

ATTACHMENTS UNDER SEPARATE
COVER

ORDINARY COUNCIL MEETING
22 SEPTEMBER 2015



PORT STEPHENS
C O U N C I L

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ITEM 14 - ATTACHMENT 1 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY.

Policy



FILE NO: A2004-0284

TITLE: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY

POLICY OWNER: GOVERNANCE MANAGER

PURPOSE:

The purpose of the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy ('the Policy') is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

CONTEXT/BACKGROUND:

This Policy is made under the *Local Government Act 1993*, including Sections 248 to 254 and 731 and having regard to the provisions of the Division of Local Government Circular No. 09-36, 7 October 2009.

The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors.

This Policy is to be adopted by Council annually, within five months after the end of the year.

Prior to adoption public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the Policy.

Council need not give public notice of a proposed amendment if Council is of the opinion that the proposed amendments are not substantial. The term 'not substantial' should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5% or changes to the standard of equipment and facilities to be provided. Public notice is required prior to each annual adoption of the policy even if there are no proposed changes.

Section 428 of the Act and Clause 271 of the Regulation requires Councils to include detailed information in their annual reports about the payments of expenses and facilities to Councillors.

Legislative provisions

The relevant legislative provisions are the *Local Government Act 1993* and the *Local Government (General) Regulations 2005*.

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Local Government Act 1993

248 FIXING AND PAYMENT OF ANNUAL FEES FOR COUNCILLORS

- (1) A council must pay each councillor an annual fee.
- (2) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each councillor.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

248A ANNUAL FEES OR OTHER REMUNERATION NOT TO BE PAID DURING PERIOD OF SUSPENSION

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act, unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

249 FIXING AND PAYMENT OF ANNUAL FEES FOR THE MAYOR

- (1) A council must pay the mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

252 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.

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- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

253 REQUIREMENTS BEFORE POLICY CONCERNING EXPENSES AND FACILITIES CAN BE ADOPTED OR AMENDED

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:
 - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
 - (b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
 - (c) a copy of the notice given under subsection (1).
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

254 DECISION TO BE MADE IN OPEN MEETING

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

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254A CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD

- (1) Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:
 - (a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or
 - (b) in any other circumstances prescribed by the regulations.
- (2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.

428 ANNUAL REPORTS

- (1) Within 5 months after the end of each year, a council must prepare a report (its "annual report") for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed.

Local Government (General) Regulations 2005

217 ADDITIONAL INFORMATION FOR INCLUSION IN ANNUAL REPORT

- (1) For the purposes of section 428 (4) (b) of the Act, an annual report of a council is to include the following information:
 - (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),

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- (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,
- (iii) the attendance of councillors at conferences and seminars,
- (iv) the training of councillors and the provision of skill development for councillors,
- (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- (vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,
- (vii) the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,
- (viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions

403 Payment of expenses and provision of facilities

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.

404 CIRCUMSTANCES IN WHICH COUNCILLORS' ANNUAL FEES MAY BE REDUCED OR NOT PAID

A definition of what is included and what is excluded from the policy. The scope may also include – what, when and where the policy applies; who will be affected and how it will affect them; what impact the policy will have? Exclusions to policy application should also be included, if applicable.

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SCOPE:

The scope of this Policy is to detail those Councillor expenses and facilities the cost of which shall be met by Council.

This Policy also aims to ensure compliance of the Port Stephens Council Code of Conduct.

DEFINITIONS:

| | |
|-------------------------------------|--|
| Councillor | Means a Councillor elected to Port Stephens Council, including the Mayor. |
| Official Business of Council | Meeting of Council; Meetings of Committees of the Whole Site inspection where resolved by Council; Meetings of committees where Council has endorsed the Councillor's membership; Civic receptions hosted or sponsored by Council; Meetings or functions to which the Councillors attendance has been approved by the General Manager and/or the Mayor. Functions or meetings where the invitation to attend arises only as a result of the Councillor's position as a Councillor. |
| Council term | Period of elected Council (generally 4 years under the Local Government Act 1993) |
| Port Stephens local government area | Local government area of Port Stephens |
| The Act | Local Government Act 1993 |
| The Regulation | Local Government (General) Regulation 2005 |

POLICY STATEMENT:

Part 1 - Payment of Expenses

1.1 General Provisions

1.1.1 Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.

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- 1.1.2 This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fees paid to each Councillors is generally not intended to offset those costs.
- 1.1.3 All allowances and reimbursements of expenses made under this Policy shall be in respect to costs directly associated with the functions of civic office.
- 1.1.4 Councillors are not permitted to claim expenses in connection with political activities, including political fundraising as this is considered a personal interest.
- 1.1.5 Councillors will not be provided with general expense allowance. A general expense allowance is a sum of money paid by a Council to a Councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe

1.2 Reimbursement and reconciliation of expenses processes

- 1.2.1 All claims for reimbursement must be made within three (3) months of incurring the expense and shall be subject to the General Manager or delegated officer discretion.
- 1.2.2 All claims shall be submitted to the General Manager and the delegated officer for assessment against the policy on **FORM 1.**"
- 1.2.3 All claims must be supplied with a tax invoice or receipt to support the claim. If a Councillor is not able to provide a tax invoice or receipt then a Statutory Declaration is to be provided.
- 1.2.4 Claims for travel under this Policy shall be lodged using travel **FORM 2**, include:
- Date
 - Place of departure and arrival
 - Distance travelled
 - Fare and parking fees paid
- 1.2.5 The kilometre rate payable to Councillors who travel in their own vehicle shall be the rate payable under the Local Government State Award.
- 1.2.6 Where travel is outside the Hunter Councils Area, Council shall as appropriate meet or reimbursement the lesser amount of the following expenses:
- a) The cost of an economy class air ticket and associated taxi transfers.
 - b) The cost of a first class rail ticket and associated taxi transfers.
 - c) Transportation expenses using a Councillor's own vehicle (calculated under clause 1.2.5).

