

**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

29 JUNE 2005

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

INTRODUCTION

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 year or on such later date as the President of the Industrial Relations Commission of New South Wales determines.

Section 13 (1) of the Act requires that the Tribunal make a report to the President of the Industrial Relations Commission of New South Wales 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 7 March 2005 the Tribunal commenced proceedings in relation to the annual Determination required for the year 2005 by writing to all Members and inviting submissions. The Tribunal received submissions from the major political parties, individual Members, the Presiding Officers, the Auditor General and the Commissioner, Independent Commission Against Corruption.

Part One of this report will outline general matters raised as part of the annual review and any adjustments to additional entitlements. In regard to the general review, the Tribunal has made changes that are considered minor or of an administrative nature to the Determination without the need for detailed separate reasons being provided. The submissions have, however, also raised a number of substantive issues which, in the Tribunal's view, merit further consideration.

Part Two of the Report will comprise the Tribunal's review of the Sydney Allowance. The Tribunal's Sydney Allowance Special Reference has now been completed, in accordance with section 12 of the Act, and incorporated into the 2005 Annual Report and Determination

A summary of the 2005 Determination will appear at the end of the Report.

PART ONE

1. GENERAL MATTERS RAISED

Additional Entitlements for Shadow Ministers

The Tribunal has heard representations from Members of the Liberal and National Parties for the reinstatement of additional entitlements for Shadow Ministers.

The Tribunal continues to support the provision of additional entitlements for Shadow Ministers. Shadow Ministers perform an important role in our system of government and, to perform this role properly, require sufficient resources and support.

The Tribunal notes that an amendment to the Act is required. While this is a matter for the Government, the Tribunal would recommend again that the Act be amended to allow for additional entitlements to be provided to Shadow Ministers.

Publication of Members' Additional Entitlements

The Auditor-General in his Report to Parliament 2005 again recommended that Members' expenditure be published. As with the 2004 Report the Auditor-General considers that the publication of individual Members' spending of additional entitlements would increase transparency and accountability to the NSW public.

The Tribunal considered this matter as part of the 2004 annual review and found that the information available to both Members and the public in regard to additional entitlements was adequate. The Tribunal did indicate, however, that it was willing to further consider the issue during the 2005 annual review and welcomed submissions from the Auditor General and members in regard to this matter.

The Tribunal has received one submission in regard to the publication of members' expenditure from the Electorate Allowance. No submission has been received from the Auditor General in regard to this matter.

Based on the information provided the Tribunal remains of the view that the publication of individual Members' spending of additional entitlements, including the electoral allowance, is not necessary. Sufficient guidelines are provided to Members to encourage transparency and accountability to the NSW public.

Definitions

In March 2005, following a request from the Presiding Officers, the Tribunal made a Ruling in regard to the definition of the "approved relative". The previous definition implied that members with either a de facto spouse or partner could nominate either that person or another member of the immediate family as their approved relative. As this was not the intention of the Tribunal the definition has been amended to provide that where a member has a spouse or de facto spouse or partner, then entitlements are not available to any other person.

REVIEW OF ADDITIONAL ENTITLEMENTS

Electoral Allowance

The Tribunal has received a number of submissions seeking adjustments to the Electoral Allowance in line with movements in the Consumer Price Index (CPI) having particular regard to the high cost of fuel. The submissions sought an increase beyond the general CPI for this purpose.

While the Tribunal accepts that fuel costs have risen the Tribunal does not believe that it should pick and choose components of the CPI when determining a general increase. While motor vehicle costs are, for most Members, a significant component of the electoral allowance there are a range of other expenses included as well. For this review the Tribunal has adopted its standard approach and increased electoral allowance by the general CPI increase of 2.4 per cent.

Sydney Allowance

The Tribunal's review of the Sydney Allowance is contained in Part 2 of this report.

Logistic Support Allocation (LSA)

The Tribunal determines a list of items which may be funded from a Member's LSA. Based on the submission received from the Presiding Officers, the Tribunal has amended this list to broaden the number of electronic communication services which can be provided to Members and funded from this account. Broadband packaging now means that Members can bundle a range of telecommunication services (telephone, internet, fax) on the one line with one fee including rental. For administrative simplicity, home telephone rental costs have been incorporated into the LSA for Members of the Legislative Assembly and Legislative Council. Members can also use the LSA for internet and broadband access fees for official business. In doing so, Members may be able to make savings by combining more than one electronic communication service. Members of the Legislative Council who choose not to or cannot connect to Broadband services can continue to have their data line reimbursed at the rate of 100%.

For the 2005 review the Tribunal has provided an increase of 3.5% to the LSA. This amount comprises an adjustment in line with the CPI ie., 2.4% and an additional sum to cover additional expenses in the electronic communication component of the LSA.

Committee Allowance

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

Member's salaries were increased from 1 July 2004 by 3.92 percent. In accordance with normal practice, therefore, the Committee Allowance will be increased by 3.92 percent.

Electorate Mail-out Account (EMA)

The EMA has been adjusted to reflect recent enrolment statistics. In addition, a number of changes to the conditions have been made to address comments made by the Audit Office of NSW. The Tribunal endorses the Parliament's administrative guidelines in regard to the use of the EMA.

The Tribunal received one submission from a political party in the Legislative Council seeking the abolition of the EMA. The EMA is provided to all Members of the Legislative Assembly for the express purpose of communicating with their constituents. The Tribunal can see no reason why the EMA should be abolished. The costs associated with the EMA are listed in the Determination. The money is not provided to Members, but rather Members expend money against the total amount. The Tribunal is informed that the content of the newsletters is reviewed by the Clerk of the Legislative Assembly to ensure it complies with the conditions.

The Tribunal has also received correspondence from the ICAC regarding the conditions applicable to the EMA. The Commission is concerned that the EMA could be misused by Members and considers that an additional condition be included which states that the EMA must not be used for electioneering or political campaigning.

The Tribunal has considered this matter carefully but is not convinced that such a condition is warranted. It should be noted that the Tribunal's Guidelines clearly state that additional entitlements are provided to facilitate the efficient performance of parliamentary duties but that such duties exclude activities in the nature of direct electioneering or campaigning. The Tribunal is also aware that prior to publication of the newsletters to constituents Members are required to have the contents checked by the Clerk of the Legislative Assembly to ensure the above guidelines are not breached.

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

In 2004 the Tribunal amended the provisions of the Charter Transport Allowance to enable eligible members to be able to access their closest charter transport provider whether that be located inside or outside of their electorate for travel within the Members' electorate. Further flexibility is now sought for the use of this entitlement.

Firstly, an amendment is sought to enable members to use their Charter Transport Allowance to attend regional meetings held outside their electorate. An example being where a government department arranges a meeting at a large regional centre and Members of Parliament from surrounding electorates are invited to attend. The Tribunal considers that the use of the entitlement in this manner is appropriate. Members should first seek approval to use this allowance to attend such meetings from the Presiding Officers. Members should be able to satisfy the Presiding Officers that the purpose of the journey relates to electorate business.

Secondly, an amendment has been sought to allow Members to use their Charter Transport Allowance to fly to an airfield located outside their electorate in circumstances where there is no suitable airfield located in the part of the electorate being visited by the Member. In these circumstances, the Tribunal determines that the Member, rather than drive long distance, flies to the relevant airfield outside his/her electorate and then drives back to the electorate to conduct electorate business.

Electorate to Sydney Travel Warrants

Approval has been sought to extend the use of travel warrants to travel to adjoining electorates to connect to flights to and from Sydney where such services are more frequent. In doing so, Members have sought to extend the value of the warrant to include the cost of travel to and from the airport. For example, one warrant would be used to fund hire car costs for travel from the Members home to the airport and the price of a commercial flight to Sydney.

Under current arrangements Members are provided with warrants to travel to and from Sydney and their electorate/principal place of residence. The warrant covers the cost of air travel or the equivalent private/rental vehicle costs. If a Member is required to travel to an airport some distance from their home, any additional costs ie hire car/taxi/car parking must be paid from either the

Members' LSA or Electoral Allowance. It has also been suggested that Members in receipt of the Charter Transport Allowance use this allowance to pay for these additional costs.

At this time the Tribunal considers it appropriate that Members continue to use either their LSA or Electoral Allowance to fund any additional costs associated with electorate to Sydney travel. The Tribunal would be interested in receiving further information in regard to this issue for the 2006 annual review.

Travelling Allowances for Recognised Office Holders

The Tribunal has undertaken a review of the travelling allowances paid to Recognised Office Holders. The Tribunal's Determination is based on those rates provided to NSW Public Servants and those deemed "reasonable" by the Australian Taxation Office (ATO). In both the NSW Public Sector and ATO guidelines, travel allowances are differentiated on the basis of destination and salary level of officer.

Staff

The Tribunal has received a number of submissions in regard to the level of staffing provided to Members. Concern has been expressed that the number of staff employed in electorate offices is insufficient given the increased workloads and demands placed on these staff. Additionally the Tribunal has also received submissions that staffing for Recognised Office Holders, in particular the Whips, is inadequate.

Rather than make a determination at this time the Tribunal would prefer to consider the whole matter of staffing more fully. In this regard, the Tribunal intends to undertake a thorough review of the allocation of staff to all Members. On completion of the annual review the Tribunal will write to the Premier seeking a special reference to review all aspects of the allocation of staff. The Tribunal will seek further information from both Members and the Parliament at that time.

