantum of the transport allowance in any further submissions made by them (although such submissions will only be of real assistance if accompanied by data as to usage).

The Tribunal has decided not to introduce a warrant system for transport other than Sydney to electorate travel. The principal reason for this approach is that the determination endeavours to introduce greater flexibility in the Members use of the allowance to meet expenses. This approach is facilitated by the incorporation of that part of transport expenses which attracts less difficulties associated with averaging than Sydney to electorate travel. Furthermore, the transport component of the Logistic Support Allocation involves elements which are less likely to attract the use of warrants in any event.

In the draft determination the Tribunal provides that the Logistic Support Allocation will include a transport component of \$4,000 per Member for Group 1, Zone 1 and Zone 2 electorates and \$6,000 per Member for all other electorate Groups and Zones

For the 2001 annual review submissions have been received from Members in relation to both the quantum and conditions of the Logistic Support Allocation (LSA). In particular, submissions were received as to the provisions concerning the Transport (Other than Electorate to Sydney transport) and electronic communication components of the LSA.

In respect of the Transport component, it has been proposed that the Tribunal reinstate the warrant system for spouse travel. A general increase in the quantum of this allowance has also been sought.

The Transport component of the LSA includes an allowance to provide for spouse travel. This allowance was based on actual expenditure undertaken by Members in the 1997/98 financial year. The Tribunal has not received, what it considers, to be sufficient evidence from Members to suggest that the LSA is insufficient to provide specifically for spouse travel.

However, the Tribunal considers that, upon the evidence provided to it in these proceedings, the Transport component of the LSA is presently insufficient to meet the current costs of transport for Members who reside in outer electorates. As a result, the Tribunal has increased the transport component for Members residing in electorate groups 3 to 8 and zone 3. These increases are based on estimated costs of transport as provided by the Parliament.

In respect of the communication – electronic component of the LSA, Members' submissions as to the payment of Members' telephone accounts and the list of approved expenditure items ie internet webpages, have been accepted.

As to the quantum of the communication, printing, stationery and office supplies components of the LSA, the Tribunal considers that adjustments in line with relevant specific movements in the CPI are appropriate. The Tribunal has determined that a 7% increase will be applied to the electronic-communication and electronic-non-communication components of the LSA. This increase is based upon the CPI increase to March 2001 for communication costs for Sydney. A 6% increase has been applied to the Printing, Stationery and Office Supplies component of the LSA which is based on the general CPI increase to March 2001.

Overall, adjustments to the LSA for 2001/2001 represent an increase of approximately 9% over those allowances determined in the 2000 determination.

For future determinations, the Tribunal considers it appropriate to reassess actual expenditure by Members. The Tribunal proposes to again collect actual expenditure data from the Parliament for the 2000/2001 financial year for consideration in the 2002 annual review process.

Staff Numbers

The Tribunal has received submissions seeking additional temporary staff resources for electorate offices and the provision of additional staff for Shadow Ministers. The Tribunal shall deal with the case for Shadow Ministers in a separate section of this Report.

As a prelude to this discussion I have briefly outlined the current staff entitlements for Members of Parliament as determined by the Tribunal and from other sources.

The Tribunal's 2000 Annual Determination provides for the minimum allocation of staff currently provided to all Members of Parliament. Members of the Legislative Assembly are entitled to two staff Members employed at each electoral office. Members of the Legislative Council, not including Ministers, are entitled to one staff Member. In addition to these minimum staff entitlements, the Tribunal's 2000 Annual Determination also provides for an additional staff Member for Independent and Cross Bench Members. These entitlements for Independents and Crossbench Members were initially provided by the former Premier in 1991. The Tribunal's determination also provides for a reasonable allocation of staff for Ministers. Ministerial staff are funded by the NSW Premier's Department.

The allotment of staffing in the December 2000 Determination reflected the status quo as previously approved by the relevant Minister. The Tribunal did not fix an actual allocation of staff either in the sense of adjudicating upon the appropriate level of staffing per se or the fixing of a maximum staffing level.

In addition to staff entitlements provided for by the Tribunal, the Tribunal is aware that there is a pool of clerk/stenographers in the Legislative Assembly who are available to assist Members generally. Finally the Tribunal also notes that the Leaders of the Opposition are provided with an annual budget from the Premier's Department to support the performance of their Parliamentary duties and to provide administrative support.

Temporary staff for electoral offices has been sought for those occasions when one of the electorate office staff is absent on leave or on duty elsewhere. An upper limit of 60 days has been recommended. This, it is argued, would ensure greater security for office staff, overcome occupational health and safety (OH&S) issues and reduce increased workloads.

In the absence of a compelling basis for the Tribunal to intervene in the determination of actual levels of staffing for the Parliament such as a clear anomaly in the present distribution of staff between Members, Recognised Office Holders and Shadow Ministers, the Tribunal considers that it would be inappropriate to fix staffing levels beyond the present minimum prescription. The Tribunal would need

to be persuaded that it would be appropriate for it to further enter this area, particularly where occupational health and safety issues lie at the centre of the controversy.

In the event that there exists a dispute between the Speaker and interested persons as to the appropriate level of staffing (whether full time or temporary) then recourse may be had, depending upon the nature of the issues, to appropriate bodies charged with the responsibility for considering such matters including occupational health and safety issues. It should be noted that the *Occupational Health and Safety Act 1983* (OH&S Act) places certain obligations upon employers. The Speaker is the employer of electorate office staff. There is nothing the Tribunal could or would do that would have the effect of abrogating the Speaker's responsibility to his/her employees under the OH&S Act.

In any event, if the Tribunal was to embark upon a consideration of these issues then this would require the presentation by all interested persons of a very substantial case going to the substantial number of issues which would need to be addressed to determine an appropriate staffing level. No real case of that kind has been presented by any party in the present proceedings. It should also be noted that contentions of that kind would need to be accompanied by substantial submissions as to the financial impact of any proposed change.

Shadow Ministers

Shadow Ministers have not hitherto been recognised for the purposes of the determination of additional entitlements under the Act. They are not classed as "Recognised Office Holders" under the Act. Hence, they are ineligible to receive an "additional salary of office" or an "expense allowance" under the Act. Nor were they provided under the Act with additional entitlements over and above those available to ordinary Members.

Shadow Ministers perform, however, an important role in our system of parliamentary democracy. They are required to be informed about issues affecting the portfolio(s) they are Shadowing. They are the alternative spokesperson to the Government on particular issues. The Tribunal has accepted that there are additional responsibilities associated with being a Shadow Minister and for this reason provided in the 2000 Annual Determination some additional entitlements to assist them fulfil these obligations.

In order to ensure a transparent approach for access to the entitlements determined for Shadow Ministers the Tribunal imposed a number of conditions that were to apply generally to these entitlements.

The Tribunal imposed an upper limit on the number of Shadow Ministers that could have access to the additional entitlements by providing that the number of Shadow Ministers is not to exceed the number of Government Ministers. The Tribunal also required the Leader of the Opposition to provide the names of the Shadow Ministers as the authorised group eligible to receive Shadow Minister additional entitlements.

The Tribunal was also advised that the Premier provides the Leaders of the Opposition with an annual budget to support them in the running of their offices. To ensure there was no confusion about the funding for entitlements, the Tribunal also imposed a condition that those Shadow Ministers for whom non parliamentary funded budgets are provided were to fund their additional entitlement from that budget. This is consistent with a similar provision which applies to Recognised Office Holders and in particular Ministers whose offices are funded by host agencies.

The Size of the Shadow Ministry

A submission was made by the Liberal/National Parties that the condition of the 2000 Determination which limits the number of Shadow Ministers to the number of Ministers of the Government was unfair, particularly if the Opposition Parties were confined to including in the Shadow Ministry, so

defined, the Leader and Deputy Leader of the Opposition. The Leaders of the Opposition, (K Chikarovski, Leader of the Opposition, The Hon G Souris, Leader of the National Party, B O'Farrell, Deputy Leader of the Opposition Party, and J Turner, Deputy Leader of the National Party) made an oral submission to the Tribunal in relation to these matters. Submissions were also put as to the issue of the source of funding of additional entitlements for the Deputy Leader of the Opposition in the Legislative Council and the Deputy Leader of the National Party in the Legislative Assembly. Each of these matters has been considered in this section of the report.

As noted previously, the main area of concern was the Tribunal's condition that the Shadow Ministry should not exceed that of the Government Ministry. There are currently 19 Government Ministers whereas there are 21 Shadow Ministers. It was contended that the conditions imposed by the 2000 Determination had an adverse impact on Opposition parties because two Shadow Ministers would be ineligible to receive the additional entitlements.

It was put to the Tribunal that the size of the Shadow Ministry reflected the size of the Government Ministry when the Government was elected and the new Ministers sworn in by the Governor. While the Government Ministry had been reduced because of the resignation of two Ministers, there was no requirement for the Shadow Ministry to be similarly reduced. It was argued further that the upper limit of the Ministry was set by the Constitution Act 1902 and this should be used as the limitation on the size of the Shadow Ministry.

These contentions have not been previously raised with the Tribunal. On the basis of the information provided, the Tribunal considers it appropriate to review the condition established as to the size of the Shadow Ministry in the 2000 Determination.

Prior to 1997, the Constitution Act 1902 provided, in section 35F:

"The number of persons who can hold office as Ministers of the Crown shall not exceed 20 at any one time."

The *Constitution and Parliamentary Electorates and Elections Act 1997*, assented to on 23 October 1997, inter alia, repealed section 35F of the Constitution Act 1902, thus removing any statutory limitation on the size of the Government Ministry. In the Minister's Second Reading Speech of 21 October 1997 it was stated:

"The aspect of the bill which removes the maximum number of Ministers to be appointed is a logical and sensible move. It allows the Premier of the day to make a judgement about the size of the Ministry."

Following the State election of 27 March 1999 the Premier announced, on 8 April 1999, the new Ministry. The number of Ministers at that time was twenty one. On 19 April 1999 the Leader of the Opposition announced the Shadow Ministry comprising 21 Shadow Ministers.

The number of Ministers at the time of making this determination is nineteen whereas the number of Shadow Ministers has remained at twenty one.

The Tribunal has given careful consideration to the above matters. The Tribunal's condition limiting the size of the Shadow Ministry to that of the Government Ministry was based in part on equity. Further, the Tribunal concluded that, in the absence of some statutory criteria, the Tribunal need to specify the parameters of the entitlements available to Shadow Ministers by defining the class or group eligible for the receipt of that benefit.

The Tribunal accepts that through the course of the Government's 4 year term changes in the Ministry through resignation, retirement, or re-shuffle will occur. All or any of these events may impact on the size of the Ministry. This, as the legislation now provides, is a matter for the Premier of the day. The Tribunal accepts that it is not incumbent upon the Opposition to make comparable changes to the

Shadow Ministry as may be made to the Ministers of the Government. It follows, therefore, that if the size of the Shadow Ministry must at all times reflect the size of the Government Ministry for receipt of additional entitlements then inequities will occur every time the Government reduces the size of its Ministry.