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- d) Transportation using a Council-owned vehicles, actual costs incurred.
- 1.2.7 Where possible Council will pay all expenses directly by account or through use of a corporate credit card. In some instances, it may be necessary for Councillors to pay unexpected costs and seek reimbursement.
- 1.2.8 Once expenses of attending conferences, seminars or training course have been finalised, an invoice shall be forwarded to Councillors for any expenses payable by them.
- 1.3 Approval and Dispute resolution**
- 1.3.1 The Executive Assistant – Councillor Support shall assess all claims against this Policy and provide the assessed documentation to the General Manager and Executive Officer for approval.
- 1.3.2 Claims will be paid on a monthly basis, generally the first Friday of the month.
- 1.3.3 Should the General Manager and Governance Manager determine that a claim should not be paid, the Councillor should be advised in writing. Should the Councillor still believe that the claim should be paid, in part or full, it shall be considered that a dispute exists.
- 1.3.4 In the event of a dispute at any time regarding payment of a claim or anything else under this Policy, the parties to this dispute shall each provide a written report on the nature of the dispute. The General Manager shall submit such reports to the next open meeting of Council. The dispute shall then be determined by a resolution of Council having regard to the reports, this Policy, Act and any other relevant laws.
- 1.3.5 The decision of Council pursuant to clause 1.3.4 shall be binding on all parties.
- 1.4 Payment in advance**
- 1.4.1 Councillors may require advance payment for an anticipated expense associated with attendance at a conference, seminar and training course. The amount is **\$200** per Councillor per event.
- 1.4.2 In the event of a payment being made in advance, Councillors must full reconcile all expenses against the amount of the advance and submit the reconciliation to Council with **30 days** of the event.

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1.5 Monetary Limits

- 1.5.1 Monetary limits set out in this Policy are the maximum amount payable in respect of any facility or expense. Any additional costs above the limit will be incurred by the Councillor. All monetary limits are exclusive of GST.
- 1.5.2 Monetary limits may only be waived by a resolution of Council in exceptional circumstances. Any waiver of a monetary limit will apply to a particular event or circumstance and will not constitute an amendment to this Policy.

Spouse and Partner Expenses

- 1.6.1 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 1.6.2 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions with the Port Stephens Local Government Area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of **\$500** per year of term, not including the Local Government NSW annual conference.
- 1.6.3 Costs and expense incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.
- 1.6.4 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Mayor is entitled to a maximum of **\$1000.00** per year of term, not including the Local Government NSW annual conference.
- 1.6.5 Council shall meet limited expenses of spouse, partner or accompanying person associated with attendance at the Local Government NSW annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.

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- 1.6.6 Costs associated with spouse, partner or accompanying person associated with attendance conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.
- 1.6.7 In no circumstances will the peripheral expenses of spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Specific Expenses for Councillors

1.7 Attendance at seminars, conferences, training and educational expenses

- 1.7.1 Council shall meet expenses incurred by Councillors in attending conferences and seminars or undertaking training and educational courses when the attendance is:
- To the Local Government NSW annual conference; or
 - Authorised by resolution of an open meeting of Council.
- 1.7.2 Councillors should generally have their attendance at a conference, seminar or participation in a training course authorised by Council in accordance with clause 1.7.1 (b).
- 1.7.3 Where it is impractical to have a Councillor's attendance or participation authorised by Council in accordance with clause 1.7.1 (b), Councillors wishing to claim expenses incurred due to their attendance or participation shall obtain the approval of the Mayor and the General Manager prior to attendance. Where the Mayor is seeking approval to claim his or her attendance or participation expenses under this clause, he or she shall obtain the approval of the Deputy Mayor and the General Manager.
- 1.7.4 Councillors shall submit their request for attendance in writing with the appropriate notice detailing the costs and benefits to the Councillor, to Council and the community.
- 1.7.5 In making its decision, the General Manager/Mayor or Council should consider:
- The relevance of the seminar, conference, training or educational expenses to Council and the potential benefit that may result from attendance;
 - The special interest of the Councillor/s wishing to attend;
 - The total cost to Council of attendance relative to the Program budget;
 - The fair and equitable division of opportunity for Councillors to attend conferences/ seminars.

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1.7.6 Councillors shall at the conclusion of their attendance at the seminar, conference, or training provide a written report to Council on the aspects of the seminar, conference or training. This report should be submitted to Council within one month of their attendance. Attendance at the Local Government NSW annual conference will not require a report to Council.

1.7.7 The General Manager's Office will make all arrangements for the attendance of Councillors and accompanying persons, where required at a conference, seminar or training.

1.8 Seminars, Conferences and Training Expenses

1.8.1 Council will meet the costs for attendance at approved conferences and seminars, training and educational courses to a maximum of **\$5,000.00** per Councillor per year of term, excluding the costs associated with attendance at the Local Government NSW annual conference:

- a) **Registration fees** – Council will meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council.
- b) **Accommodation** – where a conference, seminar or training course is not located within the Port Stephens Local Government Area, Councillors shall where required be accommodated in the hotel where the event is being held or the nearest hotel to it that is of a similar standard, or as arranged by the conference organiser. Accommodation shall be provided at the rate of a double room. Any additional nights prior to or following the conference, seminar or training course Council will not be included in the expenses paid by Council. **Note:** Movie hire and Mini Bar Facilities will be paid for by the Councillor.
- c) **Transportation** – Councillors attending a conference, seminar or training course shall travel by the most appropriate route, subject to any personal medical requirements. Any costs incurred in undertaking activities not related to attendance at the conference, seminar or training course shall not be included in any expenses paid by Council.
- d) **Educational Materials** – where a Councillor is participating in an approved training or educational course and specific reference materials are required (for example, prescribed textbooks), Council shall purchase such educational materials on the Councillor's behalf. At the completion of the relevant training or educational course, educational materials purchased pursuant to this clause shall be returned to Council and be available for the use of all Councillors in the Councillor's Room

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1.8.2 Conferences, seminars and training held outside the Port Stephens Local Government Area, Council shall as appropriate (having regard to availability, time/cost effectiveness of the transport options) meet or reimburse the lesser amount of the following transportation expenses:

- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first-class rail ticket and associated taxi transfers.
- c) Transportation expenses by a Councillor with the Councillor's own vehicle (refer to clause 1.2.5).

1.8.3. If a Council-owned vehicle utilised that cost will be determined by way of actual costs incurred.

1.9 Meals

1.9.1 Council shall meet the cost of breakfast, lunch and dinner for Councillors attending a conference, seminar or training course where any such meal is not provided by the organiser. Council shall also meet the reasonable cost of drinks accompanying the meals.