PART TWO – SYDNEY ALLOWANCE REVIEW

1. INTRODUCTION

The Tribunal, in its 2003 Annual Report highlighted the need for a major review of the Sydney Allowance. At the Tribunal's request, the Premier, the Hon Bob Carr MP, on 15 October 2003 issued a Special Reference pursuant to section 12 of the Parliamentary Remuneration Tribunal Act 1989 ("the Act") to review the Sydney Allowance. Section 12 of the Act provides that:

- "(1) The Minister may direct that a special determination be made as regards additional entitlements.*
- (2) Such a direction:*
- (a) may relate to all or any additional entitlements or to any class of them, and*
 - (b) may relate to all or any individual members and recognised office holders or to any class of them.*
- (3) A special determination is to be made by such time as the Minister directs and is to take effect from such time as the Tribunal specifies in the determination."*

Prior to making its Report and Determination the Premier, in April 2004, wrote to the Tribunal advising of expenditure restrictions being imposed on the public sector and seeking the Tribunal's concurrence to defer making the determination for 12 months. The Tribunal agreed to the Premier's request. The Premier extended the completion date of the Sydney Allowance review to 31 March 2005.

In February 2005 the Tribunal wrote to the Premier seeking a further extension to 31 May 2005 – coinciding with the completion of the Tribunal's annual review of Members' entitlements - to allow the Tribunal sufficient time to consult and examine more closely recommendations arising from the ICAC's *Report on the investigation into the conduct of the Hon Peter Breen MLC* (the Breen Report). The Premier agreed to this request.

As a result, the Sydney Allowance Special Reference now forms part of the Tribunal's 2005 annual report and determination into Members' additional entitlements.

2. REVIEW

The Tribunal in October 2003 wrote to those Members currently in receipt of the Sydney Allowance as well as the Presiding Officers and the Auditor General. These matters were investigated in March 2004.

In March 2005 the Tribunal again wrote to those members and Presiding Officers seeking any additional comments and, in particular, any specific matters relating to the definition of 'principal place of residence' the Tribunal should consider. The Tribunal also wrote to the Auditor General and the Independent Commission Against Corruption (ICAC) seeking any views on matters the Tribunal should consider in developing a definition of 'principal place of residence'.

Matters arising from March 2004 review

The Tribunal received responses from the major parties, the Auditor General and some Members. The Presiding Officers, the administrators of the scheme, advised that they would not be making a submission but did give the Tribunal permission to obtain information from parliamentary officers.

The issues canvassed in the submissions requiring consideration were:

- (i) Whether the current number of overnight stays in Sydney is adequate for Members to carry out their parliamentary duties?
- (ii) Whether the daily rate is sufficient for Members to meet the cost of commercial accommodation, rents or mortgages on properties acquired as a result of having to spend a significant amount of time in Sydney on parliamentary duties?
- (iii) Whether the repayment provisions of the Annual Sydney Allowance should be removed thus restoring the annual entitlement to previous arrangements?
- (iv) Whether the Tribunal should develop a definition of 'principal place of residence'?

Matters arising from the March 2005 Review.

Submissions concerning various aspects of the Sydney Allowance were again received from the major parties, the Greens, the Auditor General and the ICAC. Most submissions confirmed issues raised as part of the 2004 review. Additional matters for consideration were the possible inclusion of Penrith as an eligible electorate for Sydney Allowance purposes and as well some procedural issues.

Submissions regarding principal place of residence included the suggestion that a time limit be imposed before Members relocating from Sydney to a non metropolitan location are eligible to receive Sydney Allowance. Another suggestion was the retention of the existing Election Form and Administrative Guidelines issued by the Parliament.

The Audit Office considers that the Tribunal should adopt a principle based approach when considering 'principal place of residence.' The ICAC advised that it had commented on this matter in the Breen Report and had no further comments to make. The Presiding Officers made no submission to the Tribunal on this matter.

The Tribunal also met with the representatives from the major parties and wishes to place on record its appreciation to those Members, party representatives and officers of the Parliament who have provided information to the Tribunal.

3. HISTORICAL BACKGROUND

1975 to 1990

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

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

Prior to 1975 there was no specific provision to assist Members of the Legislative Assembly with living away from home expenses. Members of the Legislative Council, however, were provided with a daily "living away from home" allowance presumably in recognition of the relatively low level of remuneration Members of the Legislative Council received at the time. Ministers in the Legislative Council who resided in country electorates were entitled to the annual rate of allowance.

The Tribunal first considered special expense allowances in its report and determination of 3 November 1975 where it was decided to maintain the existing structure of the allowances. Members who resided in those electorates closest to Sydney received a lower allowance than those residing in electorates further away from Sydney. The Tribunal was later to distinguish these electorates as Category 1 and Category 2 electorates. Category 1 electorates were those electorates which were far enough away from Parliament House to require an overnight stay in Sydney particularly when Parliament is sitting. Unlike Members living in the more remote Category 2 electorates, the Category 1 Members do not need to spend Monday nights and/or Thursday nights in Sydney. For this reason Category 1 Members received a lower annual entitlement.

In 1979 the Tribunal removed the distinction between annual "special expense allowances" payable to Members of the Legislative Assembly and daily "living away from home allowances" paid to Members of the Legislative Council. All Members received the annual rate (although the rates between the Legislative Council and Legislative Assembly differed).

At that time it was calculated that the Special Expenses Allowance was equivalent to:

- 61 days (Category 1 Electorate Members)
- 76 days (Category 2 Electorate Members)
- 92 days (Ministers and other Recognised Office Holders)

The Tribunal was satisfied that Members of the Legislative Assembly received the Allowance for purposes other than for sittings of Parliament. In 1978 Members of the Legislative Assembly's allowance equated to 76 days (Parliament sat for 49 days) whereas the Legislative Council received the allowance for actual sittings of Parliament (43 days plus any other visits to Sydney to attend meetings of Joint or Select Committees). The Tribunal set the rate for Legislative Council Members at 90 per cent of the rate for Legislative Assembly Members.

In 1985 the Tribunal determined that the rates for Members of both Houses should be equal. During this time the calculation of the rate was based predominantly on the changes to the costs of living (CPI), rental accommodation costs, etc., and the annual rate increased accordingly.

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

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

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

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

1990

In July 1990 the Tribunal wrote to the then Premier, the Hon Nick Greiner, seeking a special reference to review the allowance. On 26 October 1990 the Tribunal determined that living away from home allowance would only be provided to Members as a daily rate with a maximum number of overnight stays. It is understood that the Tribunal adopted this approach, in response to Members' submissions and to reflect practices in other states. The new daily rates were calculated on the basis that the total would be equivalent to the then annual rate (based on CPI increase).

This determination did not come into effect as the Premier did not direct a commencement date for this determination. The Premier sought a further review to examine whether Members could be provided with an option to receive the allowance either annually or daily. The Premier issued the Tribunal with another special reference to make a determination in regard to this matter by 31 March

1991. The matter was further reviewed and the Tribunal determined on 29 May 1991 that Members had the option to receive the allowance as either a daily rate or as an annual amount.

The Tribunal imposed an upper limit on the number of occasions when Members could claim the daily amount. Additional night stays were permitted and reimbursement of actual and reasonable expenses, but not exceeding the daily rate was permitted. Any reimbursement was subject to the production of accommodation and other expense receipts.

The annual rate was calculated by multiplying the number of determined overnight stays by the daily rate. Members were required to make an election when entering Parliament and that election remained in force for the life of the Parliament.

The Tribunal also set out the three circumstances under which the allowance was payable, namely:

1. **Sittings of Parliament and travel to and from Parliament for such sittings.**
2. **Meetings of a Member's Parliamentary Committee and travel to and from Sydney to attend such meetings.**
3. **Other parliamentary business.**

The Tribunal also introduced, within the overall number of days, a limit on the number of occasions Members could claim an overnight stay for 'other parliamentary business'. This was expressed in brackets beside the number of overnight stays permitted, for example:

Office	Electorate/Residence	Overnight Stays p.a.
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 (50)
Deputy Speaker, Chairman of Committees in the Legislative Assembly and Chairman of Committees in the Legislative Council.	Category 1 or 2	120(25)
Parliamentary Secretary	Category 1	90(25)
	Category 2	120(25)
Other Assembly/Council Members	Category 1	90(25)
	Category 2	120(25)

1995

In March 1995, the Special Expenses Allowance paid to the then Premier, the Hon John Fahey, was the subject of media reports. As the Premier and Member for Southern Highlands (a country electorate), Mr Fahey was receiving the annual Special Expenses Allowance of then \$19,600. At the same time Mr Fahey also had access to and benefited from the Premier's apartment at the State Office Block. The apartment's utility, maintenance and related expenses were met by the State. On 13 March 1995 the Tribunal was asked to consider entitlement to, and discretionary use of, the Special Expense Allowance.

The Tribunal produced an advisory opinion (as opposed to a determination) on 15 March 1995. The advising addressed the general purpose of the allowance and considered whether the allowance's application was limited to accommodation. The Tribunal found that the purpose of the allowance was to reimburse Members for costs incurred in living away from home. The Allowance's application was not limited to accommodation. The opinion indicated that the payments to the former Premier had been in accordance with the scheme. (The allowance is for living away from home and not exclusively for accommodation, although this may be the major cost component).

The Tribunal also found that (par 14):

"the annual allowance is not affected by the nature of the accommodation used when the member is absent overnight from his/her home. For example it is immaterial under the determination as to whether the lodgings used for the overnight stay are a hotel, motel, flat, residence or a relative or friend etc."