In order to overcome this situation and, to provide certainty for the Shadow Ministry, the Tribunal considers that the most equitable approach would be to provide that the minimum number of the Shadow Ministers eligible to receive additional entitlements shall be equivalent to the number of Ministers announced immediately after the general election. The number of Shadow Ministers may be increased in line with increases in the number of Government Ministers but the minimum number, including the Leader and Deputy Leader shall be equivalent to the first Government Ministry announced immediately after the general election, or such lower number of the Leader of the Opposition may nominate.

As a result of the anomaly now existing in relation to the Shadow Ministry it is appropriate that the Tribunal increase the number of Shadow Ministers in receipt of additional entitlements to 21 until the next State election.

Additional Entitlements for Shadow Ministers

The Tribunal has received submissions from the Liberal and National parties contending that the 2000 determination should be substantially varied so as to improve the entitlements afforded Shadow Ministers in that determination as follows:

1. Transport

It is contended that overall the allowances provided to Shadow Ministers do not adequately reflect their responsibilities. In addition, it is argued that the entitlements granted to Shadow Ministers in the current determination fall far short of the level of resources foreshadowed by ICAC as adequate to redress the problems it had identified.

It is contended that Shadow Ministers receive electorate to Sydney travel entitlement and travel allowances equivalent to the position of Chairman of Committees (ie an additional 32 single journey travel warrants over that of Members and the higher rate of travel allowance).

2. Communication (Electronic)

It was contended that Shadow Ministers receive a 40% loading on the communication (electronic and non-electronic) allowance component of the logistic support allowance.

3. Travel Allowance

It was contended that certain Recognised Office Holders (Deputy Leader and Legislative Council Leader) should be classified as Shadow Ministers for the purpose of travel allowances whilst on intrastate or interstate travel.

4. Staff

It was submitted that an additional one staff member be provided to each Shadow Minister, at the same salary level as the additional staff member employed by independents and cross bench Members.

Until the 2000 Annual Determination Shadow Ministers had not received additional entitlements over and above those received by Members.

The Independent Commission Against Corruption's Second Report into its *Investigation into Parliamentary and Electorate Travel*, recommended *inter alia*,

"The entitlements of Shadow Ministers should be reviewed to reflect adequately their additional responsibilities, compared to other Members."

The Tribunal had regard to this recommendation but noted in the ID that;

"This is a matter for the Government and the Parliament. As Shadow Ministers have not been recognised by the Parliament as recognised office holders, the PRT does not consider it appropriate for them to be provided with more additional entitlements than other Members. This, no doubt, should be a matter for review."

For the 2000 annual determination proceedings the Tribunal received substantial from the Liberal/National parties with regard to additional entitlements for Shadow Ministers. The Tribunal outlined these arguments in its Report of the 2000 Determination as follows:

"Shadow Ministers

The Liberal and National Parties, in their joint submission to the Tribunal of 5 June 2000, outlined the role of Shadow Ministers in the Parliament and advised of the payment of such allowances to office holders in the Federal Parliament.

The Liberal and National Parties further submission of 5 July 2000 submitted that:

... a category of Member be established called a "Nominated Member" to cover Shadow Ministerial positions which do not currently have the status of "Recognised Office Holder..

It was suggested that the Leader of the Opposition would nominate any number of persons as Shadow Ministers provided such number does not exceed the number of Ministers appointed by the Government, and that additional allowances would be paid to Shadow Ministers in recognition of the additional publicly recognised responsibilities of their position.

It was recommended that each "Nominated Member" (Shadow Minister) shall receive:

- *A salary loading equal to 25% of the Ministerial allowance*
- *One additional staff member, at the salary level of an Electorate Officer Grade 2, as a dedicated research and policy adviser*
- *An electorate allowance loading equivalent to 20% of a Grade 1 electorate;*
- *Ten (1) additional IntraState and four (4) additional Interstate warrants per year, accumulative over the four year term of the Parliament.*
- *A 20% loading for the communication allowance*
- *A 20% loading for the printing and stationery allowances; and*
- *Reimbursement of overnight accommodation expenses outside the Sydney Region at the same rate as Ministers while attending official duties associated with their portfolio responsibilities."*

The Tribunal found, with respect to those contentions, as follows:

The Tribunal considers that it is appropriate that additional entitlements be granted (upon conditions) to Shadow Ministers and the Asia Pacific Friendship Group (and similar groups). Shadow Ministers do serve a critical function in a parliamentary democracy and it is the

Tribunal's view that they should be eligible for additional entitlements to carry out the extra workload inherent in such positions.

In doing so, however, the Tribunal made the following observations in its draft determination:

"Shadow Ministers

The Tribunal has considered the submissions received in regard to the provision of additional entitlements and allowances to Shadow Ministers. As a general proposition, no case has been established, in the Tribunal's view, for Shadow Ministers to be granted entitlements above those of the category of "Other Recognised Office Holders" in Schedule 3 of the draft determination.

Hence, the Tribunal does not consider it appropriate that Shadow Ministers be granted a communications loading or an electoral allowance loading as these concessions are not made available to that category of Recognised Office Holders in Schedule 3. Similarly, the Tribunal does not provide any entitlement for additional staff to Recognised Office Holders and thus, it has not acceded to the submission that additional staff should be provided for Shadow Ministers. Historically, the provision of additional staff to Recognised Office Holders has been a matter for Government.

In regard to additional interstate and intrastate travel warrants, the Tribunal has made a draft determination that Members will not be provided with warrants for such travel. The Tribunal does not approve the provision of a salary loading to Shadow Ministers given that such an approach would be inconsistent with the existing statutory scheme for salaries.

However, the Tribunal has determined that there is merit in the provision of some additional allowances for Shadow Ministers namely travel allowances and the Logistic Support Allocation. As to the quantum, the Tribunal has determined that Shadow Ministers shall receive an amount equivalent to Recognised Office Holders, (other than Ministers, the Speaker, the President, Leaders and Deputy Leader of the Opposition and other recognised political party, and the Chairman of Committees).

These allowances/Allocation, and the conditions governing their use, are specified in the draft determination.."

In response to the Draft Annual determination the Liberal/National parties made a further submission on this matter:

"The joint submission of the Liberal and National Parties has argued that the provision of additional entitlements as outlined in the draft determination does not adequately reflect the additional costs and work associated with the role of Shadow Ministers."

The Tribunal was not persuaded by the submission and retained the above entitlements in the 2000 Determination.

As a result of the 2000 Determination, for the first time, Shadow Ministers were provided with additional entitlements. More specifically they were provided with the following benefits above those provided to Members.

1. Logistic Support Allocation

An additional 40% on the Printing and Stationery component of the Logistic Support Allocation.

2. Travelling Allowance

Capital Cities including Canberra	\$209 per night
Other Areas	\$131 per night
Travel (no overnight stay required)	\$51 per night

Generally speaking, the Tribunal recognises, as it has done so in previous determinations, that Shadow Ministers represent a special class of Member who performs duties beyond those performed by Members. However, the additional entitlements afforded this group must be justified as a matter of merit. This entails those persons contending for additional benefits firstly establishing a basis for the benefit per se. If a basis for the benefit is established, it is then necessary to consider the level of entitlement, including having regard to the comparable entitlements afforded other Members and Office Holders.

Transport

The Opposition parties sought increases in two areas of the transport allocation ie additional electorate to Sydney travel warrants and an increase in the travel allowance. The submissions in support of those claims do not specifically address the reasons given in earlier determinations for the current entitlements. This is not to say that claims earlier brought to the Tribunal may not be reagitated, but that those bringing such claims will be better served if they at least addressed the basis upon which earlier entitlements were awarded or claims refused in past determinations.

Shadow Ministers residing in non-metropolitan electorates currently receive 104 single journey travel warrants for electorate to Sydney travel. Recognised Office Holders receive additional electorate to Sydney travel warrants (32 single journey warrants). The Deputy Leader of the Opposition in the Legislative Assembly and the Legislative Council receive an additional 16 single journey warrants.

As noted earlier, the Opposition Parties are seeking an additional 32 single journey travel warrants for Shadow Ministers but have provided an insufficient basis for which the Tribunal can assess the merits of the claim. For example, there is no explanation as to why Shadow Ministers should receive a higher allocation than the Deputy Leaders. The Tribunal refuses the claim.

Communication (Electronic)

Again no detailed explanation of the need for an increase in the electronic Communication sub account has been provided. The claim is refused.

Travel Allowance

The grant of this allowance to Shadow Ministers was a significant change in the entitlements of persons holding this position as it was previously only available to Recognised Office Holders. It is currently set at the lowest rate afforded Recognised Office Holders. There has been insufficient justification provided as to why it should be increased above this level. On this basis the rate will remain unaltered.

The Tribunal will, however, be reviewing the travel allowance rates as part of the 2002 annual review. The Tribunal would be pleased to receive specific submissions at that time as to the adequacy of the quantum of the allowance for Shadow Ministers as part of that review. Members contemplating making such submissions should ensure that adequate supporting documentation is provided.

Additional staff for Shadow Ministers

The Liberal Party contends that Shadow Ministers, like the Independent Members, should be allocated an additional staff Member. It is contended that Shadow Ministers should be treated in a similar fashion to Independent Members.

The staffing entitlements of independent Members has its genesis in a determination made by the Premier. That decision was later reflected in the ID.

In order to assess the submissions made in relation to this matter the Tribunal has examined the duties and obligations of Shadow Ministers when compared with Independent Members. It is apparent, from that review, that, *prima facie*, an anomaly exists between staffing levels afforded Shadow Ministers and those afforded Independent Members. However, given the relative paucity of submissions received in support of this claim, it is difficult to determine precisely the extent of such anomaly and what specific relief should be given to rectify it.

There are a range of issues which need to be addressed in order for the Tribunal to resolve this issue. The first question which arises is what is the appropriate number of staff to be provided to the Shadow Ministry. Should Shadow Ministers be provided with one staff Member each or a pool of staff (less than a one for one allocation)? In addition, there are related issues such as appropriate remuneration for such staff and a question as to their accommodation. Finally, a question arises as to the appropriate operative date for any staff changes.

In the result the Tribunal it would not seem realistic to make a determination on this matter in the annual determination. An alternative course may be to have the matter considered as a special determination. Should such a special determination be required the Tribunal will seek submissions at that time. However, whether or not a special determination is made there is nothing to preclude the Government from providing these additional resources in a manner similar to the approach for Ministers and the Leaders of the Opposition. In any event, the Presiding Officers and Shadow Ministers should discuss the claim in relation to the issues raised above.

Funding of additional entitlements for Deputy Leader of the Opposition in the Legislative Council and the Deputy Leader of the National Party in the Legislative Assembly.