1.9.2 Costs payable by Council under clauses 1.9.1 and 1.9.2 shall be capped at a maximum of **\$100.00** per Councillor per day inclusive. Councillors will be paid actual costs if under **\$100.00** per day.

1.9.3 Council shall meet the reasonable cost of Councillors' meals where due to their attendance to Official Business of Council the Councillor is reasonably unable to partake of a meal at their residence and so incurs additional expense.

1.9.4 Costs payable by Council under clause 1.9.3 shall be capped at a maximum of **\$50.00** per Councillor per day or actual costs, whichever is less.

1.10 Local Travel Arrangements and Associated Expenses

1.10.1 Travelling expenses shall be reimbursed to Councillors for travel by public transport or private vehicle on Official Business of Council in the Hunter Councils area, to a maximum amount of **\$6,000.00** per Councillor per year of term.

1.10.2 Councillors may, where available, use Council owned vehicles to attend to Official Business of Council.

1.10.3 Council shall meet the cost of parking fees and road tolls but not the cost of traffic or parking fines, which shall remain the sole responsibility of the Councillor.

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1.10.4 Claims for reimbursement under this clause 1.10 shall be made in accordance with clause 1.2.

1.11 Travel outside the HROC Area including Interstate and Overseas Travel

1.11.1 Payment of any travel expenses to a Councillor, incurred on Council related business outside of the Hunter Councils area and not otherwise addressed in clause 2.8 requires approval by resolution of Council in an open meeting.

1.11.2 Approval for payment of travel expenses under clause 1.11.1 may be granted subject to any conditions Council so determines, and Council shall meet only those expenses that Council so determines.

1.12 Communication Device Costs and Expenses

1.12.1 Council shall reimburse Councillors to a maximum of **\$3,000.00** per term for the purchase of a personal computer/laptop, multifunction device, peripherals and Microsoft office software.

1.12.2 Council shall not purchase the equipment in item 1.12.1 on a Councillors behalf.

1.12.3 Council shall reimburse Councillors for all maintenance and repairs, which are to be arranged by individual Councillors.

1.12.4 Council shall reimburse Councillors for all consumables such as ink cartridges and reasonable supply of paper for official Council business.

1.12.5 Council shall reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business to a maximum cost of **\$200.00** per Councillor per month of term. All communication device costs incurred above this maximum are at the Councillors own expense.

1.12.6 As an alternative to clause 1.12.5, Council shall reimburse Councillors for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business to a maximum cost of **\$120.00** per Councillor per month of term. The maximum cost for a mobile phone plan would be **\$100.00** per Councillor per month of term.

All communication device costs incurred above this maximum are at the Councillors own expense.

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- 1.12.7 If a Councillor does not have a telephone line or internet connection at their home, Council shall meet the installation costs.
- 1.12.8 Council shall meet the cost of providing and maintaining an internet connection at the residence of the Councillor to a maximum of **\$60.00** per Councillor per month of term. Any internet costs incurred above this maximum are at the Councillors own expense.

1.13 Care and Other Related Expenses.

- 1.13.1 In this clause, "relative" shall have the same meaning as set out in the Dictionary in the Act, being at the date of this policy:

"Relative, in relation to a person, means any of the following:

- (a) *the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) *the spouse or de facto partner of the person or of a person referred to in paragraph (a)."*

- 1.13.2 Where a Councillor has sole responsibility for the care and support of any relative, Council shall reimburse expenses for carer arrangements, where expenses relate to a relative as defined under clause 1.13.1 and are payable when a Councillor is required to attend the following to discharge the functions of civic office:

- a) Council meetings, committee meetings, inspections, formal briefings, civic and ceremonial functions relating to civic office;
- b) Meetings scheduled by Council and/or the Mayor;
- c) Meetings arising as a result of a Councillor being appointed by Council to an outside body or committee;
- d) A meeting, function or other official role as a representative of the Mayor or Council.

- 1.13.3 The total amount paid to a Councillor under this clause 1.13 shall not exceed **\$2,000** per year of term.

- 1.13.4 Claims for reimbursement under this clause 1.13 shall be made in accordance with clause 1.2.

1.14 Insurance Expenses

Councillors shall receive the benefit of insurance cover for:

- 1.14.1 Personal Accident - Personal Accident insurance covers personal injury, which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies

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anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

- 1.14.2 Professional Indemnity - Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.
- 1.14.3 Public Liability - Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.
- 1.14.4 Councillors' & Officers' Liability - Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by the Risk Management Coordinator.

1.15 Legal Expenses

- 1.15.1 Councillors may be entitled to indemnity for an enquiry, investigation or hearing commenced by of official body.

Legal proceedings being taken against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor (with the exception of defamation proceedings), Council shall reimburse such a Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:

The amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

The Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).

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The amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Hunter based Solicitors will be paid ie any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

Defamation proceedings or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

Note: Council may not meet the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances (DLG Circular 00/22).

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.

Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something, which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.

In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

1.15.2 Council shall not meet any Councillor's costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.

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General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (a) The statement was made or the act was done in relation to discharging the functions of civic office;
- (b) The Councillor concerned was acting in good faith; and
- (c) The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (a) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- (b) any other fees, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceeding **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must;
 - i. be in written form;
 - ii. include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - iii. Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully

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informed of any oral or written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (4); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.
 - If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as

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nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.

7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
 - i. Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - ii. Accounts being considered and approved by the General Manager prior to payment; and
 - iii. All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraph 5.1 (ii) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the Three Criteria set out above:

- i. The statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- ii. The statement:
 - is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and

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- is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
- Does not breach any other law.

Part 2 - Provision of Facilities

2.1 Provision of Facilities Generally

2.1.1 Unless otherwise stated, where a facility may be provided by Council in accordance with this Policy and a Councillor chooses to accept the facility, it shall be provided by Council with all establishment, routine maintenance, operating, training, replacement and insurance costs being met by Council, subject to any limits specified and adequate funds being allocated and available in Council's adopted Integrated Strategic Plans.

2.1.2 All facilities provided shall be of adequate capacity and functionality to allow the role of Councillor to be fully undertaken.

2.2 Private Use of Equipment and Facilities

2.2.1 Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes benefits such as a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.

2.2.2 If a Councillor does obtain a private benefit for the use of a facility provided by Council being more than incidental use, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms.