In the Auditor General's report to Parliament for 1995 (Volume 2, pp 21-26) the Auditor General undertook a special review of the Special Expenses Allowances. That review discussed the situation associated with Mr Fahey's case and the PRT's response to the matter. The Auditor General recommended that the Tribunal or the Government might wish to consider the appropriateness of Ministers or other Members of Parliament receiving two benefits for the one purpose.

In 1995 the Tribunal increased the number of occasions the allowance could be claimed for 'other parliamentary business' from 25 occasions to 35 occasions. The overall number of overnight stays remained the same.

In the 1996 annual report the Tribunal referred to the comments made by the Auditor General and undertook to review these matters during the 1997 annual review. This matter was then considered

during the 1997 review when the Tribunal determined that Members who claimed the allowance were to certify that whilst in Sydney and in receipt of the allowance they were not utilising government owned or government funded accommodation. If the government funded accommodation was used during the course of the year the Members were required to undertake to repay to the Legislature a proportional amount of the allowance for each such occasion.

The structure of the "special expense allowances" payable to Members remained largely unchanged until the Tribunal's first determination following the 1998 amendments to the Act. This determination was called the Initial Determination.

1999 – 2003

In the Initial Determination the Tribunal introduced the new name of "the Sydney Allowance" to more clearly reflect the nature of the allowance. Members continued to receive the Sydney Allowance towards the costs associated with living away from home whilst in Sydney on parliamentary business or in transit to and from Sydney. In 1999 the Initial Determination retained the number of overnight stays but removed the limit on the number of occasions that could be claimed for other parliamentary business.

In 2001, at the request of the Legislature, the Tribunal amended the conditions by providing that Members in receipt of the daily allowance who exceeded the number of overnight stays would need to substantiate each such occasion.

The new scheme retained a Member's discretion as to how this allowance was expended provided always that it was used to meet the additional costs associated with travelling to and staying in Sydney for sittings of Parliament, participation in Parliamentary Committees or other parliamentary business.

The option of choosing between the daily and annual equivalent was retained.

Daily Allowance

Where a Member chose to receive the daily rate of allowance, the Member was not required to substantiate to the Parliament expenses up to the daily rate. Where daily costs exceeded the daily rate, full substantiation was required for each such occasion.

The daily rate was provided for a specified number of days per annum. When Members' stays exceeded the annual maximum limit they could claim additional days upon certification to the Parliament.

Annual Allowance

When in receipt of the annual allowance Members were required to certify at the end of the financial year the number of occasions they were in Sydney and that on each occasion the stay was for parliamentary business.

Those in receipt of the annual allowance also needed to retain such documentary evidence. Those Members whose overnight stays were less than the number provided for by the annual allowance were required to reimburse the difference to Parliament for the re-credit of the Consolidated Fund. Members were not required to acquit the daily rate of expenditure.

Irrespective of which allowance was received, Members had to substantiate the receipt of this entitlement. In addition to certifying the purpose of the visit to Sydney, it was necessary for Members to retain boarding passes or other documentary evidence for the occasions they were staying in Sydney for parliamentary business.

The Tribunal required that the Sydney Allowance be audited annually for compliance. In addition to any internal audit conducted by the Parliament, the Sydney Allowance was to be the subject of an external audit conducted by the Auditor-General of NSW.

Current entitlement

Approximately 50 percent of Members receive the Sydney Allowance.

The Tribunal determines the Sydney Allowance annually. In 2004 for the purpose of this allowance, the non-metropolitan electorates (Groups 2-8) were divided into two categories based on distance from Sydney. Members whose principal place of residence was in either Category 1 or Category 2 electorates, as specified in Schedule 2 of the determination, were eligible to receive the Sydney Allowance.

2004 Determination

	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	\$180	\$139	\$24,500
Deputy Speaker, Chairman of Committees in the Legislative Assembly and Chairman of Committees in the Legislative Council.	Category 1 or 2	120	\$180	\$139	\$21,000
Parliamentary Secretary/Shadow Minister	Category 1	90	\$180	\$139	\$15,750
	Category 2	120	\$180	\$139	\$21,000
Other Assembly/Council Members	Category 1	90	\$180	\$139	\$15,750
	Category 2	120	\$180	\$139	\$21,000

4. MATTERS FOR CONSIDERATION

Retention of the Annual Allowance

Submissions to the Tribunal from the major political parties have sought a return to the former arrangements whereby the annual Sydney Allowance is retained by Members and acquitted to the Australian Taxation Office ("ATO"). This, it was argued, would provide administrative simplicity for both Members and the Legislature. As a result of the repayment provisions more and more Members were electing to receive the daily rate because it was simpler and because Members were able to claim for the actual number of days in Sydney even if they exceeded the number determined by the Tribunal.

It was further put to the Tribunal that the allowance should not only recognise the costs associated with living and staying in Sydney but also for the dislocation factor requiring Members to be away from their families for a significant period of time each year on parliamentary duties.

The Clerks of the Parliament have provided the Tribunal with data showing Members' election patterns for the Sydney Allowance for those years where figures are complete. These are set out hereunder.

Year*	Annual	Daily
1999/2000	59	8
2001/02	41	29
2003/04	26	43

*2002/03 was not used because it was an election year.

The figures above are very instructive. In 1999/2000 prior to the changes introduced by the Initial Determination, Members overwhelmingly elected to receive the annual allowance. Members in receipt of the annual allowance were able to retain the total amount advanced without substantiation. Expenditure was acquitted with the ATO.

The annual allowance was preferred because of its simplicity and because there was no requirement to acquit. Because it was paid monthly to Members it provided income over a twelve-month period which assisted those Members who had made annual rental/lease arrangements or had mortgaged properties.

The Tribunal has in the past determined either 90 or 120 nights per annum for ordinary Members to be in Sydney on parliamentary business as being reasonable (the number of overnight stays will be discussed below). This equates to approximately 3-4 months and because of House sitting patterns this 3-4 months is spread across an 11-month period each year.

Members have argued, and the Tribunal accepts, that it is difficult to rent properties regularly for this period of time. Most landlords would expect long term leases of at least 12 months and certainly not less than 6 months. Thus, while Members are provided with an annualised allowance which recognises that they will be in Sydney between 3-4 months of the year, those Members renting properties would need to pay rent for periods in excess of the amount provided.

A similar situation exists for those Members who purchase suitable accommodation near Parliament. Such Members are required to make monthly mortgage payments over a twelve-month period. In addition, such Members would have quarterly utility payments (gas, electricity, water) as well as strata levies.

The former annual arrangements provided a stream of income over a twelve-month period which assisted Members in meeting standing expenses on accommodation, irrespective of whether the Member was in Sydney.

The repayment provisions for the annual allowance were introduced in the Initial Determination which took effect on and from 1 January 2000. The decline in the number of Members electing to receive the annual allowance supports the views put to the Tribunal about the resultant lack of certainty as to the actual amount Members will ultimately receive in a 12-month period and the increased record keeping associated with the repayment provisions.

There were, however, clear reasons why the repayment provisions were introduced. These have to do with the 1998 Amendments to the Act and the subsequent legal advice provided by the Crown Solicitor which stated, if effect, that Members could not gain a private benefit from the additional entitlements provided under the legislation.

At the centre of the problem lies the question of the status of the unspent portion of the entitlement. The Tribunal in the 2000 Report and Determination discussed this matter at length. As part of that review the Tribunal asked the Crown Solicitor a number of questions regarding the obligations arising from the legislation concerning the unspent portions of entitlements. The relevant questions and the Crown Solicitor's answers are set out hereunder. They have been included because of their relevance to the Sydney Allowance.

The questions asked of the Crown Solicitor were:

- 1. Assuming no determination is made by the Tribunal requiring the repayment of the unused portion of an additional entitlement does the legislation by its own operation prevent members from retaining the unused portion of any additional entitlement (in particular the electoral allowance) or require the repayment or same.*
- 2. Having regard to 1, does the legislation prevent the Tribunal from determining that the unused portion of an additional entitlement may be retained by a Member (for whatever reason).*
- 3. Is there any impediment in the legislation to the Tribunal leaving silent or unanswered the question of the repayment of the unused portion of allowance in any further determination (if any is made).*

The Crown Solicitors advice was as follows:

1. Advice as to question 1

1.1 The Parliamentary Remuneration Act 1989 (the legislation) does not address the retention or repayment by members of the unused portion of any additional entitlement.

1.2 The legislation does make provision with respect to the reversion of payments of additional allowances (which I take it are additional entitlements in the form of allowances as referred to in s. 10(3)) not drawn upon by members. Section 15(6) provides that any payment of additional allowances to which a person is entitled under the legislation, or any part of any such payment, not drawn by the person or on the person's behalf within 28 days after the payment becomes due and payable reverts to the Treasury and becomes part of the Consolidated Fund.

1.3 The legislation is so drafted that it is open to the Tribunal to provide for what is to happen in relation to the unused proportion of an additional entitlement. A determination may fix conditions on which an additional entitlement is to be provided (and may specify the form of the substantiation (if any) that is required for particular kinds of additional entitlements) (s. 10(4)(a)). Additional allowances are payable in such manner, and subject to such provisions, as may be specified in a determination that is in force (s. 15(2)).