Another issue raised with the Tribunal concerned the additional entitlements of the Deputy Leader of the Opposition in the Legislative Council and the Deputy Leader of the National Party in the Legislative Assembly.

The issue raised with the Tribunal was whether the funds to meet the costs of their additional entitlements should be met from the Parliamentary budget or should be met from the Leaders of the Opposition budget.

The Tribunal was provided with a copy of a letter to the Clerks of the Parliament from the Director-General of the Premier's Department on this issue which indicated that, as Deputy Leaders of the Opposition Parties, their travel costs should be met from the Leaders of the Opposition Budget.

As noted above, the Premier makes an annual budget allocation to the Leaders of the Opposition. The Director-General of the Premier's Department has confirmed that the travel costs of the Deputy Leaders is to be met from that budget. The Tribunal does not consider it appropriate to comment on what is a matter of Government policy.

The Tribunal would have expected that, in light of the Director-General's advice, the Leaders of the Opposition would have sought an increase in the Leaders of the Opposition budget to meet these additional costs. This, however, is a matter for the Leaders of the Opposition and the Director-General of the Premier's Department. If this issue remains unresolved it will be revisited in the 2002 annual determination proceedings.

Electoral Grouping

The State Parliamentary Labor Party (SPLP) has submitted that the electorate of Campbelltown should be added to the Category 1 group of electorates for the purpose of determining eligibility for the Sydney allowance. Members who reside in electorates outside the Sydney Metropolitan area are eligible for the Sydney allowance to provide for the cost of overnight accommodation and incidental expenses whilst in Sydney on parliamentary business or in transit to and from Sydney.

The SPLP has argued that the electorate of Campbelltown is located as far from the Parliament as the centre of the Hawkesbury electorate and is a further distance from the Parliament than the centre of the Heathcote electorate. It is further contended that Campbelltown is almost the same distance from the Parliament as is the centres of the Camden and Londonderry electorates. In addition, it is contended that the distinction between metropolitan and non-metropolitan electorates is artificial in the case of a number of electorates, citing that the population centres of the electorates of Hawkesbury, Londonderry, Camden and Heathcote are all, in reality, part of the Sydney metropolitan area.

The Tribunal undertook a thorough review of the groupings of electorates for the purpose of determining allowances following the 1999 electoral redistribution. The Tribunal's rational in regard to the current groupings is discussed in pages 50 to 58 of the ID. A significant change introduced in the ID was the merging of all metropolitan electorates into one group for the purpose of determining allowances. In doing so, the Tribunal carefully considered the position of a number of borderline group 1/group 2 electorates, including Campbelltown, Penrith, Heathcote and Mulgoa.

In response to the SPLP's submission the Tribunal has undertaken a comparative assessment of the characteristics of a number of fringe metropolitan electorates. The Tribunal's preliminary assessment has found that there may exist an inequity in the categorisation of some electorates. This inequity relates primarily in the distance of electorates from the Parliament. The Group 1 electorates of Campbelltown, Mulgoa and Penrith are a comparative distance from Parliament with a number of Group 2 electorates including Camden, Londonderry and Hawkesbury and are a considerably further distance, on one view, than the electorate of Heathcote.

However, whilst distance from Parliament is an important factor in determining the grouping of electorates it is not the sole determinant. The Tribunal also considers population, population density, infrastructure and geographic features. Other significant factors include transport options and the time taken to travel from home to Parliament. The Tribunal previously rejected a similar application from Mulgoa on the basis that the electorate was predominately outer metropolitan rather than rural which is the predominant characteristic of Group 2 electorates.

The Tribunal considers that the recategorisation of electorates should not be undertaken on an ad hoc basis but should be considered in the context of a more comprehensive review. Any review must also consider the financial impact of any changes. The categories currently used to determine the Sydney Allowance reflect those groups and zones used to determined the Electorate Allowances. Any determination to increase the number of electorates eligible to receive the Sydney Allowance would also provide increased Electoral Allowances for those electorates.

Accordingly, the Tribunal is not prepared to determine the position of Campbelltown in isolation from other ostensibly outer metropolitan electorates. The Tribunal may review the position of such outer metropolitan electorates if additional submissions are received in response to this draft in relation to the position of all relevant electorates. In the absence of such submissions, it may then be appropriate to undertake such a review in special determination proceedings (if commenced) or the 2002 annual determination proceedings.

SUBMISSIONS

The Tribunal received submissions in writing from the following persons, bodies or organisations in response to the draft report and determination:-

1. The Presiding Officers of the Parliament ("the Parliament")
2. State Parliamentary Liberal Party
3. The Hon John Ryan MLC
4. Mr John Turner MP
5. The Hon Dr Arthur Chesterfield-Evans MLC
6. Ms Clover Moore MP
7. The Hon Peter Breen MLC
8. Mr Andrew Stoner MP, Parliamentary National Party of NSW
9. The Speaker of the Legislative Assembly, the Hon John Murray MP

The Tribunal has evaluated the submissions made and the accompanying recommendations for changes to the draft determination. In respect of these submissions the Tribunal makes the following observations prior to discussing more fully amendments to the draft determination which the Tribunal proposes to make as a result of the submissions received.

Presiding Officers

The Presiding Officers have provided a constructive and useful submission in response to the draft determination. A number of their suggestions have been incorporated into the 2001 determination. These changes are discussed at length in the section titled Amendments to the Determination. A copy of the Presiding Officers submission has been attached in full at Appendix 1.

State Parliamentary Liberal Party Submission

This submission raises a number of issues of procedural character together with substantive issues. I shall deal briefly with the procedural issues at this juncture. It was sought that the 'information' contained in the submission be kept confidential.

Whilst the general tone and tenor of the submission would warrant not only the disclosure of its terms, but some amount of criticism, it appears to the Tribunal that the better course is to deal shortly with some particular matters as follows;

1. As to the time allowed for a response to the draft determination, it may be observed that the procedure of issuing a draft determination is a recent initiative by the Tribunal which allows Members a greater opportunity to make submissions to the Tribunal. In these circumstances, the Tribunal has required that only supplementary submissions be filed. It should be noted that the draft determination follows upon the receipt of earlier submissions in relation to the 2001 annual determination process and ultimately a quite lengthy process leading to the 2000 determination commencing with the initial determination proceedings. In this context it is difficult to understand how a submission can be seriously advanced that two weeks is insufficient to file further submissions in relation to the draft determination.
2. The procedure adopted by the Tribunal for the 2001 annual determination was to receive written submissions. This did not preclude application to make oral submissions. Indeed, the Liberal Party was granted the opportunity to make oral submissions. In the result, the Tribunal held a lengthy private discussion with the Leader of the Opposition, Mrs K Chikarovski, the Deputy Leader of the Opposition, Mr B O'Farrell, the Leader of the National Party, the Hon G Souris, and the Deputy Leader of the National Party, Mr J Turner, as to a range of matters arising for consideration in the context of the 2001 determination including entitlements for Shadow Ministers.

3. The Tribunal now provides with each determination detailed reasons for its decisions. This derives from a process of deliberations which are undertaken by the Tribunal sitting on a part-time basis. The process includes the consideration of the extensive written submissions received and often oral presentations. The success or otherwise of a particular contention depends, at the end of the day, upon the quality of submissions made and material advanced in support of it. It is noted that no other submissions have been received from any other Member, political party or other body suggesting that there is any difficulty with the procedures adopted by the Tribunal or for that matter the substance of the draft determination (except as to matters of the detail of the provisions).
4. In any event, the Tribunal proposes to hold a meeting of Members prior to the commencement of the 2002 Review to establish any further procedures required to determine the matter and a time-table for that review.

AMENDMENTS TO DRAFT DETERMINATION

As earlier mentioned the Tribunal has determined, as a result of the further submissions received, to amend the draft determination. The Tribunal has not provided reasons dealing with the entirety of the propositions advanced in response to the draft report and determination. However, the Tribunal does discuss below reasons why it has adopted some of the proposals made in further submissions.

Date of Operation

In making its draft determination the Tribunal omitted to amend the date of operation for the 2001 determination. The date has been amended and this determination will operate on and from 1 July 2001.

Electoral Groupings

The draft report sought submissions from Members in regard to the grouping of outer Metropolitan electorates for the purpose of determining eligibility for the Sydney Allowance.

This issue was raised in an earlier submission received from the State Parliamentary Labor Party in respect of the electorate of Campbelltown.

The Tribunal has received additional submissions requesting that consideration be given to the issue of workplace safety in determining eligibility for the Sydney Allowance. In particular, a submission has been eloquently put as to the dangers of driver fatigue for Members required to drive long distances to and from home during sittings of Parliament.

It was also argued that distance and time travelled are the most significant factors in determining eligibility for the Sydney Allowance. Additional factors such as population density, infrastructure and geographic features, it was submitted, were not particularly relevant unless they have some bearing on the distance a Member may need to travel. The Tribunal was also provided with additional information on the relative distances of the outer metropolitan electorates which supported the case for re-categorisation.

In light of this additional submissions and information received the Tribunal has determined that a case does exist for the electorate of Campbelltown to be included in Category 1 for the purpose of determining eligibility for the Sydney Allowance. An appropriate amendment has been made to Schedule 2 of the determination.

The Tribunal will undertake a further review of these categories during the 2002 annual review. Further submissions will be sought from the Members of other outer Metropolitan electorates at that time.

Sydney Allowance

The Presiding Officers have submitted that condition 3 of the Sydney Allowance, as stated in the draft determination, requires clarification as to the actual level of substantiation required to receive reimbursement of daily costs where daily costs exceed the daily rate and where the number of overnight stays is greater than the specified maximum.

The Tribunal has considered the Presiding Officers' suggested amendment and agrees that clarification is appropriate. Condition 3 has been amended in accordance with changes suggested by the Presiding Officers.

Logistic Support Allocation (LSA)

Electronic Communication Component

In the Presiding Officers submission of 16 March 2001 it was contended that certain classes of Office Holders were previously entitled to 100% reimbursement for electronic-communication costs. The Tribunal included this entitlement for specified office holders in its draft determination. In supplementary submissions, it is now indicated that the Deputy Leader of the Opposition in the Legislative Council and Deputy Leader of a Party with not less than ten members in the Legislative Assembly were also previously entitled to such a benefit. The Tribunal has amended its determination to reflect these further submissions.

In addition, the Tribunal has approved of the inclusion of the 100% reimbursement of overseas calls for Parliamentary business with the electronic-communication component of the LSA. This inclusion reflects entitlements that previously existed for specified recognised office holders.

It has also been submitted that the electronic communication component of the LSA is insufficient for Members of the Legislative Council residing in Zone 2 electorates. In the draft determination, the electronic-communication component of the LSA is \$3,750 for Members from both Zone 1 and Zone 2 electorates. This monetary component was originally calculated based on actual expenditure of electronic communication expense in the 1997/98 financial year. At that time, the Tribunal recognised that an anomaly existed in the expenditure patterns of Members of the Legislative Council from Zone 2.