2.2.3 The value of a private benefit to be invoiced under this clause 2.2 shall be determined by the General Manager or, at the request of the Councillor in receipt of the private benefit, the General Manager, or any two Councillors, by resolution of an open meeting of Council.

2.2.4 Equipment, facilities and services provided under this Policy shall not be used to produce election material or for any other political purposes.

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2.3 Councillors' Room

2.3.1 Councillors shall be provided with equipment and facilities at the Raymond Terrace Administration Building. Equipment provided under this clause remains the property of Council.

2.3.2 The Councillors' Room furnished for use by all Councillors shall be provided with:

- a) A telephone, computer with internet access, multifunction device and computer peripherals for use by all Councillors.
- b) A library including Council policies, relevant legislation, reports on Development Applications and other relevant documents.

2.4 Administration Support, Stationery, Postage & Business Cards

2.4.1 Council shall provide the support services of Councillor Support Executive Assistant with suitable experience and skills to support Councillors.

2.4.2 Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office.

2.4.3 Council shall provide appropriate letterhead stationery, business cards and Christmas cards for use by Councillors.

2.4.4 Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.

2.4.5 Under no circumstances shall Councillors use the administration services, staff or other facilities provided in association with Local, State or Federal Government Elections.

2.4.6 Under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.

2.4.7 Council shall provide Councillors with official name badges indicating the wearer holds the office of Councillor, to wear at Civic functions.

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2.5 Meals

2.5.1 Councillors will be provided with meals and refreshments following Committee and Council meetings and at other times considered appropriate by the Mayor and General Manager. The standard of the meal will be determined by the Mayor and/or the General Manager.

2.5.2 Light refreshments such as biscuits, health bars and beverages will be provided in the Councillors Room.

2.6 Transport Facilities

2.6.1 Four designated car parking spaces shall be provided for Councillors in the Council car park at the Council administration building, to be shared amongst Councillors.

2.6.2 Councillors will be reimbursed for all transport costs (taxi, use of private vehicle, etc) in accordance with clause 2.2 for their attendance at official Council functions. This includes deputising for the Mayor.

2.7 Corporate Uniform

2.7.1 Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$250 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

2.8 Superannuation

2.8.1 Councillors may elect to contribute all or part of their Councillor Allowance into an approved Superannuation Scheme by completing **FORM 3**.

2.9 Health & Wellbeing Initiative

2.9.1 Councillors shall be able to access a Health Initiative program, which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non refundable.

2.9.2 Councillors shall investigate any taxation implications for individual councillors as a result of the membership.

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2.9.3 Further details can be obtained through Council's Councillor Support Executive Assistant.

2.10 Provision of Safety equipment

2.10.1 Councillors shall be provided with the following Protective Apparel:

- hard hat;
- safety vest;
- safety footwear;
- safety glasses and;
- hearing protection

to accord with the NSW Workplace Health & Safety Act, for on-site inspections.

Provision of Additional Expenses, Equipment and Facilities for the Mayor

2.11 Additional Expenses, Equipment and Facilities

2.11.1 The Mayor is paid an additional annual fee. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

2.11.2 This Policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is generally not intended to offset those costs.

2.12 Equipment and Facilities

2.12.1 The Mayor shall be provided with additional equipment and facilities. Equipment provided under this clause remains the property of Council.

2.12.2 The following facilities and equipment shall be provided to the Mayor:

2.12.3 A furnished office with computer, printer, internet access, phone, facsimile and computer peripherals.

2.12.4 Office refreshments.

2.12.5 Mayoral letterhead.

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2.12.6 A corporate credit card, to be used only to pay expenses allowed under this policy.

2.12.7 All items provided to the Mayor under this clause 2.12 must be returned to Council when the Mayor ceases to hold office.

2.13 Mayor's Staff

2.13.1 Council shall provide the services of the Councillor Support Executive Assistant with suitable experience and skills to support the Mayor.

2.13.2 The Councillor Support Executive Assistant shall provide support to the Deputy Mayor in the absence of the Mayor.

2.14 Mayoral Motor Vehicle

2.14.1 The Mayor shall be provided with:

2.14.2 A fully maintained motor vehicle, of a standard appropriate to the Office of the Mayor for the use of discharging function of the Mayor.

2.14.3 A fuel card, to be used for official Council business.

2.14.4 A car parking space at the Raymond Terrace Administration Building.

2.14.5 All items provided to the Mayor under this clause 2.14 must be returned to Council when the Mayor ceases to hold office.

POLICY RESPONSIBILITIES:

- 1) The Governance Manager will be responsible for the implementation, monitoring and re-evaluating the policy.

RELATED DOCUMENTS:

- Office of Local Government Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors.
- Port Stephens Council Code of Conduct, as amended.
- Office of Local Government Model Code of Conduct – as amended.
- Independent Commission Against Corruption (ICAC) Publications.

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| TRIM container No | A2004-0284 | TRIM record No | |
| Audience | Mayor and Councillors | | |
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| Author | Governance Manager | | |
| Review timeframe | Annually | Next review date | July 2016 |
| Adoption date | | | |

VERSION HISTORY:

| Version | Date | Author | Details | Minute No. |
|---------|------------|---------------------------|---------|------------|
| 1.0 | 28/06/1994 | Assistant General Manager | | 342 |
| 2.0 | 13/12/1994 | Assistant General Manager | | 691 |
| 3.0 | 14/11/1995 | Assistant General Manager | | 562 |
| 4.0 | 10/09/1996 | Assistant General Manager | | 528 |
| 5.0 | 23/12/1997 | Assistant General Manager | | 1471 |
| 6.0 | 09/03/2004 | Governance Officer | | 107 |
| 7.0 | 31/01/2006 | Governance Coordinator | | 398 |
| 8.0 | 27/11/2006 | Governance Coordinator | | 758 |
| 9.0 | 25/03/2008 | Governance Coordinator | | 069 |
| 10.0 | 16/12/2008 | Executive Officer | | 398 |
| 11.0 | 24/11/2009 | Executive Officer | | 399 |
| 12.0 | 23/11/2010 | Executive Officer | | 373 |
| 13.0 | 18/11/2011 | Executive Officer | | 385 |
| 14.0 | 27/11/2012 | Executive Officer | | 323 |