1.4 An additional entitlement is not paid as personal income (contrast statutory salaries and statutory additional salaries which s. 2A(1)(a) and (b) expressly recognise are paid as personal income). It is an entitlement determined by the Tribunal giving effect to the principle that it is provided for the purpose of facilitating the efficient performance of the parliamentary duties of members (s. 10(1)(a)). Members are only entitled to additional entitlements in accordance with the provisions of applicable determinations (s. 10(8)). As the statutory entitlement is to an allowance, service etc for the specific purpose of facilitating the performance of parliamentary duties, there was, presumably, seen to be no need for the legislation to make express provision precluding use for other purposes and providing for unexpended amounts. It would, of course, as I have said, be open for a determination to fix appropriate conditions to provide for what is to happen to amounts which are not expended by a member to facilitate the efficient performance of parliamentary duties. However, a member does not acquire an entitlement to use such amounts for some other purpose because a determination does not in fact fix conditions relating to unexpended amounts. A member who chooses to retain unexpended amounts and expend them for some other purpose would do so without any statutory entitlement and would be at risk of civil proceedings for recovery of such amounts and, in some circumstances, could commit a criminal offence in doing so.

2. Advice as to question 2.

2.1 In my opinion, the legislation does prevent the Tribunal from determining that the unused proportion of an additional entitlement may be retained by a member (for whatever reason). By this I take it you mean to ask whether the Tribunal may determine that an amount not expended to facilitate the efficient performance of parliamentary duties in accordance with a determination may be retained by a member and expended for some other purpose, including, presumably, a private purpose of the member.

2.2 At present, in making determinations, the Tribunal must give effect to the principle that additional entitlements are to be provided for the purpose of facilitating the efficient performance of the parliamentary duties of members (s. 10(1)(a)). As presently defined, "parliamentary duties" would not include private activities and such activities have not been prescribed to be parliamentary duties (whether a regulation could validly prescribe such activities to be parliamentary duties would be a matter for the Parliamentary Counsel to

advise upon). Furthermore, as I have said, s. 2A(1) recognises that, unlike statutory salaries and statutory additional salaries, additional allowances and other entitlements are not "paid as personal income". That being the case, I consider that the legislation does prevent the Tribunal from determining that an amount not expended to facilitate the efficient performance of parliamentary duties in accordance with a determination may be retained and expended by the member for some other purpose.

3. Advice as to question 3

3.1 The legislation does not expressly require the Tribunal to make provision in a determination for the repayment of amounts not expended to facilitate the efficient performance of parliamentary duties in accordance with a determination. While it would be open to the Tribunal pursuant to s. 10(4)(a), as a matter of discretionary power, to fix appropriate conditions on which the additional entitlement is to be provided, the legislation appears to impose no obligation or duty upon the Tribunal to do so. As I have said, the fact that no such conditions are fixed does not alter the nature of the entitlement conferred upon a member.

In summary, the Crown Solicitor advised that the legislation, by itself, did not prevent Members from retaining the unspent portions of entitlements; the legislation did prevent the Tribunal from determining that the unspent portion of additional entitlements may be retained; and thirdly, that there was no impediment to the Tribunal leaving silent or unanswered the question of repayment of the unused portions of additional entitlements.

The Tribunal went on to discuss the implications of the Crown Solicitor's advice as well as submissions received on this issue as they related to the Electoral Allowance. The Tribunal concluded [p26]:

"The Crown Solicitor has made clear that the obligations which arise with respect to Members use of electoral allowances derives directly from the Act, without any requirement or particular need for the Tribunal to regulate the question by determination. Having regard to that opinion, and given the somewhat vexed legal issue arising in these proceedings there is much to be said for the Tribunal not providing any interpretation of the statute as may be ordinarily contemplated in proceedings for declaratory relief. Rather the statute itself will speak to the obligations of Members. The Tribunal should regulate allowances for Members by prescribing the circumstances under which the allowances may be used. The draft determination reflects such an approach. It is an approach which will ensure that any obligations as to repayment of the unspent portion of allowances falling on Members will be confined to those specifically deriving from the statute. The Tribunal did not intend in its initial determination, and will now avoid by this approach, any superimposed (and additional) obligations arising out of any determination made by the Tribunal over those created by statute (which may have the potential of creating unintended adverse consequences).

In these circumstances the conditions for the payment of electoral allowances have been reviewed and the allowances simply adjusted from its present levels having regard to the cost of living and any other relevant considerations (which considerations were discussed in the initial determination)."

To overcome the uncertainty regarding the unspent portion of the Electoral Allowance the Act was amended to provide that the Electoral Allowance was provided as compensation in respect of all incidents of the performance of parliamentary duties. Thus, it is clear that the Electoral Allowance may only be expended for purposes related to the performance of parliamentary duties.

Unlike the Electoral Allowance, the Sydney Allowance has a strictly limited purpose and that is to cover daily costs associated with staying in Sydney for parliamentary business. A reasonable daily rate is determined by the Tribunal from time to time to meet these costs. It is acknowledged that Members sacrifice a great deal in representing their constituents. Country Members even more so because of the amount of time they are required to spend in Sydney on parliamentary business. There may be grounds for liberalising the conditions associated with claiming the Sydney Allowance in the future and, indeed, some proposals in this regard were put to the Tribunal. However, given the current purpose of the Sydney Allowance, the need for strict accounting of the spending of public funds by Members and in the absence of any sound basis to do otherwise, the Tribunal considers that any unspent portion of the Sydney Allowance must be repaid.

Given that the Tribunal will require the repayment of the unspent portion of the annual Sydney Allowance and given that most Members entitled to the Allowance opt for the daily rate, the further question arises as to whether the Annual Allowance should be abolished.

That the Annual Allowance has lost its appeal is clear from the figures provided by the Legislature. It would have been desirable to have the views of the Presiding Officers on the extent of the administrative difficulties faced by the Legislature and any possible remedies which may assist them. It is unfortunate that they chose not to provide a submission for this Review.

Representatives from the major political parties advised the Tribunal of the administrative difficulties and the increased record keeping required of Members to comply with the repayment provisions of the Sydney Allowance.

The Auditor General articulated some of his findings in his submission to the Tribunal. These essentially mirror the findings contained in Volume 6 of the Auditor General's 2002 and Volume 1 of the 2004 Reports to Parliament in respect of the Sydney Allowance. These findings include:

- Some Members fail to submit their certification for the Sydney Allowance within the timeframe specified by the Determination.
- The Legislature returned a number of certifications to Members due to inadequate supporting documentation.
- Some Members had difficulty determining their principal place of residence.
- The Legislature and some Members experience difficulty in agreeing on any refund from members.

For the above reasons, the Legislature is unable to complete reconciliations and recoup overpayments of the Sydney Allowance on a timely basis. It should be noted that the most recent audit of the Sydney Allowance by the Auditor General reveals that on time reconciliations are improving (Auditor General's Report 2005 Volume 2)

It is clear from the above that the changes to the annual Sydney Allowance require a higher degree of record keeping and administrative diligence on the part of Members and the Legislature than was previously the case. This is understandable when the desired result is accountability and transparency.

The Tribunal does not believe that an entitlement should be abolished because it is difficult to administer or requires greater effort by Members and the Legislature to achieve administrative efficiency. The problems cited to the Tribunal are not insurmountable. The challenge for the administrators and the users of the scheme is to develop new policies and guidelines that will overcome the problems currently being experienced.

In addition, while the number of Members electing to take the annual entitlement has decreased significantly, 30 per cent of Members still prefer to receive this Allowance on an annual basis. These Members may have made long term commitments based on the genuine assumption that steady income from the Sydney Allowance would meet their particular needs. It would be inappropriate to remove these arrangements for no other reason than to overcome administrative obstacles.

The Tribunal, therefore, will retain the option for Members to receive the Allowance on an annual basis under existing arrangements. If the Legislation is amended these conditions will be reviewed at that time. As the Tribunal has stated in the past, it remains ready to assist the Legislature in minimising any potential problems associated with the administration of this or any other additional entitlement.

Number of overnight stays

Set out below is the current number of overnight stays that each Member or Recognised Office Holder is entitled to under the Sydney Allowance. They were set in 1990.

Office	Electorate/Residence	Overnight Stays p.a.
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
Deputy Speaker, Chairman of Committees in the Legislative Assembly and Chairman of Committees in the Legislative Council.	Category 1 or 2	120
Parliamentary Secretary/Shadow Minister	Category 1	90
	Category 2	120
Other Assembly/Council Members	Category 1	90
	Category 2	120

Submissions to the Tribunal have sought an increase in the number of overnight stays. All major political parties have recommended that the number of overnight stays be increased to more accurately reflect the increased time Members are required to spend in Sydney on parliamentary business. They have suggested the following:

Group	Officer	No. of overnight stays
Group 1	Premier, Ministers, President, Speaker, Leader of the Opposition (LA & LC), Deputy Leader of the Opposition (LA), Leader of third party in LA with not less than 10 Members	200
Group 2	Deputy Speaker, Chairman of Committees (LA & LC), Government Whip and Deputy Whip, Opposition Whips (LA & LC), Deputy Leader of the Opposition (LC) and Deputy Leader of Third Party in LA while not less than 10 Members	180
Group 3	Council Members, Chairs of Standing/Select Committees	160
Group 4	Members of Standing/Select Committees (LA)	140
Group 5	Assembly Members	120

It was argued that the Tribunal should recognise that while Parliamentary Sitting Days have not increased significantly since 1989 there has been a significant increase in the Parliamentary Committee system involving Members of both Houses. In particular, there has been an increase in the number of Legislative Council General Purpose Standing Committees. Additional responsibilities of office holders means that all country based Legislative Council Members and Legislative Assembly office-holders are in Sydney for in excess of 120 days per annum.