Evidence has now been provided to suggest that the electronic communication component is insufficient for these Members. In order to reflect increased costs associated with timed calls and STD charges, the Tribunal has increased the electronic communication component of the LSA for Legislative Council Members residing in Zone 2 to \$4,280. This component is equivalent to that received by Members of the Legislative Assembly residing in equivalent Group 2 electorates. The Tribunal will reassess this component again following an assessment of actual expenditure as part of considerations for the 2002 annual review process.

Transport (Other than Electorate to Sydney transport)

Condition 4 of the particular conditions relating to Transport (Other than Electorate to Sydney transport) provides that Members and their spouse/approved relative, when travelling by private or rental vehicle in connection with their Parliamentary duties, may claim reasonable actual accommodation and meal expenses from the Members' Logistic Support Allocation. The reimbursement of these expenses may not exceed the commercial airfare for travel to the same destination.

The Presiding Officers have submitted that since Members now have access to a specific dollar LSA amount, the nexus to commercial air travel costs is no longer relevant or necessary. Furthermore, Members should be able to claim reasonable actual accommodation and meal expenses from their LSA for any travel in connection with their Parliamentary duties. The Presiding Officers have proposed that an upper limit equivalent to the travel allowance provided to Members when travelling on official Parliamentary Committee business is appropriate.

The Tribunal considers it appropriate that Members, if required, use their LSA to claim actual accommodation and meal expenses to the proposed upper limit when travelling on Parliamentary business. Condition 4 has been amended in accordance with changes

suggested by the Presiding Officers. The reimbursement of such costs must be met from the existing LSA.

Expenditure from Logistic Support Allocation and Electoral Allowance.

The submission from the Presiding Officers seeks clarification over the requirement for the Logistic Support Allocation to be fully expended prior to utilising the electoral allowance.

General condition 6 contained on page 6 of the 2000 determination states

Nothing shall prevent the use of the Electoral Allowance for legitimate electorate expenses which might also fall with the categories of expenses covered by the Logistic Support Allocation.

The Presiding Officers have contended that this condition is in contradiction to condition 2 of the Logistic Support Allocation (page 18, 2000 determination) which provides:

...the Logistic Support Allocation is not intended to restrict the proper use of the electoral allowance, which may be used to meet any expense referred to in the 'purpose and operations' section of this clause, after the Logistic Support Allocation Account has been fully expended.

To provide adequate flexibility for Members the Tribunal has determined that there should be no restriction between the use of the LSA and the Electoral allowance for the use of legitimate electorate and Parliamentary expenses. To clarify this issue the Tribunal has amended the determination in accordance with the Presiding Officers' suggested amendment.

Electorate to Sydney Travel Warrants

Submissions have argued for the provision of an additional 16 single electorate to Sydney travel warrants for the Deputy Leader of the National Party in the Legislative Assembly.

The draft determination specifies that the Deputy Leader of the Opposition in the Legislative Assembly is entitled to an additional 16 single journey entitlements. Under current arrangements, the Deputy Leader of the Opposition in the Legislative Assembly is the Deputy Leader of the Liberal Party. Prior to the Tribunal making its initial determination, guidelines which provided for additional travel warrants for recognised office holders specified that Deputy Leaders of a Party (with not less than 10 Members in the Legislative Assembly) would be entitled to additional warrants. Under those former guidelines, the Deputy Leader of the National Party would have qualified for these additional entitlements.

The Tribunal has amended the determination to provide an additional 16 single electorate to Sydney travel entitlements for Deputy Leaders of a Party (with not less than 10 Members in the Legislative Assembly).

Committee Allowances

An increase has been sought in the daily sitting fees payable to the Chairpersons of Joint, Select and Standing Committees. These fees were last increased by the Tribunal in the 2000 determination.

The purpose of this Allowance is to remunerate Members servings as Chairpersons on Committees for the extra time and effort required to carry to this role. In previous determinations this allowance has been increased in line with Members' salary increases.

Pursuant to section 4 of the Act, NSW Members' base salaries increased to \$95,100 effective from 1 July 2001. This represents an increase of 3.9%.

The Tribunal has determined that an equivalent increase is appropriate for Chairperson of Joint, Select and Standing Committees and for Members of the Public Accounts Committee (other than the Chairperson). These increased rates have been incorporated into the determination.

DETERMINATION

The Tribunal makes the determination contained in the attached determination to operate on and from 1 July 2001.

Dated this 15th day of August 2001

The Honourable Justice Walton

THE PARLIAMENTARY REMUNERATION TRIBUNAL

PARLIAMENT OF NSW

**SUBMISSION TO
THE PARLIAMENTARY REMUNERATION TRIBUNAL
IN RESPONSE TO THE DRAFT DETERMINATION**

DATED 29 JUNE 2001

13 JULY 2001

PAGE	
ISSUE NO. 1: COMMENCEMENT DATE OF ANNUAL DETERMINATION.....	31
ISSUE NO. 2: COMMENCEMENT DATE FOR THE NUMBER OF SHADOW MINSTERS ALLOWED.....	31
ISSUE NO. 3: SYDNEY ALLOWANCE – NUMBER OF OVERNIGHT STAYS EXCEEDED.....	31
ISSUE NO. 4: LOGISTIC SUPPORT ALLOCATION.....	31
ISSUE NO. 5: LOGISTIC SUPPORT ALLOCATION - PURPOSES.....	32
ISSUE NO. 6: LOGISTIC SUPPORT ALLOCATION GENERAL CONDITIONS.....	32
ISSUE NO. 7: LOGISTIC SUPPORT ALLOCATION TRANSPORT PARTICULAR CONDITIONS.....	33
ISSUE NO. 8: LOGISTIC SUPPORT ALLOCATION – TRANSPORT.....	33
ISSUE NO. 9: LOGISTIC SUPPORT ALLOCATION – COMMUNICATION ELECTRONIC.....	34
ISSUE NO. 10: LOGISTIC SUPPORT ALLOCATION – COMMUNICATION ELECTRONIC.....	34
ISSUE NO. 11: EQUIPMENT SERVICES AND FACILITIES.....	35

Appendix 1

Issue No. 1: Commencement date of Annual Determination	
PRT Draft Determination Reference:	Page 1, second paragraph
Clarification Sought:	That the commencement date of the annual determination is in fact 1 July 2001 and not 31 December 2000.
Reason:	<ul style="list-style-type: none"> ➤ In accordance with Section 11 (1) of the Parliamentary Remuneration Act, an annual determination is to be made with effect from 1 July in that year.
Issue No. 2: Commencement date for the number of Shadow Ministers allowed	
PRT Draft Determination Reference:	Pages 1 – 2 Definitions – Shadow Ministers
Clarification Sought:	Payment of Shadow Minister Entitlements
Reason:	<ul style="list-style-type: none"> ➤ Unless the Tribunal otherwise directs, the Parliament intends to process claims retrospectively from 31 December 2000 for the 21 Shadow Ministers.
Issue No. 3: Sydney Allowance – number of overnight stays exceeded	
PRT Draft Determination Reference:	Condition no. 3, page 11
Change Proposed:	<p>3.1 Where the daily costs exceed the daily rate, full substantiation of daily costs will be required.</p> <p>3.2 Where the number of overnight stays is exceeded, documentary evidence of each overnight stay will be required.</p>
Reason:	<ul style="list-style-type: none"> ➤ Some Members interpret this condition on the basis that substantiation relates to actual overnight stays and not to the cost incurred. Such interpretation however would appear at odds with condition no. 2 which specifies that no substantiation of costs incurred is required up to the number of overnight stays specified in Table 1. In cases where a Member owns accommodation in Sydney it is not practical to substantiate actual costs of additional stays in excess of those specified in Table 1. It is therefore recommended that the standard \$164 overnight rate continue to apply for actual overnight stays that exceed the number specified in Table 1, provided documentary evidence of these overnight stays is provided.
Issue No. 4: Logistic Support Allocation	
PRT Draft Determination Reference:	Purpose and operation of the provision – page 16
Change Proposed:	Substitute the word "Clerks" for "Financial Controller" in the first line of the first paragraph.
Reason:	<ul style="list-style-type: none"> ➤ This is required to reflect changes made to general condition no. 4 on page 6 of the draft determination. Reference to the Financial Controller on page 16 was overlooked at the time of suggesting the changes in the 16 March 2001 submission.

Appendix 1

Issue No. 5: Logistic Support Allocation - purposes	
PRT Draft Determination Reference:	Page 16
Clarification Sought:	<p>Of the 12 additional items proposed to be added to the list for which the LSA can be used, 4 were adopted by the PRT in the draft report. With respect to the remaining 8 clarification is sought whether these can be dealt with administratively by the Parliament, or alternatively the LSA cannot be used for those purposes and the current list is exhaustive.</p>
Reason:	<ul style="list-style-type: none"> ➤ So clear administrative procedures and guidelines, can be developed by the Parliament to assist Members in complying with the determination. ➤ To facilitate a further review of the remaining 8 items proposed for inclusion on the list of purposes for which the Logistic Support Allocation can be used, the following additional information is provided: ➤ Advertising – A number of Members have sought reimbursement of costs for advertising vacant staff positions within their office, together with newspaper advertisements informing constituents of their availability for interviews at various locations throughout their electorate. This is a legitimate Parliamentary expense which we suggest should be met from a Members' LSA. ➤ Similarly, Members often require access to company information and FOI requests to represent their constituents and research issues affecting their electorate or the State of NSW as a whole. Prior to the 4 December determination, independent Members of Parliament were entitled to have the cost of FOI requests met by the Parliament. ➤ Unless otherwise advised the Parliament proposes to permit the use of a Member's LSA to purchase office requisites, video and audio tapes, plus books and periodicals following the proposed amendment by the Tribunal to include office supplies under the category heading 'Printing and Stationery', refer condition 1, page 23. ➤ With respect to photography costs and newspapers used in a Member's electorate office or home office for a Member of the Legislative Council, Members have expressed a need to incur these expenses in connection with their Parliamentary duties and to keep informed of local issues and constituent concerns. Newspapers are currently provided to Members at Parliament House on sitting days. It is recommended that this entitlement be extended to Members electorate office or home office in the case of Legislative Council Members, with the cost being charged to the Member's LSA.