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| Version | Date | Author | Details | Minute No. |
|---------|------------|--------------------|--|------------|
| 15.0 | 26/11/2013 | Executive Officer | | 345 |
| 16.0 | 26/08/2014 | Executive Officer | | 229 |
| 17.0 | | Governance Manager | Transferred policy to new corporate policy template and updated forms. No changes to the intent or objectives of the policy. | |

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Payment of Expenses and Provision of
Facilities to Councillors Policy
(Section 252, Local Government Act 1993)

| | |
|--------------------------------------|--------------------------------------|
| Adopted 28/06/1994 Minute No 342 | Amended 26/08/2014 Minute No. 229 |
| Amended 13/12/1994 Minute No. 691 | |
| Amended 14/11/95 Minute No. 562 | |
| Amended 10/9/96 Minute No. 528 | |
| Amended 23/12/97 Minute No. 1471 | |
| Amended 09/03/04 Minute No. 107 | |
| Amended 31/01/06 Minute No.398 | |
| Amended 27/11/06 Minute No. 758 | |
| Amended 25/03/08 Minute No. 069 | |
| Amended 16/12/08 Minute No. 398 | |
| Amended 24/11/09 Minute No.399 | |
| Amended 23/11/10 Minute No. 373 | |
| Amended 18/10/11 Minute No. 385 | |
| Amended 27/11/2012 Minute No. 323 | |
| Amended 26/11/2013 Minute No. 345 | |

ITEM 14 - ATTACHMENT 2 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY.

Part 1 – Introduction

1.1 Title, commencement and definitions of the Policy

1.1.1 The Policy shall be known as the "Councillors Payment of Expenses and Provision of Facilities".

1.1.2 The Policy is effective from 26 August 2014.

1.1.3 Definitions

In this Policy, unless otherwise stated:

- a) **Councillor** means a Councillor elected to Port Stephens Council, including the Mayor.
- b) **Official Business of Council** means:
 - Meeting of Council;
 - Meetings of Committees of the Whole
 - Site inspection where resolved by Council;
 - Meetings of committees where Council has endorsed the Councillor's membership;
 - Civic receptions hosted or sponsored by Council;
 - Meetings or functions to which the Councillors attendance has been approved by the General Manager and/or the Mayor.
 - Functions or meetings where the invitation to attend arises only as a result of the Councillor's position as a Councillor.
- c) **Council Term** means period of elected Council (generally 4 years under the Local Government Act 1993).
- d) **Port Stephens Local Government Area** means the local government area of Port Stephens Council.
- e) **The Act** means the *Local Government Act 1993*.
- f) **The Regulations** means the *Local Government (General) Regulation 2005*.

1.2 Purpose of the Policy

1.2.1 The purpose of the policy is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties. It ensures that these are provided in an accountable and transparent manner.

1.3 Objectives and scope of the Policy.

1.3.1 The objective of this Policy is to detail those Councillor expenses and facilities the cost of which shall be met by Council.

1.3.2 This Policy also aims to ensure compliance of the Port Stephens Council Code of Conduct.

ITEM 14 - ATTACHMENT 2 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY.

1.4 Making, adoption and reporting of the Policy

- 1.4.1 This Policy is made under the *Local Government Act, 1993*, including Sections 248 to 254 and 731 and having regard to the provisions of the Division of Local Government Circular No. 09-36, 7 October 2009.
- 1.4.2 The Act requires that the Council must adopt a policy concerning the payment of expenses and the provision of facilities to the Mayor and Councillors.
- 1.4.3 This Policy is to be adopted by Council annually, within five months after the end of the year.
- 1.4.4 Prior to adoption public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the Policy.
- 1.4.5 Council need not give public notice of a proposed amendment if Council is of the opinion that the proposed amendments are not substantial. The term “not substantial” should be taken to mean minor changes to wording of the policy or changes to monetary provisions or rates that are less than 5% or changes to the standard of equipment and facilities to be provided. Public notice is required prior to each annual adoption of the policy even if there are no proposed changes.
- 1.4.6 Section 428 of the Act and Clause 271 of the Regulation requires Councils to include detailed information in their annual reports about the payments of expenses and facilities to Councillors.

1.5 Legislative provisions

- 1.5.1 The relevant legislative provisions are the *Local Government Act 1993* and the *Local Government (General) Regulations 2005*.

Local Government Act 1993

248 FIXING AND PAYMENT OF ANNUAL FEES FOR COUNCILLORS

- (1) *A council must pay each councillor an annual fee.*
- (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (3) *The annual fee so fixed must be the same for each councillor.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*

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248A ANNUAL FEES OR OTHER REMUNERATION NOT TO BE PAID DURING PERIOD OF SUSPENSION

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or*
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act, unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.*

249 FIXING AND PAYMENT OF ANNUAL FEES FOR THE MAYOR

- (1) A council must pay the mayor an annual fee.*
- (2) The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*

252 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES

- (1) Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.*
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.*
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.*
- (4) A council may from time to time amend a policy under this section.*
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

253 REQUIREMENTS BEFORE POLICY CONCERNING EXPENSES AND FACILITIES CAN BE ADOPTED OR AMENDED

ITEM 14 - ATTACHMENT 2 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY.

- (1) *A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) *Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*
- (3) *Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) *Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:*
 - (a) *a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and*
 - (b) *a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and*
 - (c) *a copy of the notice given under subsection (1).*
- (5) *A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.*

254 DECISION TO BE MADE IN OPEN MEETING

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

254A CIRCUMSTANCES IN WHICH ANNUAL FEES MAY BE WITHHELD

- (1) *Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council:*
 - (a) *for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or*
 - (b) *in any other circumstances prescribed by the regulations.*
- (2) *Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.*

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428 ANNUAL REPORTS

- (1) *Within 5 months after the end of each year, a council must prepare a report (its "annual report") for that year reporting as to its achievements in implementing its delivery program and the effectiveness of the principal activities undertaken in achieving the objectives at which those principal activities are directed.*

Local Government (General) Regulations 2005

217 ADDITIONAL INFORMATION FOR INCLUSION IN ANNUAL REPORT

- (1) *For the purposes of section 428 (4) (b) of the Act, an annual report of a council is to include the following information:*
- (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),*
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:*
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),*
 - (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,*
 - (iii) the attendance of councillors at conferences and seminars,*
 - (iv) the training of councillors and the provision of skill development for councillors,*
 - (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*