As noted above, Members are required to travel and stay in Sydney on parliamentary business. Until the 1998 amendments to the Act there was never a definition of what constituted parliamentary business. The Tribunal, for the purposes of this Allowance, identified two main areas of activity i.e., sittings of Parliament and sittings of Parliamentary Committees. The third area i.e., 'other parliamentary duties' was intended to cover a diverse range of duties which would be at the discretion of the Presiding Officers to approve.

The 1998 amendments to the Act included for the first time a definition of parliamentary duties ie

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

The Tribunal has no doubt that Members are required to spend more time in Sydney attending to parliamentary duties. A number of facts support this view.

The Legislative Council's 2004 Annual Report lists nine Committees. Nearly all Members of the Legislative Council sit on these Committees. Most Committees sit or conduct hearings on non-Parliamentary sitting days. The Legislative Council Standing Order 209 provides that Committees sit only when the House is adjourned. There is a similar provision (Standing Order 328) in the Legislative Assembly which allows Committees to meet when the House is not sitting.

Attendance and membership of the Committees varies. Some Members sit on more than one Committee. It is also understood that different Committees can sometimes sit on the same day.

The overall conclusion drawn from the above is that while there has been an increase in the number of occasions Members have to spend in Sydney to attend Committee meetings and hearings there is no clear pattern of attendance frequency. Some members spend over 70 days on Committee

meetings while some attend less than 10 days. This point is made only to emphasise the difficulty the Tribunal faces in its attempt to quantify this aspect of Members' attendance.

Members' entitlements, applied as they are uniformly to Members of both Houses, cannot always meet the specific needs of every Member. There are Members who utilise all their entitlements and there are those who under-utilise these entitlements. In the end the Tribunal can only make an assessment on what is reasonable for the majority of Members and provide sufficient flexibility to best meet their needs.

The Tribunal has obtained figures from the Legislative Council's annual reports over the four year electoral cycle to determine average number of days spent by Legislative Council Members on Committee attendance. These figures show that Members in receipt of the Sydney allowance spent an average of 21 days on Committee participation. For the same four year period the Legislative Council sat for an average of 48 days per parliamentary year.

Based on the above the Tribunal considers that, on average, Members of the Legislative Council would spend a total of 69 days attending sittings of Parliament and Committee participation.

Members also undertake other parliamentary business in Sydney (meetings with constituents and or lobby groups, attendance at meetings of political parties, attending functions, etc). Historically, the Tribunal has allowed 35 overnight stays for such purposes. If added to the total number of overnight stays for sittings of Parliament and Committee participation this would increase overnight stays for an ordinary Member in the Legislative Council to a minimum of 104 occasions. This represents a minimum increase of 14 nights for a Member of the Legislative Council who is currently entitled to 90 overnight stays.

In addition, Members of the Legislative Council have advised that, unlike their Legislative Assembly counterparts, who are provided with an electorate office, they have only one office at Parliament House. This is also where Members' staff are located as well. It is, therefore, necessary for the Legislative Council Members to spend additional time in Sydney undertaking normal day to day activities in Parliament House.

In the case of Ministers and Leaders of the Opposition and the other Recognized Office Holders, while they may not participate in committee work, they would be required to spend more time in Sydney because of portfolio or Party obligations.

Given all the circumstances, the Tribunal considers that an increase in the maximum number of overnight stays is warranted. The Tribunal is however, not prepared to differentiate entitlements between Members. The Tribunal has for many years adopted the principle that entitlements for Members should be consistent for both Houses as this provides the most equitable approach to remuneration setting. In the current case, for example, Legislative Council Members may have to spend more time in Sydney attending Committee meetings but Members of the Legislative Assembly spend more time in Sydney attending sittings of Parliament.

The Tribunal has also broadened the Recognised Office Holders eligible to claim higher levels of Sydney Allowance. The new maximum overnight stay arrangements are as set out hereunder:

Office	Electorate/Residence	Overnight Stays p.a.
Minister, Speaker, President, Leader and Deputy Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly with not less than 10 Members.	Category 1 or 2	180
Deputy Speaker, Chairman of Committees (Assembly and Council). Whip and Deputy Whip (Assembly and Council) Parliamentary Secretary. Deputy Leader of Third Party in Assembly with not less than 10 Members.	Category 1 or 2	140
Chairs of Standing/Select Committees;	Category 1 or 2	140
Council Members	Category 2	135
Council Members	Category 1	105
Assembly Members	Category 2	135
Assembly Members	Category 1	105

These increases are the maximum number of overnight stays Members and Recognised Office Holders will be entitled to without the need to substantiate the daily rate of allowance. Each overnight stay beyond the maximum will need to be acquitted to the Legislature in accordance with the relevant provisions.

Members will still be required to provide evidence of being in Sydney on parliamentary business. For those occasions when Parliament is sitting, or Members' Committees are meeting, it will not be necessary to provide specific evidence of attendance as the Parliamentary record will be sufficient.

On other occasions when Members are in Sydney on parliamentary business, however, it will be necessary for the Member to sign the Parliamentary attendance register as proof of being in Sydney on parliamentary business. Given that Members of the Legislative Council, in particular, have their parliamentary offices and staff in Parliament House it seems reasonable that most of their parliamentary business would be conducted in the House.

For those occasions where Members are required to be in Sydney but are not required to attend Parliament House e.g., attending functions, meetings of parliamentary political parties, then sufficient documentary evidence should be provided to the Presiding Officers of each such occasion.

Members who are required to attend Sydney beyond the maximum number of overnight stays will need to provide documentary proof of each such stay as well as a costing for each occasion up to the maximum daily rate.

To ensure greater equity with the Members who are in receipt of the capped annual rate, Members will only be allowed to claim actual expenses, up to the maximum daily rate for each such occasion.

The daily rate

As part of this Review the Tribunal sought from Members broad details of the type of accommodation they use while in Sydney. From the responses, it is clear that Members use three main forms of accommodation, i.e., rent/lease, mortgage and commercial accommodation, in roughly equal numbers.

This is not surprising given that each Member makes arrangements that suit the particular needs of the Member. To ensure that the methodology used to assess a reasonable daily rate is a valid guide the Tribunal has examined not only the commercial accommodation rates but looked at rents for inner city accommodation. Mortgages are much more difficult to quantify given that each Member's circumstances will vary according to the cost of the property, the level of mortgage, the amount of repayment, etc. For this reason the Tribunal has only used the rentals and commercial hotel rates as the basis of assessing accommodation costs.

The daily rate has historically been set at a lower rate than the *ad hoc* travel rate because of the intention that Members make long term accommodation arrangements. The current rate is \$180 per overnight stay in Sydney. By way of comparison, Federal Parliamentarians receive \$170 per overnight stay.

When compared with Canberra, rents in Sydney are generally higher. Figures provided by the Real Estate Institute of Australia on rental accommodation for a one bedroom Unit near Parliament House in Inner Sydney and Inner Central Canberra are set out in the following table:

Source	Sydney (1 Bedroom Unit) median cost	Canberra (1 Bedroom Unit) median cost
Real Estate Institute (Dec 04)	\$300	\$260

Rents for 2 bedroom dwellings in Sydney and Canberra also show a reduced cost difference as noted in the following table..

Source	Sydney (2 Bedroom Dwelling) median cost	Canberra (2 Bedroom Dwelling) median cost
Real Estate Institute (Dec 04)	\$290	\$270

On the basis of these figures there is a moderate difference in the cost of rental accommodation between Sydney rents and Canberra rents. As noted above, Members renting accommodation would find it difficult to rent on an 'as needed' basis. Most landlords would require a lease of at least 12 months or at the very least 6 months. Advice to the Tribunal was that Members who rented generally had to rent for 12 months whether they were occupying the residence or not. Members renting properties would also be responsible for some utility costs e.g., electricity, telephone, etc.

Members with mortgages would have monthly mortgage repayments as well as quarterly utility costs (water, telephone, electricity) as well as strata levies.

The Tribunal has also received advice that the Government rate for accommodation at hotels near Parliament House and in which some Members stay, range from \$100 per night to \$140 per night including breakfast.

To the accommodation costs must be added the cost of meals and incidentals. Meals at Parliament House range between \$30 and \$40 for lunch and dinner. Thus, a Member having two meals a day

would be required to pay between \$60 and \$80 per day including breakfast. The current public service total lunch and dinner rate for Sydney is \$56 per day.

The above figures suggest an increase in the daily rate is warranted. After considering all of the above the Tribunal considers that a daily rate of \$200 per overnight stay is reasonable.

The Tribunal notes the various accommodation arrangements made by Members. The Tribunal, in formulating the rate of \$200, has adopted the principle that while this rate may be generous to some Members but not others it is, in the Tribunal's view, reasonable for the majority of Members to be able to meet reasonable expenses incurred while in Sydney on parliamentary business.

The Tribunal will not be providing annualised figures for those Members who prefer the annual rate. Members who make the election to receive the annual amount will have the amount calculated by the Financial Controller using the traditional methodology (i.e., maximum number of occasions x the daily rate applicable to the Member or Recognised Office Holder).

The 'In Transit' rate currently provides a lower rate than the Sydney Allowance. It is provided particularly for those Members who live in the more remote areas of the State and who are required to make an overnight stay in a country location on their way to or on their way home from Sydney.