Issue No. 6: Logistic Support Allocation general conditions	
PRT Draft Determination Reference:	Page 18, Condition no. 2
Change Proposed:	Remove the requirement for the Logistic Support Allocation to be fully expended prior to utilising the electoral allowance by deleting the words "after the Logistic Support Allocation account has been fully expended".
Reason:	<ul style="list-style-type: none"> ➤ While this was raised in the Parliament's previous submission, it is considered necessary to raise the matter again as the requirement would appear to contradict general condition 6 on page 6 of the report, which states "Nothing shall prevent the use of the electorate

Appendix 1

	<p>allowance for legitimate electorate expenses which might also fall within the categories of expenses covered by the Logistic Support Allocation".</p> <ul style="list-style-type: none"> ➤ For this reason and the reasons set out in the Parliament's March submission, which are still valid, it is requested that the Tribunal reconsider its position on this condition.
--	--

Issue No. 7: Logistic Support Allocation transport particular conditions	
PRT Draft Determination Reference:	Page 20, condition 4
Change Proposed:	<p>Amend the existing condition to read "Members and their spouses/approved relatives, when travelling in connection with their Parliamentary duties, may claim reasonable actual accommodation and meal expenses from the Member's Logistic Support Allocation. The reimbursement of these expenses may not exceed \$209 per night for capital cities and \$131 per night for other areas".</p>
Reason:	<ul style="list-style-type: none"> ➤ While the Parliament proposed the inclusion of this entitlement in its 16 March 2001 submission, the current method of assessing and calculating the difference between the rental/private car costs and the commercial airfare is often not possible resulting in improvised and complex administrative processes, which are the subject of dispute with Members. Often Members travel to destinations where there are no commercial air services, on which to base the accommodation and meal expense component. Now that Members have access to a specific dollar LSA amount, the nexus to commercial air travel costs is no longer relevant or necessary. ➤ Under the amendment proposed above, Members would be able to travel by any mode of transport without being discriminated against. Furthermore, the expense would have to be incurred prior to payment of accommodation and meal expenses. It is not proposed to provide for a travelling allowance as the change suggested specifies actual reasonable costs. An upper limit equivalent to the travel allowance provided to Members when travelling on official Parliamentary Committee business, would also apply to ensure the amounts claimed are reasonable

Issue No. 8: Logistic Support Allocation – Transport	
PRT Draft Determination Reference:	Particular condition no. 10, page 21
Change Proposed:	<p>Substitute the existing condition 10 with the following "It is a condition of all air transport charters that the Member responsible for organising the charter obtain a passenger manifest from the charter operator and attach it to the invoice when it is sent for payment".</p>
Reason:	<ul style="list-style-type: none"> ➤ This will provide consistency with reference to charter flights contained elsewhere in the draft determination which were amended following the Parliament's 16 March 2001 submission. Please refer to electorate to Sydney condition 7, page 14 and electorate charter transport for Members of the Legislative Assembly, condition 3, page 25.

Appendix 1

Issue No. 9: Logistic Support Allocation – Communication Electronic	
PRT Draft Determination Reference:	Particular condition 3, page 22
Change Proposed:	<p>a) Amend the existing condition by adding the words "including overseas calls for Parliamentary business". This condition would then read "The following recognised Office-Holders shall be entitled to 100% reimbursement for electronic – communication costs, including overseas calls for Parliamentary business.</p> <p>b) Extend the entitlement to the Deputy Leader of the Opposition in the Legislative Council.</p>
Reason:	<p>a) To provide certain Recognised Office-Holders with the same access to overseas calls to which they were entitled prior to the initial determination. This will also serve to clarify the recognised Office-Holder entitlements having regard to general condition no. 6 which states specific exclusions for Member's electronic communication costs.</p> <p>b) The inclusion of the Deputy Leader of the Opposition in the Legislative Council was overlooked in the Parliament's 16 March 2001 submission. The status and importance of this office is higher or equivalent to a number of other recognised offices-holder positions which are entitled to a 100% reimbursement for electronic – communication costs.</p>

Issue No. 10: Logistic Support Allocation – communication electronic	
PRT Draft Determination Reference:	Particular condition 4, page 22
Change proposed:	Remove reference to modem from this condition. This condition would then read "A fax line installed at a Legislative Council Member's home office shall be reimbursed at the rate of 100%".
Reason:	<p>➤ Following the Tribunal's approval to providing a separate data line in Legislative Council Member's home offices (refer condition 5) the modem will be attached to the data line and not the fax line.</p>

Appendix 1

Issue No. 11: Equipment Services and facilities	
PRT Draft Determination Reference:	Condition no. 6 (v), page 31
Change Proposed:	Delete condition 6(v) "Ministers shall receive a reasonable allocation of staff members".
Reason:	<p>➤ The Presiding Officers have no responsibility or authority to allocate ministerial staff. This is the responsibility of Executive Government and therefore should be removed from the determination.</p>

THE DETERMINATION OF THE PARLIAMENTARY REMUNERATION TRIBUNAL

THE DETERMINATION

Pursuant to section 10 (2) and 11(1) of the *Parliamentary Remuneration Act, 1989*, the Tribunal makes the determination appearing hereunder.

With effect on and from 1 July 2001, and pursuant to section 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 2001.

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 Part 3 of the *Parliamentary Remuneration Act 1989* ("the Act").

Parliamentary duties has the meaning attributed to it by section 3 of the Act,

"*Electoral groups*" are the groups of electorates specified in Schedule 1.

For the purpose of the Additional Entitlements Account for Members of the Legislative Council "*Zones*" shall be those areas described in Schedule 2A.

"*Shadow Ministers*" are defined as those officers nominated by the Leader of the Opposition who undertake the role of opposition spokesperson on behalf of particular Ministerial portfolios and shall include Leader and Deputy Leader of the Opposition. The minimum number of Shadow Ministers qualifying for additional entitlements shall be equivalent to the number of Ministers in the first Ministry immediately following a State general election or such lesser number of Shadow Ministers as may from time to time be nominated by the Leader of the Opposition. The number of Shadow Ministers shall increase from this number only with comparable increases in the number of Ministers. The Leader of the Opposition is to advise the Tribunal the Members who will act as Shadow Ministers and

their particular portfolio/s. These Members, as advised to the Tribunal, will, subject to this determination, be eligible for additional entitlements. Until the declaration of the next State Election and an appointment of the Ministry of Government thereafter, the Shadow Ministry shall (for the purpose of additional entitlements) be treated as consisting of 21 Shadow Ministers (including the Leader and Deputy Leader of the Opposition).

GUIDELINES AND GENERAL CONDITIONS REGARDING ADDITIONAL ENTITLEMENTS FOR MEMBERS IN CONNECTION WITH PARLIAMENTARY DUTIES.

1. Guidelines

Every class of “additional entitlements” described in this determination is provided pursuant to section 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.

1. Circumstances upon which the additional entitlements may be used for Parliamentary Duties.

1.1 Additional entitlements are provided to facilitate the efficient performance of the following particular Parliamentary duties of Members as follows:

- 1.1.1 Activities undertaken in representing the interests of constituents, but excluding activities of a direct electioneering or political campaigning nature.**
- 1.1.2 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.**
- 1.1.3 Attending and participating in sessions of Parliament.**
- 1.1.4 Participation in the activities of Parliamentary committees.**
- 1.1.5 Attending Vice-Regal, Parliamentary and State ceremonial functions.**
- 1.1.6 Attending State, Commonwealth and Local Government functions.**

- 1.1.7 Attending official functions to which a Member is invited because of the Member's status as a Parliamentary representative, eg. 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.
- 1.1.8 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.
- 1.1.9 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.
- 1.1.10 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, is not entitled to the benefit of the rule in Clause 1.1.9 above.
- 1.1.11 Participation within Australia in the activities of the Commonwealth Parliamentary Association as well as activities outside Australia organised by the Commonwealth Parliamentary Association provided such activities arise directly from membership of the New South Wales Branch and officially endorsed by the Branch (exclusive of air travel).
- 1.1.12 Participation in a Parliamentary Group such as the Asia Pacific Friendship Group; provided that, such group is approved in writing by the President of the Legislative Council and the Speaker of the Legislative Assembly. Such written approval shall be forwarded to the Tribunal.

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:

 - 2.1 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 Additional entitlements should not be used to fund:

 - 2.2.1 activities such as those associated with party Membership drives;
 - 2.2.2 mail distributions for non-electorate or non-Parliamentary activities;
 - 2.2.3 costs associated with election campaigning for an individual Member;
 - 2.2.4 fund raising for other party political Members (such as the purchase of raffle tickets, raffle prizes or tickets to attend functions, etc); and
 - 2.2.5 costs previously borne by political parties which are not principally related to a Member's Parliamentary or electorate duties.
 - 2.3 The electorate office provided for a Member of the Legislative Assembly is not to be used as an election campaign office.

3. The Tribunal sets out the following additional and general guidelines:

 - 3.1 Some intermingling of a Member's Parliamentary duties and private activities is in practical terms not always easily avoided, but the onus is always on the Member to show that any expenditure or any claim for reimbursement relates to Parliamentary duties, or to the Parliamentary duties component of costs incurred for intermingled Parliamentary duties and private purposes.
 - 3.2 In the case of electorate work, any activities within the electorate, and in respect of which a Member's involvement may reasonably be regarded as deriving from the Member's status as the Parliamentary representative for the electorate, should be treated as Parliamentary duties.
 - 3.3 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.
 - 3.4 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. Conditions

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

1. All procurement by Members will be in accordance with the Parliament's purchasing policies.
2. Members must ensure that they have sufficient funds to meet the costs associated with their Parliamentary duties.
3. Each member shall have, in addition to payments of the Electoral and Sydney Allowance, an account entitled the "Logistic Support Allocation" which shall cover expenditure in the areas of transport (excepting for electorate to Sydney travel), communications, printing and stationery.
4. The Logistic Support Allocation shall be established and maintained by the Clerks of the Parliament. Members should be advised by the Clerks each month as to the balance of their Logistic Support Allocation.
5. The funds in the Logistic Support Allocation shall only be used by the Member to carry out the purpose for which the allowance is established, but otherwise may, subject to these conditions, manage the funds as he/she thinks appropriate.
6. Nothing shall prevent the use of the Electoral Allowance for legitimate electorate expenses which might also fall within the categories of expenses covered by the Logistic Support Allocation.
7. All accounts must be submitted to the legislature for payment within 60 days of receipt.
8. All Members' additional entitlements in the nature of fixed allocations and Sydney allowance provided to Members shall be audited annually for compliance. In addition to any internal audit conducted by the Parliament, Members additional entitlements in the nature of fixed allocations and the Sydney allowance provided to Members shall be the

subject of an external audit conducted by the Auditor-General of NSW. The cost of any audit shall be met by the Parliament. Members should ensure they maintain appropriate records of expenditure for the purpose of any audit.

9. 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).
10. The various allowances determined here, as well as the Logistic Support Allocation are for the sole use of the Member and are not to be transferred between Members.

ADDITIONAL ENTITLEMENTS IN THE NATURE OF ALLOWANCES

1. Electoral Allowance

Purpose and Operation of the Provision

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.