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(vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,

(vii) the expenses of any spouse, partner (whether of the same or the opposite sex) or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,

(viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions

403 Payment of expenses and provision of facilities

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or*
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.*

404 CIRCUMSTANCES IN WHICH COUNCILLORS' ANNUAL FEES MAY BE REDUCED OR NOT PAID

For the purposes of section 254A of the Act, a prescribed circumstance for the non-payment or reduction of a councillor's annual fee is the circumstance where both of the following conditions are satisfied:

- (a) the payment of the annual fee adversely affects the councillor's entitlement to a pension, benefit or allowance under any legislation of the Commonwealth, a Territory or a State (including New South Wales),*
- (b) the councillor agrees to the non-payment or reduction.*

1.6 Other Government policy provisions

- Division of Local Government Guidelines for the payment of expenses and the provision of facilities to Mayors and Councillors.
- Port Stephens Council Code of Conduct, as amended.
- Division of Local Government Model Code of Conduct – as amended.
- ICAC Publications.

ITEM 14 - ATTACHMENT 2 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY.

Part 2 – Payment of Expenses

2.1 General Provisions

- 2.1.1 Council will determine an annual allowance, to be paid monthly in arrears, in accordance with Section 248 - 251 of the Local Government Act and the determination of the Local Government Remuneration Tribunal.
- 2.1.2 This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fees paid to each Councillors is generally not intended to offset those costs.
- 2.1.3 All allowances and reimbursements of expenses made under this Policy shall be in respect to costs directly associated with the functions of civic office.
- 2.1.4 Councillors are not permitted to claim expenses in connection with political activities, including political fundraising as this is considered a personal interest.
- 2.1.5 Councillors will not be provided with general expense allowance. A general expense allowance is a sum of money paid by a Council to a Councillor to expend on an item or a service that is not required to be receipted and/or otherwise reconciled according to a set procedure and within a specific timeframe

2.2 Reimbursement and reconciliation of expenses processes

- 2.2.1 All claims for reimbursement must be made within three (3) months of incurring the expense and shall be subject to the General Manager or delegated officer discretion.
- 2.2.2 All claims shall be submitted to the General Manager and the delegated officer for assessment against the policy on FORM 1."
- 2.2.3 All claims must be supplied with a tax invoice or receipt to support the claim. If a Councillor is not able to provide a tax invoice or receipt then a Statutory Declaration is to be provided.
- 2.2.4 Claims for travel under this Policy shall be lodged using travel FORM 2, include:
- Date
 - Place of departure and arrival
 - Distance travelled
 - Fare and parking fees paid

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- 2.2.5 The kilometre rate payable to Councillors who travel in their own vehicle shall be the rate payable under the Local Government State Award.
- 2.2.6 Where travel is outside the Hunter Councils Area, Council shall as appropriate meet or reimbursement the lesser amount of the following expenses:-
- a) The cost of an economy class air ticket and associated taxi transfers.
 - b) The cost of a first class rail ticket and associated taxi transfers.
 - c) Transportation expenses using a Councillor's own vehicle (calculated under clause 2.2.5).
 - d) Transportation using a Council-owned vehicles, actual costs incurred.
- 2.2.7 Where possible Council will pay all expenses directly by account or through use of a corporate credit card. In some instance it maybe necessary for Councillors to pay unexpected costs and seek reimbursement.
- 2.2.8 Once expenses of attending conferences, seminars or training course have been finalised, an invoice shall be forwarded to Councillors for any expenses payable by them.

2.3 Approval and Dispute resolution

- 2.3.1 The Executive Assistant – Councillor Support shall assess all claims against this Policy and provide the assessed documentation to the General Manager and Executive Officer for approval.
- 2.3.2 Claims will be paid on a monthly basis, generally the first Friday of the month.
- 2.3.3 Should the General Manager and Executive Officer determine that a claim should not be paid, the Councillor should be advised in writing. Should the Councillor still believe that the claim should be paid, in part or full, it shall be considered that a dispute exists.
- 2.3.4 In the event of a dispute at any time regarding payment of a claim or anything else under this Policy, the parties to this dispute shall each provide a written report on the nature of the dispute. The General Manager shall submit such reports to the next open meeting of Council. The dispute shall then be determined by a resolution of Council having regard to the reports, this Policy, Act and any other relevant laws.
- 2.3.5 The decision of Council pursuant to clause 2.3.4 shall be binding on all parties.

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2.4 Payment in advance

2.4.1 Councillors may require advance payment for an anticipated expense associated with attendance at a conference, seminar and training course. The amount is \$200 per Councillor per event.

2.4.2 In the event of a payment being made in advance, Councillors must full reconcile all expenses against the amount of the advance and submit the reconciliation to Council with 30 days of the event.

2.5 Monetary limits

2.5.1 Monetary limits set out in this Policy are the maximum amount payable in respect of any facility or expense. Any additional costs above the limit will be incurred by the Councillor. All monetary limits are exclusive of GST.

2.5.2 Monetary limits may only be waived by a resolution of Council in exceptional circumstances. Any waiver of a monetary limit will apply to a particular event or circumstance and will not constitute an amendment to this Policy.

Spouse and Partner Expenses

2.6.1 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.

2.6.2 In limited circumstances, Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Councillor when the Councillor is performing his or her official functions with the Port Stephens Local Government Area, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Councillor is entitled to a maximum of \$500.00 per year of term, not including the Local Government NSW annual conference.

2.6.3 Costs and expense incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function.

2.6.4 In limited circumstances, Council shall meet certain costs incurred by the Mayor on behalf of their spouse, partner or accompanying person which is properly and directly related to accompanying the Mayor within the State of New South Wales or as resolved by Council when performing his or her official functions, including but not limited to costs associated with attendance at official Council functions that are of a formal or ceremonial nature. Each Mayor is entitled to a maximum of \$1000.00 per year of term, not including the Local Government NSW annual conference.