Members living in Category 2 electorates, i.e., those furthest from Sydney, are able to fly to Sydney in the same day. Most of these Members, because of airline timetables, arrive in Sydney either on the day before a sitting of Parliament and leave the day after Parliament rises. In either case, there is no longer a real need for Members to make an overnight stay on the way to or on the way home from Sydney.

On such occasions and consistent with public sector rules for non award employees, Members will be able to claim reasonable meal and incidental expenses up to a daily maximum on such trips to and from Sydney.

PRINCIPAL PLACE OF RESIDENCE

At the time of the 2003 review the Tribunal indicated that it might need to assess the definition of "principal place of residence."

In July 2003, the Independent Commission Against Corruption (ICAC) issues its *Report on the investigation into the conduct of the Hon Malcolm Jones MLC* (the Jones Report).

This investigation centred on the use of the Sydney Allowance by Malcolm Jones and the issue of principal place of residence was raised. In respect of this matter the ICAC noted that the PRT had not provided a definition of principal place of residence but that the Legislature had developed guidelines to help Members determine the issue. The ICAC concluded:

"The draft administrative guideline prepared by the parliamentary administration will assist Members to work through their personal circumstances in order to differentiate between their places of residence and determine which of them would be their 'principal place of residence.' Both the Auditor General and the Commission have been consulted about this guidance document. Its implementation will assist in clarifying the matter and it will increase the level of control with respect to the administration of the Allowance."

The ICAC recommended:

"...that the parliamentary administration implement its draft Sydney Allowance Guidelines about determining 'principal place of residence' as soon as possible."

In December 2004 the ICAC issued its *"Report on the investigation into the conduct of the Hon Peter Breen MLC."*

This investigation also centred on the use of the Sydney Allowance by the Hon Peter Breen MLC. As part of this Report the ICAC recommended that:

"...the Parliamentary Remuneration Tribunal should review and define the term "principal place of residence". In doing so, the Tribunal should consider systems used in other jurisdictions for compensating non-metropolitan Members for the travel and accommodation costs of attending Parliament."

The Tribunal's investigations have revealed that in most jurisdictions a strict definition is not provided. Most jurisdictions either accept the Member's nomination of the principal place of residence or employ a checklist similar to the one adopted by the NSW Legislature to determine a

Member's principal place of residence. In the New Zealand model it is the Presiding Officer who determines a Member's principal place of residence based on information provided by the Member.

Having regard to the above, the Tribunal considers that a Member's principal place of residence is that place where the member normally returns and resides when not in Sydney on parliamentary business.

Members nominate this residence to the Clerk. There are a number of tests to establish the accuracy of this nomination eg mail delivery, electorate enrolment, family, possessions etc. The checklist adopted by the Legislature provides sufficient tests to establish the accuracy of a Member's nomination. While quite comprehensive the Tribunal considers that additional forms of proof such as the address shown on a Member's driver's licence or the telephone accounts for the nominated principal place of residence also be used as a further test. The Legislature may also wish to consider which property the Member has nominated for Land Tax purposes in establishing the principal place of residence.

The Tribunal maintains its view that ultimately it is the Member's responsibility to nominate his/her principal place of residence for Sydney Allowance purposes. As such Members, after completing the Parliament Checklist, should certify that the nominated residence for Sydney Allowance purposes is their principal place of residence.

The conditions pertaining to the Sydney Allowance have been amended to reflect the above additional requirements.

The Tribunal was also asked to consider including the electorate of Penrith in Category 1 for Sydney Allowance purposes. No evidence has been provided to support this request and at this point in time the Tribunal is not convinced that such an inclusion is warranted. The whole issue of which electorates within the Sydney metropolitan area should or should not be included is a matter best left for consideration when the new electoral boundaries come into effect at the time of the 2007 election.

The Tribunal does not support the suggestion that a time limit be imposed on Members who re-locate from Sydney to a non metropolitan residence. In a democracy, citizens have the right to move freely without penalty. The same right should be extended to Members of Parliament. What is important is whether the Members new location is his or her principal place of residence. If this is genuinely established then the Member should be eligible for the Allowance.

PART 3

3. SUMMARY OF 2005 DETERMINATION

Electoral Allowance	2.4 percent increase
Sydney Allowance	11 percent increase
Logistic Support Allocation	3.5 percent increase
Electorate Mailout Account	No increase
Committee Allowance	3.92 percent increase
Electorate Charter Allowance	No increase
Travel Allowances	Increase generally to public sector rates.

Dated this 29th day of June 2005

The Honourable Justice R Boland

THE PARLIAMENTARY REMUNERATION TRIBUNAL

THE DETERMINATION OF THE PARLIAMENTARY REMUNERATION TRIBUNAL

THE DETERMINATION

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

With effect on and from 1 July 2005, 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 2005.

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 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.

"Approved relative" is a person who meets one of the following criteria:

- Wife or husband of the member. If a member has a spouse no other person may be nominated to use this entitlement.
- De facto spouse or partner who is living with a member in a bona fide domestic relationship. If a member has a de facto spouse or partner no other person may be nominated to use this entitlement.
- Single or widowed members may nominate a member of their immediate family (parents, siblings, children who are not minors i.e. below 16 years of age) as an approved relative.

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

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, shall continue to receive the same entitlements as they received as a Member of the party prior to resignation and not the additional entitlements provided to elected independents. The Member is also not entitled to the benefit of the rule in 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 and office supplies.
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 and Members' claims must be submitted to the Legislature for payment within 60 days of receipt or occurrence of the expense.
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 to other persons or organizations including Members. The Member may use his/her entitlements to meet official costs of the approved relative and/or staff employed by the Parliament when that expenditure is in connection with official Parliamentary duties.**
- 11. 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.**

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 per annum for each electorate group shall be as follows:

Electorate Group	Allowance
Group 1	\$35,570
Group 2	\$41,655
Group 3	\$49,090
Group 4	\$53,590
Group 5	\$57,005
Group 6	\$62,495
Group 7	\$65,615
Group 8	\$73,090

- c. The electoral allowance for each Member of the Legislative Council shall be \$41,655 per annum.

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.

The Tribunal considers the Member's principal place of residence to be that residence where the Member would normally return and reside when not attending Sydney on parliamentary duties.

To establish the principal place of residence each Member will be required to complete the Parliament's checklist and certify that the residence nominated is the principal place of residence.

Entitlement

The daily rate (including the number of overnight stays) 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, except as provided in conditions 5.

TABLE 1

Office	Principal Place of Residence	Overnight Stays p.a.	Overnight in Sydney where accommodation costs are incurred	In transit to and from Sydney where no overnight stay is involved
Minister, Speaker, President, Leader and Deputy Leader of the Opposition (Assembly and Council), Leader of Third Party in Assembly with not less than 10 Members.	Category 1 or 2	180	\$200	Actual reasonable expenses for meals and incidentals up to a maximum of \$74.35 per day
Deputy Speaker, Chairman of Committees (Assembly and Council), Whip and Deputy Whip (Assembly and Council), Parliamentary Secretary, Deputy Leader of Third Party in Assembly with not less than 10 Members.	Category 1 or 2	140	\$200	As above
Chairs of Standing/Select Committees	Category 1 or 2	140	\$200	As above
Legislative Council Members	Category 2	135	\$200	As above
	Category 1	105	\$200	As above
Legislative Assembly Members	Category 2	135	\$200	As above
	Category 1	105	\$200	As above

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. The election is to be made at the commencement of each financial year.
2. If a Member chooses to receive the annual fixed allowance the Financial Controller of the Legislature will calculate the annual entitlement by multiplying the number of overnight stays for the particular Member or Recognised Office Holder by the daily rate.
3. In order to receive the Allowance each Member must certify to the Clerk of the Legislative Assembly or the Parliaments, as the case may be, their principal place of residence.

4. Where a Member chooses to receive the daily rate of allowance the Member shall receive the overnight daily rate as specified in Table 1. 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.
5. Where a Member chooses to receive the daily rate of allowance and the Member exceeds the number of overnight stays Members will be reimbursed actual costs, up to the daily maximum upon the production of tax invoices/receipts for each such occasion.
6. Members in receipt of the Sydney Allowance when travelling to Sydney for parliamentary business or home from Sydney and where there is no overnight stay required will be entitled to reasonable actual expenses to the maximum provided in the "In transit...." Column of Table 1 above.
7. 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.
8. Members will need to maintain records or other relevant evidence that clearly document the occasions they stayed in Sydney in connection with their Parliamentary duties. Members will need to sign in and out of the Parliamentary Register as proof of being in Sydney on parliamentary business when Parliament is not sitting. On those occasions where Members are in Sydney on parliamentary business but are not required to attend Parliament House eg, attending a function, then the Member must provide sufficient proof to the Clerks to substantiate each such occasion. It will be sufficient for Ministers to provide evidence from their diaries or other forms of documentary evidence acceptable to the Clerks to certify as evidence of their attendance in Sydney.
9. 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.
10. 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, Select and Standing 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:

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 \$145.00 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.

