



NORTHERN TERRITORY OF AUSTRALIA

REMUNERATION TRIBUNAL

REPORT

AND

RECOMMENDATION No. 3 of 2002

MAGISTRATES OF THE NORTHERN TERRITORY

REMUNERATION TRIBUNAL

**REPORT - STANDARD OF CARS FOR MAGISTRATES OF THE
NORTHERN TERRITORY**

NORTHERN TERRITORY OF AUSTRALIA

REMUNERATION TRIBUNAL

REPORT

STANDARD OF CARS FOR MAGISTRATES OF THE NORTHERN TERRITORY

INTRODUCTION

1. The Tribunal is established by section 6(1) of the *Remuneration Tribunal Act*. Section 10(1) of that Act enables the Administrator to request the Tribunal to inquire into and report with recommendations on the remuneration and allowances to be paid to a person or class of persons, as well as other entitlements to be granted for their services. Tribunal reports are required to be tabled in the Legislative Assembly within 6 sitting days next following their receipt by the Administrator.
2. On 31 July 1981 the Administrator issued a formal Notice of Request to the Tribunal, specifying Magistrates as a class of persons to come within these arrangements and requesting the Tribunal to inquire into and report with recommendations on such remuneration allowances and other entitlements “from time to time”.
3. Within this standing authority, each inquiry and report sequence of Tribunal activity has been initiated on the written request of the Chief Minister of the Northern Territory. The last comprehensive inquiry was completed on 8 March 2002.
4. On 28 July 2002 the Chief Minister initiated an inquiry within this reference, with such inquiry, and associated report and recommendation to the Administrator, to focus only on the standards of vehicles to which Magistrates are entitled at Government expense.
5. The Tribunal has completed the inquiry and this report and accompanying recommendation completes the review.

CONDUCT OF THE REVIEW

6. The Magistrates and relevant departmental officers were made aware of the review by letter dated 29 July 2002.
7. The Tribunal received and considered submissions from the Chief Magistrate, on his own behalf and on behalf of fellow Magistrates, and from Magistrates Birch and Deland.
8. On 15 August 2002 the Northern Territory Government provided the Tribunal with a submission through the Department of Justice.
9. The Tribunal made its own inquiries as to the standards of cars provided in those jurisdictions offering that entitlement to Magistrates.

EVIDENCE AND CONSIDERATIONS

10. Magistrates point out that the current Determination of Remuneration, Allowances and Terms and Conditions of Stipendiary Magistrates is silent on the standard of the car they are entitled to. That Determination provides that, for matters it does not cover, Magistrates are entitled to the same terms and conditions of service as an employee within the meaning of the *Public Sector Employment and Management Act*. Consequently, they submit, the standard of car should be the same as that provided to public employees on an equivalent salary package to themselves, ie those at the Executive Contract Officer 6 (ECO6) level.
11. Magistrate Deland made a case for Magistrates based in Alice Springs to be provided with 4WD vehicles to facilitate circuit work.
12. The Government reminded the Tribunal that in the initial allocation of cars to Magistrates in 1989 the Chief Magistrate was supplied with a Holden Commodore and other Magistrates with Nissan Pintaras. Since then the standard of vehicle supplied to Magistrates has been lifted to one rung above the base range, i.e. to the NT Fleet group that includes the Holden Acclaim. A special Determination in February 1998, made without prior reference to the Remuneration Tribunal, specified that for two years from 9 March 1998 the Chief Magistrate was entitled to a Holden Calais, though a Caprice, a vehicle above the entitlement standard was actually supplied under a special arrangement. That vehicle is now due for replacement. The Government has submitted that:

- as Chief Magistrate is now a position carrying a salary equivalent to CEO, i.e. ECO6, the equivalent vehicle entitlement of a Calais or equivalent is appropriate; and
 - other Magistrates should be entitled to a "mid range"6-cylinder vehicle in accordance with previous Departmental guidelines.
13. Since the vehicle entitlement was first determined, new Magistrate offices of Coroner and Deputy Chief Magistrate have been created (June 1998) with differential remuneration.
 14. The justification for a vehicle entitlement was reported on in Tribunal Report Number1 of 2002. That justification does not include the need to use the vehicle for circuit work, though that use may well happen from time to time where convenience and road conditions allow. The justification for use of a 4WD vehicle for attendance at a court convened out of town is an operational matter at a separate and additional cost to the court.
 15. The Tribunal is not persuaded that the nexus provision covering non-specific terms and conditions can be used to create an automatic entitlement to a particular standard of motor vehicle. The Tribunal intention has been that the nexus is to pick up those terms and conditions that are generally extended within the Public Sector to all executives. The EO1 position nexus was recently dropped in favour of the more general wording following the disappearance of that position from the structure with the introduction of the Executive Contract system. That change to the Determination is not interpreted by this Tribunal as allowing a new ability for Magistrates to pick out desirable entitlements of contract officers. Contract conditions can only be evaluated in terms of the entire package, including loss of tenure. In any event EO6 officers represent the CEO level and the *Public Sector Employment and Management Act* excludes CEOs from the definition of employees. Also, the Tribunal does not accept the argument that the notional salary package of Stipendiary Magistrates is of the same or higher value than the actual package for ECO6 positions.
 16. In terms of general relativities, the Caprice or equivalent is only available to the Administrator and the Chief Justice, and the Calais to CEOs. Other senior executives have graded entitlements below those ceilings.
 17. The Tribunal has carefully considered all submissions and other material available to it in forming the accompanying recommendation. The justification for higher standards as a result of changed relativities, indicating a bracket creep from when the entitlement was first activated, is accepted.

NORTHERN TERRITORY OF AUSTRALIA
REMUNERATION TRIBUNAL

RECOMMENDATION No. 3 of 2002

STANDARD OF CARS FOR MAGISTRATES OF THE
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MAGISTRATES OF THE NORTHERN TERRITORY COURT

In accordance with a request from the Administrator that the Tribunal from time to time inquire into and report with recommendations on the remuneration and allowances to be paid and other entitlements to be granted to magistrates within the meaning of the *Magistrates Act*, the Tribunal recommends that the following entitlement be varied by the Administrator under section 6 of the *Magistrates Act* in respect of magistrates, effective from the date of the Determination.

Motor vehicles

The definition of Vehicle in the first paragraph of the recommendation covering the vehicle entitlement in Tribunal recommendation No. 1 of 2002 should be replaced with the following paragraph:

vehicle means, upon the replacement when due of the vehicle currently supplied, a private plated 6-cylinder vehicle of the following standard or equivalent standard set by NT Fleet:

(a) for the Chief Magistrate, a Holden Calais:

(b) for the Coroner and the Deputy Chief Magistrate, a Holden Berlina;

(c) for all other Magistrates, a Holden Acclaim.

Dated this twenty eighth day of August, Two thousand and two.

O. Alder
Member of the
Northern Territory Remuneration Tribunal