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- 2.6.5 Council shall meet limited expenses of spouse, partner or accompanying person associated with attendance at the Local Government NSW annual conference. These expenses are limited to the costs of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.
- 2.6.6 Costs associated with spouse, partner or accompanying person associated with attendance conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.
- 2.6.7 In no circumstances will the peripheral expenses of spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

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Specific Expenses for Councillors

- 2.7 Attendance at seminars, conferences, training and educational expenses**
- 2.7.1 Council shall meet expenses incurred by Councillors in attending conferences and seminars or undertaking training and educational courses when the attendance is:
- a) To the Local Government NSW annual conference; or
 - b) Authorised by resolution of an open meeting of Council.
- 2.7.2 Councillors should generally have their attendance at a conference, seminar or participation in a training course authorised by Council in accordance with clause 2.7.1 (b).
- 2.7.3 Where it is impractical to have a Councillor's attendance or participation authorised by Council in accordance with clause 2.7.1 (b), Councillors wishing to claim expenses incurred due to their attendance or participation shall obtain the approval of the Mayor and the General Manager prior to attendance. Where the Mayor is seeking approval to claim his or her attendance or participation expenses under this clause, he or she shall obtain the approval of the Deputy Mayor and the General Manager.
- 2.7.4 Councillors shall submit their request for attendance in writing with the appropriate notice detailing the costs and benefits to the Councillor, to Council and the community.
- 2.7.5 In making its decision, the General Manager/Mayor or Council should consider:-
- a) The relevance of the seminar, conference, training or educational expenses to Council and the potential benefit that may result from attendance;
 - b) The special interest of the Councillor/s wishing to attend;
 - c) The total cost to Council of attendance relative to the Program budget;
 - d) The fair and equitable division of opportunity for Councillors to attend conferences/seminars.
- 2.7.6 Councillors shall at the conclusion of their attendance at the seminar, conference, or training provide a written report to Council on the aspects of the seminar, conference or training. This report should be submitted to Council within one month of their attendance. Attendance at the Local Government NSW annual conference will not require a report to Council.

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2.7.7 The General Manager's Office will make all arrangements for the attendance of Councillors and accompanying persons, where required at a conference, seminar or training.

2.8 Seminars, Conferences and Training Expenses

2.8.1 Council will meet the costs for attendance at approved conferences and seminars, training and educational courses to a maximum of **\$5,000.00** per Councillor per year of term, excluding the costs associated with attendance at the Local Government NSW annual conference:

- a) **Registration fees** – Council will meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council.
- b) **Accommodation** – where a conference, seminar or training course is not located within the Port Stephens Local Government Area, Councillors shall where required be accommodated in the hotel where the event is being held or the nearest hotel to it that is of a similar standard, or as arranged by the conference organiser. Accommodation shall be provided at the rate of a double room. Any additional nights prior to or following the conference, seminar or training course Council will not be included in the expenses paid by Council. **Note:** Movie hire and Mini Bar Facilities will be paid for by the Councillor.
- c) **Transportation** – Councillors attending a conference, seminar or training course shall travel by the most appropriate route, subject to any personal medical requirements. Any costs incurred in undertaking activities not related to attendance at the conference, seminar or training course shall not be included in any expenses paid by Council.
- d) **Educational Materials** – where a Councillor is participating in an approved training or educational course and specific reference materials are required (for example, prescribed text books), Council shall purchase such educational materials on the Councillor's behalf. At the completion of the relevant training or educational course, educational materials purchased pursuant to this clause shall be returned to Council and be available for the use of all Councillors in the Councillor's Room

2.8.2 Conferences, seminars and training held outside the Port Stephens Local Government Area, Council shall as appropriate (having regard to availability, time/cost effectiveness of the transport options) meet or reimburse the lesser amount of the following transportation expenses:

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- a) The cost of an economy class air ticket and associated taxi transfers.
- b) The cost of a first-class rail ticket and associated taxi transfers.
- c) Transportation expenses by a Councillor with the Councillor's own vehicle (refer to clause 2.2.5).

2.8.3. If a Council-owned vehicle utilised that cost will be determined by way of actual costs incurred.

2.9 Meals

2.9.1 Council shall meet the cost of breakfast, lunch and dinner for Councillors attending a conference, seminar or training course where any such meal is not provided by the organiser. Council shall also meet the reasonable cost of drinks accompanying the meals.

2.9.2 Costs payable by Council under clauses 2.9.1 and 2.9.2 shall be capped at a maximum of **\$100.00** per Councillor per day inclusive. Councillors will be paid actual costs if under **\$100.00** per day.

2.9.3 Council shall meet the reasonable cost of Councillors' meals where due to their attendance to Official Business of Council the Councillor is reasonably unable to partake of a meal at their residence and so incurs additional expense.

2.9.4 Costs payable by Council under clause 2.9.3 shall be capped at a maximum of **\$50.00** per Councillor per day or actual costs, whichever is less.

2.10 Local Travel Arrangements and Associated Expenses

2.10.1 Travelling expenses shall be reimbursed to Councillors for travel by public transport or private vehicle on Official Business of Council in the Hunter Councils area, to a maximum amount of **\$6,000.00** per Councillor per year of term.

2.10.2 Councillors may, where available, use Council owned vehicles to attend to Official Business of Council.

2.10.3 Council shall meet the cost of parking fees and road tolls but not the cost of traffic or parking fines, which shall remain the sole responsibility of the Councillor.

2.10.4 Claims for reimbursement under this clause 2.10 shall be made in accordance with clause 2.2.

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2.11 Travel outside the HROC Area including Interstate and Overseas Travel

2.11.1 Payment of any travel expenses to a Councillor, incurred on Council related business outside of the Hunter Councils area and not otherwise addressed in clause 2.8 requires approval by resolution of Council in an open meeting.

2.11.2 Approval for payment of travel expenses under clause 2.11.1 may be granted subject to any conditions Council so determines, and Council shall meet only those expenses that Council so determines.

2.12 Communication Device Costs and Expenses

2.12.1 Council shall reimburse Councillors to a maximum of **\$3,000.00** per term for the purchase of a personal computer/laptop, multifunction device, peripherals and Microsoft office software.

2.12.2 Council shall not purchase the equipment in item 2.12.1 on a Councillors behalf.

2.12.3 Council shall reimburse Councillors for all maintenance and repairs which are to be arranged by individual Councillors.

2.12.4 Council shall reimburse Councillors for all consumables such as ink cartridges and reasonable supply of paper for official Council business.

2.12.5 Council shall reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business to a maximum cost of **\$200.00** per Councillor per month of term. All communication device costs incurred above this maximum are at the Councillors own expense.