Members of the Public Accounts Committee, other than the Chairperson, shall each receive a committee allowance of \$3,295 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

Office holder	Electorate to Sydney travel entitlement
Minister of the Crown	32 single journey entitlements
Speaker of the Legislative Assembly	32 single journey entitlements
President of the Legislative Council	32 single journey entitlements
Leader of the Opposition Assembly and Council	32 single journey entitlements
Leader of Party (not less than 10 Members in the Legislative Assembly)	32 single journey entitlements
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 to be reimbursed for this purpose is not to exceed the commercial airfare for an equivalent distance flight.
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, 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 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. **Members will need to maintain records or other relevant evidence that clearly document the occasions they travelled to Sydney in connection with their Parliamentary duties. A copy of this documentation is to be supplied to the Parliament's administration. When travelling by commercial air flights, copies of airline boarding passes are to be supplied to the Parliament when issued for arrival and departure from Sydney.**

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 unless that entitlement is exhausted
- ❖ Taxi travel
- ❖ Staff travel costs (training excluded)
- ❖ Airport parking
- ❖ Transport expenses for Members' approved relative
- ❖ Home telephone, facsimile and internet call charges for official business
- ❖ Home telephone rental costs
- ❖ Internet access fees for official business
- ❖ Broadband access fees 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
- ❖ Office equipment purchases up to \$2,500 (excluding GST)
- ❖ Any maintenance charges relating to minor equipment purchases
- ❖ Computer software
- ❖ Computer hardware and peripheral devices not exceeding \$4,999

It is intended that the above list be used as a guide as to the types of items Members can spend against their Logistic Support Allocation. The Presiding Officers may exercise their discretion in permitting expenditure for items not on the "List". There must be sufficient funds in the Member's Logistic Support Allocation, the items must not duplicate services already provided to Members by the Parliament and the expenditure must be consistent with the guidelines and general conditions in this Determination.

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	\$27,935
Group 2	\$31,260
Group 3	\$33,440
Group 4	\$33,440
Group 5	\$33,440
Group 6	\$33,440
Group 7	\$35,620
Group 8	\$35,620

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:

<u>Zone</u>	<u>Entitlement</u>
Zone 1 Electorates	\$18,945
Zone 2 Electorates	\$19,510
Zone 3 Electorates	\$28,905

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

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 direct electioneering purposes or political campaigning.
4. Any unused funds remaining in the Member's account at the end of the financial year within the four year Parliamentary term shall be carried over to the following financial year. At the end of each 4 year Parliamentary term or the earlier dissolution of the Legislative Assembly, any balance remaining in the Member's account is to be relinquished to the Consolidated Fund.
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.

Electorate Group or Zone	Transport	Communication –electronic	Communication –non- electronic	Printing and Stationery and Office Supplies	Total Logistic Support Allowance
Legislative Assembly					
Group 1	\$4,360	\$3,810	\$12,835	\$6,930	\$27,935
Group 2	\$6,545	\$4,950	\$12,835	\$6,930	\$31,260
Group 3	\$8,725	\$4,950	\$12,835	\$6,930	\$33,440
Group 4	\$8,725	\$4,950	\$12,835	\$6,930	\$33,440
Group 5	\$8,725	\$4,950	\$12,835	\$6,930	\$33,440
Group 6	\$8,725	\$4,950	\$12,835	\$6,930	\$33,440
Group 7	\$10,905	\$4,950	\$12,835	\$6,930	\$35,620
Group 8	\$10,905	\$4,950	\$12,835	\$6,930	\$35,620
Legislative Council					
Zone 1 Electorates	\$4,360	\$4,385	\$3,270	\$6,930	\$18,945
Zone 2 Electorates	\$4,360	\$4,950	\$3,270	\$6,930	\$19,510
Zone 3 Electorates	\$10,905	\$7,800	\$3,270	\$6,930	\$28,905

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 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 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 the travel allowance rates as determined for Group 2 in Table 2 hereunder. Staff employed by the Parliament who travel with their Member or separately for Parliamentary business purposes may be paid travel allowances in accordance with appropriate Public Service Award conditions.
5. A Member and his or her approved relative may travel together or separately in connection with attendance at a function in the course of Parliamentary duties.
6. A Member, his or her approved relative and staff employed by the Parliament 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. **Members should ensure that records are maintained that clearly document the occasions that staff employed by the Parliament stayed in Sydney or other locations when travelling in connection with the Member's Parliamentary duties. Such documentation may include airline boarding passes for arrival and departure or other documentary evidence of having travelled and stayed in accommodation.**

9. **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 approved relative and staff employed by the Parliament 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 costs should be shared equally between the Members travelling.**

10. **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.**

11. **Members together with their approved relative will need to maintain records or other relevant evidence that clearly document the occasions they travelled in connection with their Parliamentary duties. A copy of this documentation is to be supplied to the Parliament's administration. When travelling by commercial air flights, copies of boarding passes are also to be supplied.**

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 Member's 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 telecommunication services. Once established Members will be reimbursed the Parliamentary business cost of each home telecommunication call or usage 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 directory charges for home telephone listings (which are in addition to standard free entry)
 - Internet services
 - Broadband services

3. The following Recognised Office Holders shall be entitled to 100 per cent 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 with 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 offices continue to be reimbursed at the rate of 100 per cent.
 5. Call charges pertaining to a data line installed at Legislative Council Members' home offices be reimbursed at the rate of 100 per cent where Members do not have a broadband service connected, 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 and 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 direct 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.**

3. Electorate Mailout Account

Each Member of the Legislative Assembly will be provided with an amount as specified in Schedule 4 for the specific purpose of preparing and distributing letters/newsletters to each constituent in his/her electorate. Members are provided with an annual amount based on the cost of issuing two newsletters/letters per enrolled voter per annum. Members may issue additional newsletters/letters subject to available funds in their Electorate Mail-Out Account and the Legislative Assembly's administrative guidelines.

Conditions

1. The Electorate Mailout Account shall be established and maintained by the Clerk of the Legislative Assembly. Members should be advised by the Clerk each month as to the balance of their Account.
2. Members are to fund the cost of preparing, printing and distributing letters/Newsletters to each constituent in his/her electorate and for no other purpose.
3. All procurement by Members will be in accordance with the Parliament's purchasing policies.
4. No supplementation to the allocation will be considered. Any additional costs are to be met from the Member's Logistic Support Allocation.
5. Unused funds are to be returned to the Consolidated Fund at the end of each financial year.
6. All accounts must be submitted to the Legislature for payment within 60 days of receipt.
7. Printing and distribution of newsletters/letters from the Electorate Mail-Out Account is to be in accordance with the Parliament's administrative guidelines.

4. 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 that 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	\$21,080
Group 7	\$13,980
Group 6	\$11,400
Group 5	\$6,980

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 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 closest source of available charter transport to the Member's electorate, electorate office or principal place of residence is outside the boundaries of the electorate, the reasonable additional expenses consequently incurred may be included in the reimbursement available under this Determination.**
6. **Members may use their Charter Transport Allowance to fly to an airfield located outside their electorate in circumstances where there is no suitable airfield located in the part of the electorate being visited by the Member. In these circumstances the Member would fly to the relevant airfield outside his/her electorate and then drive back to the electorate to conduct electorate business.**
7. **Members may also use the Charter Transport Allowance to attend regional or other meetings within an adjoining electorate relating to matters affecting their electorate. Members should first seek approval to use this Allowance in such a manner from the Presiding Officers. Members should be able to satisfy the Presiding Officers that the purpose of the journey relates to electorate business.**
8. **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.**

5. Travelling Allowances for Recognised Office Holders

Table 2 – Indicative Upper Limits for Travel Expenditure

Office Holders	Capital Cities		Other Areas	Where no overnight stay is required
	Melbourne,	Adelaide, Brisbane, Canberra, Darwin, Hobart, Perth,		
Group 1	\$401.75	\$331.75	\$282.75	Actual reasonable meal expenses
Group 2	\$280.00	\$263.00	\$185.50	Actual reasonable meal expenses

Recognised Office Holders are classified into one of the following two groups.

Group 1

Premier,

Deputy Premier,

Senior and Other Ministers,

President of the Legislative Council and Speaker of the Legislative Assembly,

Chairman of Select, Joint Standing, Standing and Public Accounts Committees,

Leader of the Opposition in the Legislative Assembly and Legislative Council,

Deputy Leader of the Opposition in the Legislative Assembly

Deputy Speaker in the Legislative Assembly

Group 2

Deputy Leader of the Opposition in the Legislative Council,

Deputy Leader in the Legislative Council (other than the Leader or Deputy Leader of the Opposition) of a recognised political party not fewer than 9 members of which are members of the Legislative Council and of which no member is a Minister,

Leader and Deputy Leader of a Recognised Political Party of which not less than ten Members are Members of the Legislative Assembly,

Government and Opposition Whips,

Deputy Government and Deputy Opposition Whips,

Parliamentary Secretary,

Whip in the Legislative Assembly of a recognised political party, not fewer than 10 members of whom are members of the Legislative Assembly,

Deputy Whip in the Legislative Assembly of a recognised political party not fewer than 40 members of which are members of the Legislative Assembly,

Members of Select, Joint Standing, Standing and Public Accounts Committees.

The following conditions shall apply in respect of this allowance:

1. **Recognised Office Holders are eligible to claim reasonable actual travelling expenses for overnight absences from Sydney or their electorate/principal home residence. Where no overnight absence is involved Recognised Office Holders may claim reasonable actual meal expenses. Indicative upper limits for travel expenditure are outlined in Table 2.**
2. **The payment of actual travelling expenses will be paid 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 approved relative accompanies him or her to a State or other official function and who consequently incurs expenses in respect of meals and accommodation exceeding the allowance to which he or she is entitled, shall be entitled to be reimbursed the additional expenses associated with the approved relative.**
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.**

6. 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 facsimile line installed in their home. A separate data line shall also be installed to provide access to the Parliament's secure computer network unless Members elect to connect to a broadband service.
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. When the staff Member is on annual recreation leave or other extended period of leave, a relief staff member may be employed for the period of absence.
- 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 2000.