Entitlement

The allowances shall be paid as follows:

- a) 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 for the electorate of the Member.

- b) The allowance payable for each electorate group shall be as follows:

<u>Electorate Group</u>	<u>Allowance</u>
Group 1	\$32,615
Group 2	\$38,195
Group 3	\$45,015
Group 4	\$49,140
Group 5	\$52,275
Group 6	\$57,300
Group 7	\$60,165
Group 8	\$67,015

- c) The electoral allowance for each Member of the Legislative Council shall be \$38,195.

2. Sydney Allowance

Purpose and Operation of the Provisions

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.

For the purpose of this allowance the non-metropolitan electorates (Electorate Groups 2-8) have been divided into two categories based on distance from Sydney. Members whose principal place of residence is in either Category 1 or Category 2 electorates, as specified in Schedule 2, are eligible to receive the Sydney allowance.

Entitlement

The daily rate (including the number of overnight stays) and the annual amount for the Sydney allowance for categories 1 and 2 shall be in accordance with Table 1 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.

TABLE 1

	Residence	Daily Rate			Annual amount
		Overnight Stays p.a.	Overnight in Sydney	Overnight in Transit to and from Sydney	
Minister, Speaker, President, Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly with not less than 10 Members.	Category 1 or 2	140	\$164	\$127	\$22,960
Deputy Speaker, Chairman of Committees in the Legislative Assembly and Chairman of Committees in the Legislative Council.	Category 1 or 2	120	\$164	\$127	\$19,680
Parliamentary Secretary/Shadow Minister	Category 1	90	\$164	\$127	\$14,760
	Category 2	120	\$164	\$127	\$19,680
Other Assembly/Council Members	Category 1	90	\$164	\$127	\$14,760
	Category 2	120	\$164	\$127	\$19,680

The following conditions apply to the Sydney allowance:

1. A Member can choose to receive the Sydney allowance as either an annual fixed allowance or a daily rate.
2. Where a Member chooses to receive the daily rate of allowance the Member shall receive the overnight daily rate as specified in Table 1 at the 'Sydney' or the 'transit to and from Sydney' rate as applicable. The Member is entitled to the number of overnight stays per annum specified in Table 1 without the need to substantiate to the Parliament expenses up to the daily rate.
3. Where the daily costs exceed the daily rate, full substantiation of daily costs will be required.
4. Where the number of overnight stays is exceeded, documentary evidence of each overnight stay will be required.
5. When in receipt of the annual allowance Members are required to certify at the end of the financial year the number of occasions they stayed in Sydney and that on each occasion the stay was for Parliamentary business. Members who nominate to receive the annual allowance cannot claim for additional overnight stays in excess of those specified in Table 1.
6. Members will need to maintain records or other relevant evidence which clearly document the occasions they stayed in Sydney in connection with their Parliamentary duties. Such documentation could include airline boarding passes for arrival and departure from Sydney or any other documentary evidence of having travelled and stayed in Sydney in connection with Parliamentary duties.
7. Members in receipt of the annual amount will be required to return to Parliament the unspent portion of the Allowance for re-credit of the Consolidated Fund.
8. Members are not to claim the Sydney Allowance if they stay in Government owned or funded accommodation including Parliament House.

3. Committee Allowances

Purpose and Operation of the Provision

Committee Allowances are paid to Chairpersons of Joint and Select Committees in recognition of the additional responsibilities of the office. Because of the statutory nature of the Public Accounts Committee and its role in Government activities, an annual rate of allowance is payable to Members of the Public Accounts Committee.

Entitlement

The allowances shall be paid as follows:

- a) 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 \$125.00 for each day upon which they attend a meeting or an official visit of inspection if that day is one upon which the Legislative Council (so far as a Member of the Council is concerned) or the Legislative Assembly (so far as a Member of the Assembly is concerned) is not sitting. This allowance is not payable to Chairpersons in receipt of a salary of office as specified in Schedule 1 of the Parliamentary Remuneration Act 1989.
- b) Members of the Public Accounts Committee, other than the Chairperson, shall each receive a committee allowance of \$2,845 per annum.

ADDITIONAL ENTITLEMENTS IN THE NATURE OF FIXED ALLOCATIONS

1. Electorate to Sydney Travel

Purpose and Operation of the Provisions

Members of the Legislative Assembly who reside in electorate groups 2 to 8 and Members of the Legislative Council who reside in zones 2 or 3 qualify for return air travel warrants between their electorates/zones and Sydney.

These entitlements are provided for the performance of Parliamentary duties.

All eligible Members shall receive one hundred and four (104) single economy class journeys per annum between electorate/zone and Sydney.

Where eligible, each of the below mentioned recognised office holders shall be entitled to the following additional electorate to Sydney travel entitlements per annum.

Entitlement

<u>Office holder</u>	<u>Electorate to Sydney travel entitlement</u>
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
Chairman of Committees Legislative Assembly and 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

Conditions

1. All electorate to Sydney travel and return is restricted to economy class.
2. Warrants may be used to meet the cost of using a private motor vehicle or rental vehicle in lieu of electorate to Sydney air travel. The amount of warrants used for this purpose shall be assessed by calculating the reasonable cost of using the motor vehicle over the distance travelled.
3. A minimum of one warrant is required to be surrendered for each single journey; a return trip will require the surrender of at least two warrants.
4. Warrants are not transferable between Members, spouses or approved relatives, or Members staff.
5. Where the determination refers to warrants the expression is intended to include a reference to the existing system for electorate to Sydney travel used for the Legislative Council.
6. Members may use electorate to Sydney warrants to defray part of the cost of intrastate and interstate Parliamentary travel when such travel is via Sydney.
7. Members may charter a plane in lieu of travelling on commercial flights provided that travel is for electorate and/or parliamentary business and that sufficient warrants based on the equivalent commercial cost of each person travelling are surrendered. The cost of Member's spouse or approved relative travelling on the charter is to be met from the Member's Logistic Support Allocation. It is a condition of all air transport charters that the Member responsible for organising the charter obtain a passenger manifest from the charter operator and attach it to the invoice when it is sent for payment.
8. A Member's air transport bookings for Parliamentary duties are to be made through the booking agent nominated in the NSW government travel contract, for all types of transport covered by the contract. Should the official NSW government travel booking

agent not offer a booking service required by a Member for Parliamentary duties, the Member's transport bookings for that service may be made directly with the transport provider.

9. 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.
10. Members will need to maintain records or other relevant evidence which clearly document the occasions they travelled to Sydney in connection with their Parliamentary duties. Such documentation could include airline boarding passes for arrival and departure from Sydney or any other documentary evidence of having travelled to Sydney in connection with Parliamentary duties.

2. Logistic Support Allocation

Purpose and Operation of the Provision

The Clerks of the Parliament will establish a Logistic Support Allocation Account for each Member. Each Member's Logistic Support Allocation Account may be applied for the following purposes:

- * All interstate and intrastate transport for Parliamentary business (any mode) excepting electorate to Sydney travel.
- * Taxi travel
- * Staff travel costs (training excluded)
- * Airport parking
- * Transport expenses for Members spouse or other approved relative
- * Home telephone, facsimile and internet call charges for official business
- * Mobile telephone call charges and network access fees.
- * Mail distribution and postal delivery services.
- * Post Office box rental.
- * Fax Post, Express Post and Lettergram Services
- * Postage stamps
- * All stationery costs
- * Courier and Freight charges for delivery of stationery or equipment to electorate or home office
- * Costs associated with photocopying.
- * Printing (both Parliament house and external providers)
- * Publication services at Parliament House.
- * Developing and hosting a web page for individual Member
- * Minor office equipment purchases up to \$2,000
- * Any maintenance charges relating to these minor equipment purchases.
- * Computer software

Entitlement

Each Member and Recognised Office Holder of the Legislative Assembly who resides in one of the following electorate groups will be entitled to an annual allocation for the Logistic Support Allocation as follows:

<u>Electorate Group</u>	<u>Entitlement</u>
Group 1	\$25,340
Group 2	\$28,410
Group 3	\$30,410
Group 4	\$30,410
Group 5	\$30,410
Group 6	\$30,410
Group 7	\$32,410
Group 8	\$32,410

Each Member and Recognised Office Holder of the Legislative Council who resides in one of the following zones will be entitled to an annual allocation for the Logistic Support Allocation as follows:

Zone	Entitlement
Group 1	\$17,110
Group 2	\$17,640
Group 3	\$26,320

Recognised Office Holders are entitled to further additional entitlements as specified in Schedule 3.

Shadow Ministers are entitled to further additional entitlements equivalent to a 40% loading on the printing and stationery component of the Logistic Support Allocation.

General Conditions

The following general conditions shall apply to the Logistic Support Allocation Account:

1. Subject to these conditions, each member shall determine at his/her own discretion the use of the funds within this Account for the purpose and operations specified above.
2. It is the primary responsibility of Members to ensure that they manage their Logistic Support Allocation Account to ensure that they do not over-expend their budgets. No supplementation of this Allocation will be allowed by the Tribunal. However, the Logistic Support Allocation is not intended to restrict the proper use of the electoral allowance, which may be used to meet any expense referred to in the 'purpose and operations' section of this clause.
3. Members may not use their Logistic Support Allocation to procure goods or services to be used for electioneering purposes or political campaigning.
4. Any unused funds remaining in the Member's account at the end of each term of the Parliament are to be returned to the Consolidated Fund. The unused funds will be calculated on a financial year basis but no requirement to return funds will arise until the end of each four year term or the earlier dissolution of the Legislative Assembly.
5. Accounts will be paid either directly by the Parliament and debited to a Member's account or paid in the first instance by the Member who would then seek reimbursement from the Parliament.
6. Members must personally authorise expenditure from their Logistic Support Allocation.

Whilst, subject to the further conditions, Members may determine at their discretion the use of the funds available for any purpose and operation specified in this clause, the following table outlines the basis upon which the Tribunal has established the quantum of the account for future assessment. The table shall be used for the future assessment of the Allocation and for particular purposes such as the calculation of additional entitlements for Recognised Office Holders and Shadow Ministers.

Electorate Group or Zone	Transport	Communication –electronic	Communication –non-electronic	Printing and Stationery and Office Supplies	Total Logistic Support Allowance
Legislative Assembly					
Group 1	\$4,000	\$3,210	\$11,770	\$6,360	\$25,340
Group 2	\$6,000	\$4,280	\$11,770	\$6,360	\$28,410
Group 3	\$8,000	\$4,280	\$11,770	\$6,360	\$30,410
Group 4	\$8,000	\$4,280	\$11,770	\$6,360	\$30,410
Group 5	\$8,000	\$4,280	\$11,770	\$6,360	\$30,410
Group 6	\$8,000	\$4,280	\$11,770	\$6,360	\$30,410
Group 7	\$10,000	\$4,280	\$11,770	\$6,360	\$32,410
Group 8	\$10,000	\$4,280	\$11,770	\$6,360	\$32,410
Legislative Council					
Zone 1	\$4,000	\$3,750	\$3,000	\$6,360	\$17,110
Zone 2	\$4,000	\$4,280	\$3,000	\$6,360	\$17,640
Zone 3	\$10,000	\$6,960	\$3,000	\$6,360	\$26,320

Particular Conditions.