Dated this 29th day of June 2005

The Honourable Justice R Boland

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. Vacluse
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		
Barwon		
Group 8 Electorates		
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
6. Bega	16. Murrumbidgee	Highlands
7. Cessnock	17. Myall Lakes	25. Tamworth
8. Clarence	18. Northern	26. Tweed
9. Coffs Harbour	Tablelands	27. Upper Hunter
10. Dubbo	19. Orange	28. Wagga Wagga

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. Vacluse
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	10%		15%(C)	40%
Whips			15%(C)	40%
Party Leader (not less than 10 Members)	15%			40%
Deputy Party Leader (not less than 10 Members LA or 9 Members LC)	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%
Independent Members				20%

Recognised Office Holders and Members referred to in schedule 3 may only receive additional entitlements for one office; that office being the office which attracts the greater level of entitlement.

Where entitlements formerly provided for the recognised office holder's approved relative 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.

ELECTORATE MAILOUT ACCOUNT

SCHEDULE 4

ELECTORAL DISTRICT	CURRENT ENTITLEMENT (31 March 2005) As provided by the State Electoral Office	ANNUAL ENTITLEMENT
1. ALBURY	44,031	\$57,240
2. AUBURN	48,109	\$62,542
3. BALLINA	48,041	\$62,453
4. BANKSTOWN	45,740	\$59,462
5. BARWON	40,631	\$52,820
6. BATHURST	45,292	\$58,880
7. BAULKHAM HILLS	46,838	\$60,889
8. BEGA	50,418	\$65,543
9. BLACKTOWN	47,275	\$61,458
10. BLIGH	50,814	\$66,058
11. BLUE MOUNTAINS	46,839	\$60,891
12. BURRINJUCK	45,245	\$58,819
13. CABRAMATTA	43,821	\$56,967
14. CAMDEN	56,919	\$73,995
15. CAMPBELLTOWN	44,329	\$57,628
16. CANTERBURY	44,851	\$58,306
17. CESSNOCK	45,716	\$59,431
18. CHARLESTOWN	44,919	\$58,395
19. CLARENCE	45,385	\$59,001
20. COFFS HARBOUR	47,366	\$61,576
21. COOGEE	42,785	\$55,621
22. CRONULLA	45,156	\$58,703
23. DAVIDSON	45,187	\$58,743
24. DRUMMOYNE	50,300	\$65,390
25. DUBBO	44,122	\$57,359
26. EAST HILLS	44,720	\$58,136
27. EPPING	45,204	\$58,765
28. FAIRFIELD	44,989	\$58,486
29. GEORGES RIVER	46,418	\$60,343
30. GOSFORD	50,277	\$65,360
31. GRANVILLE	44,272	\$57,554
32. HAWKESBURY	50,534	\$65,694
33. HEATHCOTE	45,682	\$59,387
34. HEFFRON	46,677	\$60,680
35. HORNSBY	47,438	\$61,669
36. ILLAWARRA	46,618	\$60,603
37. KEIRA	44,200	\$57,460
38. KIAMA	50,262	\$65,341
39. KOGARAH	45,873	\$59,635
40. KU-RING-GAI	44,632	\$58,022
41. LACHLAN	44,478	\$57,821
42. LAKE MACQUARIE	47,680	\$61,984
43. LAKEMBA	43,138	\$56,079
44. LANE COVE	45,133	\$58,673
45. LISMORE	43,911	\$57,084
46. LIVERPOOL	49,169	\$63,920
47. LONDONDERRY	44,436	\$57,767
48. MACQUARIE FIELDS	57,153	\$74,299
49. MAITLAND	52,781	\$68,615
50. MANLY	44,186	\$57,442

ELECTORATE MAILOUT ACCOUNT

SCHEDULE 4

ELECTORAL DISTRICT	CURRENT ENTITLEMENT (31 March 2005) As provided by the State Electoral Office	ANNUAL ENTITLEMENT
51. MAROUBRA	44,392	\$57,710
52. MARRICKVILLE	46,405	\$60,327
53. MENAI	48,996	\$63,695
54. MIRANDA	43,389	\$56,406
55. MONARO	49,518	\$64,373
56. MOUNT DRUITT	46,902	\$60,973
57. MULGOA	49,778	\$64,711
58. MURRAY-DARLING	40,413	\$52,537
59. MURRUMBIDGEE	43,804	\$56,945
60. MYALL LAKES	48,882	\$63,547
61. NEWCASTLE	46,038	\$59,849
62. NORTH SHORE	46,916	\$60,991
63. NORTHERN TABLELANDS	43,242	\$56,215
64. ORANGE	44,812	\$58,256
65. OXLEY	45,701	\$59,411
66. PARRAMATTA	46,675	\$60,678
67. PEATS	45,418	\$59,043
68. PENRITH	44,267	\$57,547
69. PITTWATER	46,039	\$59,851
70. PORT JACKSON	55,683	\$72,388
71. PORT MACQUARIE	49,304	\$64,095
72. PORT STEPHENS	48,588	\$63,164
73. RIVERSTONE	56,590	\$73,567
74. ROCKDALE	44,578	\$57,951
75. RYDE	45,848	\$59,602
76. SMITHFIELD	47,155	\$61,302
77. SOUTH COAST	50,385	\$65,501
78. SOUTHERN HIGHLANDS	49,179	\$63,933
79. STRATHFIELD	47,547	\$61,811
80. SWANSEA	48,126	\$62,564
81. TAMWORTH	45,250	\$58,825
82. THE ENTRANCE	46,818	\$60,863
83. THE HILLS	59,891	\$77,858
84. TWEED	51,948	\$67,532
85. UPPER HUNTER	42,628	\$55,416
86. VAUCLUSE	43,326	\$56,324
87. WAGGA WAGGA	44,603	\$57,984
88. WAKEHURST	45,664	\$59,363
89. WALLSEND	49,058	\$63,775
90. WENTWORTHVILLE	44,730	\$58,149
91. WILLOUGHBY	47,908	\$62,280
92. WOLLONGONG	43,447	\$56,481
93. WYONG	52,565	\$68,335

Advice of the Secretary of Treasury Pursuant to Section 12(A) of the *Parliamentary Remuneration Act, 1989*

The following comments on the Parliamentary Remuneration Tribunal's 2005 annual determination are made pursuant to Section 12 (A) of the *Parliamentary Remuneration Act, 1989* by the Secretary of the Treasury.

Financial Implications

The 2005 annual determination is fundamentally consistent with the previous determination and the methodology used to prepare the NSW Budget, except for the Sydney Allowance, which has effectively increased by 29 percent following a special reference as part of the 2005 determination.

The table below shows the variation in entitlements over the 2004 determination.

For the purpose of calculating the costs, the estimates are based on the 2004 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. The Sydney Allowance is calculated on the annual amount allocated to members.

ENTITLEMENT	2004 DET.	2005 DET.	CHANGE
Electoral Allowance	\$ 5,564,936	\$ 5,698,494	\$ 133,558 (2.4%)
Sydney allowance*	\$ 1,452,815	\$ 1,879,000	\$ 426,185 (29%)
Committee Allowance**	\$ 15,860	\$ 16,482	\$ 622 (3.9%)
Logistic Support Allocation	\$ 3,601,344	\$ 3,727,391	\$ 126,047 (3.5%)
Electorate Mail-out Account	\$ 5,600,000	\$ 5,600,000	NIL
Electorate Charter Transport Allowance - LA Members	\$ 97,178	\$ 97,178	NIL
Travelling Allowance for Recognised Office Holders	Not Estimated	Not Estimated	Increased***
Recognised Office Holder & Other Member Entitlement	Not defined	Not defined	Minor Increase
TOTAL MINIMUM EXPENDITURE	\$16,332,133	\$17,018,545	\$ 686,412 (4%)

- * Calculated on annual amount allocated to Members
- ** Includes members of Public Account Committees only
- *** Adjusted in line with movements in public sector rates

Member entitlements have increased by a minimum of \$686,412 over the 2004 determination, which represents a rise of 4 percent.

Sydney Allowance which contributed most towards the increase, has been boosted by 11 percent and at the same time, Members have been granted more overnight stays in Sydney which effectively takes the overall increase to 29 percent.

The increase in Electoral Allowance and Logistic Support Allocation (averaging 3 percent) is in line with the projected Sydney CPI of 3.0 percent for year 2005-06 and a 3.9 percent increase granted to Committee Allowance reflects increases in Members' salaries. While the Electorate Mailout Account and the Charter Transport Allowance have not been increased, the increases to the Travel Allowance to Recognised Office Holders and Recognised Office Holders may drive up the expenditure slightly.

The increase in entitlement is supported. However considering the Government's tight fiscal position, the increase should largely be met from the \$2.7 million in escalation (based on projected 3 percent CPI) provided in the Legislature's 2005-06 Budget. If necessary, Treasury will consider the remaining 1 percent increase of up to \$200,000 after assessing the actual Members' Allowance expenditure at the end of the year.

Accountability and Control

While retaining flexibility, the Parliamentary Remuneration Tribunal has maintained strict guidelines to ensure greater accountability and transparency over the use of entitlements by Members.

John Pierce
Secretary