Transport (Other than Electorate or Electorate to Sydney transport)

1. A Member may use any form of transport within Australia subject to the requirement that the transport was used for Parliamentary or electorate duties and that the cost was reasonable.
2. A Member may travel to any place in Australia, subject to the requirement that all such travel must be for Parliamentary duties and that there must be, at the time of the making of the relevant reservation, sufficient funds in that Member's Account to pay for the expenses involved.
3. All transport costs associated with spouse/approved relative or Members staff travel (excluding travel costs associated with staff training) are to be provided from the Logistic Support Allocation Account. Staff training costs are to be met by the Legislature.
4. Members and their spouses/approved relatives, when travelling in connection with their Parliamentary duties, may claim reasonable actual accommodation and meal expenses from the Members' Logistic Support Allocation. The reimbursement of these expenses may not exceed \$209 per night for capital cities and \$131 per night for other areas.
5. A Member and his or her spouse or approved relative may travel together or separately in connection with attendance at a function in the course of Parliamentary duties.
6. A Member may use taxis or hire cars for Parliamentary duties.
7. A Member's air transport bookings for Parliamentary duties are to be made through the booking agent nominated in the NSW government travel contract, for all types of transport covered by the contract. Should the official NSW government travel booking agent not offer a booking service required by a Member for Parliamentary duties, the Member's transport bookings for that service may be made directly with the transport provider.

8. 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.
9. Members should require their staff to maintain records which clearly document the occasions they stayed in Sydney in connection with their parliamentary duties. Such documentation may include airline boarding passes for arrival and departure from Sydney or any other documentary evidence of having travelled and stayed in Sydney accommodation in connection with Parliamentary duties.
10. A Member may use charter transport in connection with Parliamentary duties, but only within the limits of the Member's individual Logistic Support Allocation. No passenger, except the Member's spouse or an approved relative accompanying the Member on Parliamentary duties, may be carried at the cost of the Member's Logistic Support Allocation entitlement. Where more than one Member is travelling on the air charter, the total air charter cost should be covered by arrangement between the Members travelling.
11. It is a condition of all air transport charters that the Member responsible for organising the charter obtain a passenger manifest from the charter operator and attach it to the invoice when it is submitted for payment to the Legislature.

Communication – electronic

1. The Tribunal accepts that there will be some private usage in connection with mobile telephones supplied by the Parliament and electronic communication equipment installed at public expense in a Members' principal place of residence. To ensure the Legislature does not pay Fringe Benefits Tax for the private usage of electronic equipment, the Financial Controller will undertake a survey over an appropriate period of time to ascertain public/private percentage use of Members' home telephones. Once established Members will be reimbursed the parliamentary business cost of each home telephone call account and an adjustment shall be made to previous accounts reimbursed

from the effective date of this determination on or from the date of election, whichever is the later.

2. The parliamentary business use component of the following telecommunication services are eligible for reimbursement:

- Directory assistance charges (only applies to business lines).
- Call connect charges (extension of directory assistance)
- Messagebank
- Call waiting
- Call forwarding/diversion
- Last unanswered call recall
- Telephone director charges for home telephone listings (which are in addition to standard free entry).

3. The following Recognised Office Holders shall be entitled to 100% reimbursement for electronic-communication costs including overseas calls for Parliamentary business.

- Ministers
- Presiding Officers
- Leader of the Opposition (Assembly and Council)
- Leader of a Party not less than 10 Members in the Legislative Assembly
- Chairman of Committees (Assembly and Council)
- Deputy Speaker
- Deputy Leader of the Opposition (Assembly and Council)
- Deputy Leader of a Party not less than 10 Members in the Legislative Assembly
- Parliamentary Secretaries (Assembly and Council)
- Government and Opposition Whips (Assembly and Council)
- Whip of a third party with not less than 10 Members (Legislative Assembly)
- Deputy Whips (Legislative Assembly)

4. A fax line installed at Legislative Council Members home office continue to be reimbursed at the rate of 100%.

5. Call and rental charges pertaining to a data line installed at Legislative Council Members' home offices be reimbursed at the rate of 100% subject to the line being used for Parliamentary duties.
6. Members will be required to meet the cost of all overseas calls, other charged information/service calls, reverse charge calls and home-link Telecard calls.
7. Accounts will be paid either directly by the Parliament and debited to a Member's account or paid in the first instance by the Member who would then seek reimbursement from the Parliament.

Communication - non-electronic

Members are permitted to purchase postage stamps or other mail distribution and delivery services and make arrangements for payment direct by the Parliament or obtain reimbursement by providing substantiation in accordance with the requirements of the Parliament's administration.

Printing, stationery and Office Supplies

1. Members may only use the printing, stationery and office supplies entitlement for Parliamentary duties.
2. The entitlement may be used to purchase printing, stationery and office supplies from the Parliament or other providers and in accordance with Parliamentary procurement policies and practices.
3. A Member may not use their printing, stationery and office supplies allowances to procure goods or services to be used for electioneering purposes or political campaigning.
4. The purchase of computer software from the Logistic Support Allocation is subject to the following conditions:

- The software will not be supported by the Parliament's I.T. Section.
- The software is required to be removed from the computers supplied by the Parliament if there is any conflict with the Parliament's computer network
- The software is not to be used for political campaigning or electioneering purposes.

ELECTORATE CHARTER TRANSPORT FOR MEMBERS OF THE LEGISLATIVE ASSEMBLY

Purpose and operation of the provision

Members of the largest electorates (Electoral Groups 5-8) shall be provided with an allowance from which are met charter transport costs incurred within their electorates. For the purposes of this allowance "charter transport" means charter transport used with and for the service of the Member's electorate and includes charter aircraft, drive yourself vehicles and any other mode of charter transport which may be deemed appropriate in the circumstances by the Speaker of the Legislative Assembly.

Entitlement

Members of the Legislative Assembly in the following electorate groups shall be entitled to charter transport allowance up to the maximum amount shown below:

<u>Electorates</u>	<u>Entitlement</u>
Group 8	\$16,980
Group 7	\$11,250
Group 6	\$9,180
Group 5	\$5,620

Conditions

The following conditions shall apply in respect of Charter Transport Allowance:

1. This allowance shall only be used in connection with Parliamentary duties within the Member's electorate and shall not be used during election campaigns or for other electioneering or party political activities.
2. Only the cost of the Member's spouse or approved relative or member of staff accompanying the Member may be met from this allowance.
3. It is a condition of all air transport charters that the Member responsible for organising the charter obtain a passenger manifest from the charter operator and attach it to the invoice when it is submitted for payment to the Legislature.

4. Members are to meet the cost of the air charter and seek reimbursement from the Financial Controller with appropriate certification as to the purpose of the charter.
5. The charter transport shall only be used within and for the service of the Member's electorate. Where the only source of available charter transport is outside the boundaries of the electorate, the reasonable additional expenses consequently incurred may be included in the reimbursement available under this determination.
6. These additional entitlements shall be audited annually for compliance. In addition to any internal audit conducted by the Parliament, Members additional entitlements shall be the subject of an external audit conducted by the Auditor General of NSW. The cost of any auditing shall be met by the Parliament. Members should ensure they maintain appropriate records of expenditure.

TRAVELLING ALLOWANCE FOR RECOGNISED OFFICE HOLDERS

When travelling on official business Recognised Office Holders shall be paid a travel allowance in addition to other transport allocations within this determination in accordance with Table 2 below:

TABLE 2

Recognised Office Holder	CAPITAL CITIES (incl. Canberra)	OTHER AREAS	WHERE NO OVERNIGHT STAY IS REQUIRED
Premier	\$348	\$192	\$87
Ministers	\$280	\$159	\$70
President of the Legislative Council and Speaker of the Legislative Assembly	\$280	\$159	\$70
Leader and Deputy Leader of the Opposition in the Legislative Council	\$280	\$159	\$70
Leader and Deputy-Leader of the Opposition in the Legislative Assembly	\$280	\$159	\$70
Leader and Deputy Leader of a Recognised Political Party of which not less than ten Members are Members of the Legislative Assembly	\$280	\$159	\$70
Chairman of Select, Joint Standing and Public Accounts Committees	\$280	\$159	\$70
Members of Select, Joint and Public Accounts Committees	\$209	\$131	\$51

The following conditions shall apply in respect of this allowance:

1. To be eligible for travelling allowance, Recognised Office Holders will need to be absent from Sydney or their electorate/principle home residence for a period in excess of six hours where no overnight absence is involved. Where absence overnight is involved, the absence must extend six hours beyond the first period of twenty-four hours before a second day's

allowance is payable. The second day's allowance is as shown in the column headed "Where no overnight stay is involved".

2. On occasions when the rates of travelling allowance set out above prove to be insufficient, reimbursement of actual and reasonable expenses shall be allowed, subject to the production of tax invoices/receipts relating to accommodation, meal and other incidental expenses by the Recognised Office Holder concerned.
3. A Recognised Office Holder whose spouse accompanies him or her to a State or other official function and who consequently incurs expenses in respect of meals and accommodation for Recognised Office Holder and spouse exceeding the allowance to which he or she is entitled as indicated above, shall be entitled to be reimbursed the additional expenses associated with the spouse. This provision applies to the "approved relative" of a Recognised Office Holders in a case where there is no spouse.
4. 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.

TRAVELLING ALLOWANCE FOR SHADOW MINISTERS

Shadow Ministers shall be paid a travel allowance in addition to other transport allocations within this determination in accordance with the following table:

TABLE 3

Office Holder	CAPITAL CITIES (incl. Canberra)	OTHER AREAS	WHERE NO OVERNIGHT STAY IN REQUIRED
Shadow Ministers	\$209	\$131	\$51

The following conditions shall apply in respect of this allowance:

1. To be eligible for travelling allowance, Shadow Ministers will need to be absent from Sydney or their electorate/principal home residence for a period in excess of six hours where no overnight absence is involved. Where absence overnight is involved, the absence must extend six hours beyond the first period of twenty-four hours before a second day's allowance is payable. The second day's allowance is as shown in the column headed "Where no overnight stay is involved".
2. On occasions when the rates of travelling allowance set out above prove to be insufficient, reimbursement of actual and reasonable expenses shall be allowed, subject to the production of tax invoices/receipts relating to accommodation, meal and other incidental expenses by the Shadow Minister concerned.
3. A Shadow Minister whose spouse accompanies him or her to a State or other official function and who consequently incurs expenses in respect of meals and accommodation for Shadow Minister Holder and spouse exceeding the allowance to which he or she is entitled as indicated above, shall be entitled to be reimbursed the additional expenses associated with the spouse. This provision applies to the "approved relative" of a Shadow Minister in a case where there is no spouse.
4. Those Shadow Minister for whom non-Parliamentary funded budgets are provided are to meet travel allowance costs from those budgets and not from the Parliament.

EQUIPMENT, SERVICES AND FACILITIES

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

1. All members shall receive at the Parliament House, Sydney, a fitted out, equipped and maintained office, and secretarial services.
2. Each Member of the Legislative Assembly shall receive a fitted out, equipped and maintained Electorate Office to an appropriate standard. The Member for Murray-Darling is to be provided with an additional electorate office.
3. Each Member shall be supplied equipment and ancillary services in the Member's private residence (or if the Member has more than one private residence then in the Member's principal private residence) including a telephone and a facsimile machine, for the performance by the Member of Parliamentary duties.
4. Each Member shall receive portable equipment to supplement the provision of equipment as referred to in clauses 1, 2 and 3 above, except where such equipment is already provided by the Executive Government. This portable equipment shall include, but is not limited to, a mobile telephone and a notebook computer.
5. Each Member of the Legislative Council shall have a separate data line installed in their home office to provide access to the Parliament's secure computer network..
6. The presiding officers are to provide administrative support to each Member in accordance with the following:
 - (i) Subject to (ii), each Member of the Legislative Assembly shall have two staff members employed at each electoral office.

- (ii) Each Member of the Legislative Assembly elected as an Independent shall have an additional staff member employed at his/her electoral office.
- (iii) Each Member of the Legislative Council, who is not a Minister, shall be entitled to one staff member.
- (iv) Each Member of the Legislative Council, who is not a Minister, and who is elected as a cross bench Member shall be entitled to two staff members.
- (v) Ministers shall receive a reasonable allocation of staff members.
- (vi) This provision specifies the minimum staffing required in electorate offices. Nothing in this determination removes from the employer of staff the obligations arising under the Occupational Health and Safety Act 1983.

Dated this 15th of August 2001.

The Hon (Justice) Michael Walton
THE PARLIAMENTARY REMUNERATION TRIBUNAL

ELECTORAL GROUPS**SCHEDULE 1**

Group 1 Electorates		
1. Auburn	17. Granville	33. North Shore
2. Bankstown	18. Heffron	34. Parramatta
3. Baulkham Hills	19. Hornsby	35. Penrith
4. Blacktown	20. Kogarah	36. Pittwater
5. Bligh	21. Ku-ring-gai	37. Port Jackson
6. Cabramatta	22. Lakemba	38. Riverstone
7. Campbelltown	23. Lane Cove	39. Rockdale
8. Canterbury	24. Liverpool	40. Ryde
9. Coogee	25. Macquarie Fields	41. Smithfield
10. Cronulla	26. Manly	42. Strathfield
11. Davidson	27. Maroubra	43. The Hills
12. Drummoyne	28. Marrickville	44. Vaucluse
13. East Hills	29. Menai	45. Wakehurst
14. Epping	30. Miranda	46. Wentworthville
15. Fairfield	31. Mount Druitt	47. Willoughby
16. Georges River	32. Mulgoa	
Group 2 Electorates		
1. Blue Mountains	7. Illawarra	13. Peats
2. Camden	8. Keira	14. Swansea
3. Charlestown	9. Kiama	15. The Entrance
4. Gosford	10. Lake Macquarie	16. Wallsend
5. Hawkesbury	11. Londonderry	17. Wollongong
6. Heathcote	12. Newcastle	18. Wyong

SCHEDULE 1

Group 3 Electorates		
1. Ballina	5. Myall Lakes	8. South Coast
2. Cessnock	6. Port Macquarie	9. Southern Highlands
3. Coffs Harbour	7. Port Stephens	10. Tweed
4. Maitland		
Group 4 Electorates		
1. Albury	4. Dubbo	7. Oxley
2. Bathurst	5. Lismore	8. Tamworth
3. Bega	6. Orange	9. Wagga Wagga
Group 5 Electorates		
1. Burrinjuck		
2. Clarence		
3. Monaro		
4. Northern Tablelands		
Group 6 Electorates		
1. Lachlan		
2. Murrumbidgee		
3. Upper Hunter		
Group 7 Electorates		
1. Barwon		
Group 8 Electorates		
1. Murray-Darling		

SYDNEY ALLOWANCE GROUPINGS**SCHEDULE 2**

Category 1		
1. Blue Mountains	7. Heathcote	13. Newcastle
2. Camden	8. Illawarra	14. Peats
3. Campbelltown	9. Keira	15. Swansea
4. Charlestown	10. Kiama	16. The Entrance
5. Gosford	11. Lake Macquarie	17. Wallsend
6. Hawkesbury	12. Londonderry	18. Wollongong
		19. Wyong

Category 2		
1. Albury	11. Lachlan	20. Oxley
2. Ballina	12. Lismore	21. Port Macquarie
3. Barwon	13. Maitland	22. Port Stephens
4. Bathurst	14. Monaro	23. South Coast
5. Burrinjuck	15. Murray-Darling	24. Southern Highlands
6. Bega	16. Murrumbidgee	25. Tamworth
7. Cessnock	17. Myall Lakes	26. Tweed
8. Clarence	18. Northern Tablelands	27. Upper Hunter
9. Coffs Harbour	19. Orange	28. Wagga Wagga
10. Dubbo		

LEGISLATIVE COUNCIL ZONES**SCHEDULE 2A**

Zone 1 Electorates		
1. Auburn	17. Granville	33. North Shore
2. Bankstown	18. Heffron	34. Parramatta
3. Baulkham Hills	19. Hornsby	35. Penrith
4. Blacktown	20. Kogarah	36. Pittwater
5. Bligh	21. Ku-ring-gai	37. Port Jackson
6. Cabramatta	22. Lakemba	38. Riverstone
7. Campbelltown	23. Lane Cove	39. Rockdale
8. Canterbury	24. Liverpool	40. Ryde
9. Coogee	25. Macquarie Fields	41. Smithfield
10. Cronulla	26. Manly	42. Strathfield
11. Davidson	27. Maroubra	43. The Hills
12. Drummoyne	28. Marrickville	44. Vaucluse
13. East Hills	29. Menai	45. Wakehurst
14. Epping	30. Miranda	46. Wentworthville
15. Fairfield	31. Mount Druitt	47. Willoughby
16. Georges River	32. Mulgoa	
Zone 2 Electorates		
1. Blue Mountains	7. Illawarra	13. Peats
2. Camden	8. Keira	14. Swansea
3. Charlestown	9. Kiama	15. The Entrance
4. Gosford	10. Lake Macquarie	16. Wallsend
5. Hawkesbury	11. Londonderry	17. Wollongong
6. Heathcote	12. Newcastle	18. Wyong

LEGISLATIVE COUNCIL ZONES**SCHEDULE 2A**

Zone 3 Electorates		
1. Albury	11. Lachlan	21. Port Macquarie
2. Ballina	12. Lismore	22. Port Stephens
3. Barwon	13. Maitland	23. South Coast
4. Bathurst	14. Monaro	24. Southern Highlands
5. Bega	15. Murrumbidgee	25. Tamworth
6. Burrinjuck	16. Murray-Darling	26. Tweed
7. Cessnock	17. Myall Lakes	27. Upper Hunter
8. Clarence	18. Northern Tablelands	28. Wagga Wagga
9. Coffs Harbour	19. Orange	
10. Dubbo	20. Oxley	

**RECOGNISED OFFICE HOLDER AND
OTHER MEMBER ENTITLEMENTS**

SCHEDULE 3

Recognised Office Holder	Transport	Communication (electronic)	Communication (non-electronic)	Printing & Stationery
Presiding Officer	30%		55%(A) 175%(C)	40%
Minister				40%
Deputy Speaker, Chair of Committees				40%
Leader of the Opposition	20%(A)		140%(A) 175%(C)	40%
Deputy Leader of the Opposition			15%(C)	40%
Whips			15%(C)	40%
Party Leader (not less than 10 Members)	15%			20%
Deputy Party Leader (not less than 10 Members)	10%			40%
Leader of the National Party (in Opposition with not less than 10 Members in LA)	15%		15%	40%
Other Recognised Office Holders				40%
Shadow Ministers				40%
Independent Members				20%

- Where entitlements formerly provided for the recognised office holder's spouse these have been included in the allocation.
- Where an entitlement is followed by (A) or (C) it applied only to the office holder in either the Assembly or the Council.

Advice of the Secretary of Treasury Pursuant to Section 13(5) of the Parliamentary Remuneration Act, 1989

The following comments on the Parliamentary Remuneration Tribunal's 2001 annual determination are made pursuant to Section 13 (5) of the Parliamentary Remuneration Act, 1989 by the Secretary of the Treasury.

Financial Implications

The 2001 annual determination is fundamentally consistent with the previous determination and the NSW Budget Administration and Policy framework.

The table below shows the variation in entitlements over the 2000 determination.

For the purpose of calculating the financial costs, the estimates are based on the 2000 composition of the Legislative Assembly and the Council membership. It is also assumed that there were no changes to the electorate groupings. Estimates have not been provided where the maximum remuneration limits for the particular allowances are not defined. Sydney allowance is calculated on annual amount allocated to members and Committee Allowance is calculated for Public Accounts Committee only since other ad hoc committees cannot be estimated.

ENTITLEMENT	2000 DET.	2001 DET.	INCREASE
Electoral Allowance	\$4,929,585	\$ 5,225,195	\$ 295,610
Sydney allowance**	\$1,074,150	\$ 1,138,599	\$ 64,449
Committee Allowance***	\$ 13,700	\$ 13,700	No Change
Electorate to Sydney Travel	Not Est.	Not Est*	No Change
Logistic Support Allocation	\$3,109,600	\$ 3,331,460	\$ 221,860
Electorate Charter Transport	\$ 78,250	\$ 78,250	No Change
Travelling Allowance for recog. Off. holders	Not Est.	Not Est.	No Change
Travelling Allowance for Shadow Minist.	Not Est.	Not Est.	No Change
Equipment, Services & Facilities	Not defined	Not defined	Not defined
TOTAL MINIMUM EXPENDITURE	\$9,205,285	\$ 9,787,204	\$ 581,919

Member entitlements have increased by \$581,919 over the 2000 determination, which represents a 6.3% rise. This is in line with the Sydney CPI of 6.2% for year 2000-01. Treasury has been advised that the increase will be accommodated through savings realised from under expenditure by members and projected savings on protected items.

Accountability and Control

The accountability mechanisms have been strengthened by requiring that members maintain appropriate expenditure records for audit by NSW Auditor General, and by personally authorising expenditure on their Logistics Support Allocation

Robert Carling
Acting Secretary