2.12.6 As an alternative to clause 2.12.5, Council shall reimburse Councillors for their communication device costs where it is part of a bundle plan. This would include landline costs and internet where costs were incurred in attending to Council business to a maximum cost of **\$120.00** per Councillor per month of term. The maximum cost for a mobile phone plan would be **\$100.00** per Councillor per month of term.

All communication device costs incurred above this maximum are at the Councillors own expense.

2.12.7 If a Councillor does not have a telephone line or internet connection at their home, Council shall meet the installation costs.

2.12.8 Council shall meet the cost of providing and maintaining an internet connection at the residence of the Councillor to a maximum of **\$60.00** per Councillor per month of term. Any internet costs incurred above this maximum are at the Councillors own expense.

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2.13 Care and Other Related Expenses.

2.13.1 In this clause, "relative" shall have the same meaning as set out in the Dictionary in the Act, being at the date of this policy:

"Relative, in relation to a person, means any of the following:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a)."*

2.13.2 Where a Councillor has sole responsibility for the care and support of any relative, Council shall reimburse expenses for carer arrangements, where expenses relate to a relative as defined under clause 2.13.1 and are payable when a Councillor is required to attend the following to discharge the functions of civic office:

- a) Council meetings, committee meetings, inspections, formal briefings, civic and ceremonial functions relating to civic office;
- b) Meetings scheduled by Council and/or the Mayor;
- c) Meetings arising as a result of a Councillor being appointed by Council to an outside body or committee;
- d) A meeting, function or other official role as a representative of the Mayor or Council.

2.13.3 The total amount paid to a Councillor under this clause 2.13 shall not exceed \$2,000.00 per year of term.

2.13.4 Claims for reimbursement under this clause 2.13 shall be made in accordance with clause 2.2.

2.14 Insurance Expenses

Councillors shall receive the benefit of insurance cover for:

2.14.1 Personal Accident - Personal Accident insurance covers personal injury which is caused by violent, accidental external and visible means that solely and independently of any other cause results in a Councillor's death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. The capital benefit for the death of a Councillor is \$500,000. The cover does not include medical expenses.

2.14.2 Professional Indemnity - Professional Indemnity insurance covers Council where Council becomes legally liable to pay compensation for financial loss as a result of any negligent act, error or omission in the conduct of Council's business activities arising from a breach of professional duty. Cover is subject to any limitations or conditions set

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out in the NSW Local Government (Jardine) Mutual Liability Scheme wording.

- 2.14.3 Public Liability - Public Liability insurance covers Council's legal liability to pay compensation to third parties arising in connection with the business activities of Council. Matters arising from Councillors' performance of civic duties or exercise of their functions as Councillors are covered subject to any limitations or conditions set out in the NSW Local Government (Jardine) Mutual Liability Scheme policy wording.
- 2.14.4 Councillors' & Officers' Liability - Councillors' & Officers' Liability insurance protects Councillors and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Councillors for personal liabilities as a result of wrongful acts subject to any limitations or conditions set out in the policy of insurance.

Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by the Risk Management Co-ordinator.

2.15 Legal Expenses

- 2.15.1 Councillors may be entitled to indemnity for an enquiry, investigation or hearing commenced by of official body.

Legal proceedings being taken against a Councillor, arising out of or in connection with the Councillor's performance of his or her civic duties or exercise of his or her functions as a Councillor (with the exception of defamation proceedings), Council shall reimburse such a Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis, PROVIDED THAT:

The amount of such reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

The Councillor's performance or exercise of the civic duty or function was in the opinion of Council bona fide and/or proper (Section 731 of the Act).

The amount of such reimbursement be limited to the extent that only fees charged at a rate equivalent to the hourly rate then being charged by Council's Hunter based Solicitors will be paid ie. any portion of the expenses representing any hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

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Defamation proceedings or other proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings.

Note: Council may not meet the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances (DLG Circular 00/22).

To ensure that indemnity or reimbursement in respect of costs of defending an action in defamation or other action is only available in circumstances where the person to be indemnified or reimbursed was acting properly when making the statement complained of, the threshold criteria for the application of the indemnity or reimbursement will apply.

Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body PROVIDED the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.

Legal expenses incurred in relation to proceedings arising out of the performance by a councillor of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something which a councillor has done during his or her term of office. An example of the latter is expenses arising from an investigation as to whether a councillor acted corruptly by using knowledge of a proposed rezoning for private gain.

In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach has occurred may not necessarily be considered a substantially unfavourable outcome.

- 2.15.2 Council shall not meet any Councillor's costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.

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POLICY

General

Where proceedings have been foreshadowed or commenced against any of the Mayor and Councillors arising from a public statement or statements made or acts done by any of them and, in the opinion of Council's appointed solicitor the following "Three Criteria" are satisfied through the required procedure set out below namely:

- (a) The statement was made or the act was done in relation to discharging the functions of civic office;
- (b) The Councillor concerned was acting in good faith; and
- (c) The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false,

then Council will indemnify or reimburse the Councillor for:

- (a) all legal expenses properly and reasonably incurred, given the nature of the legal services provided; and
- (b) any other fees, expense, liability or cost incurred (including without limitation any order for the payment of damages, interest and/or costs or any other order for the payment of money made against the Councillor),

In responding to or defending such proceeding **PROVIDED THAT** the amount of such indemnity or reimbursement shall be reduced by the amount of any monies that may be or are recouped by the Councillor on any basis.

Engagement of Legal Representatives – Required Procedure

1. The Councillor must, as soon as practicable after they become aware that a claim may be forthcoming or aware that they may have made a statement or action which may give rise to a claim, notify either the General Manager, Public Officer or Mayor that there is a possibility of a claim against the Councillor. This notification must;
 - i. be in written form;
 - ii. include all details including any correspondence from the alleged injured party concerning the possible claim; and
 - iii. Include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.
2. The Councillor must not respond to any allegations made or accept any liability in respect to any allegations made unless authorised to do so by council or its solicitor or the insurer or its solicitor. The Councillor must at all times without undue delay keep Council fully informed of any oral or

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written communications made to the Councillor by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3. The General Manager must immediately upon becoming aware that a claim may be forthcoming or aware that a statement has been made which may give rise to a claim, notify and forward to Council's insurer any information relating to the matter with a view to obtaining the Insurer's acceptance and carriage of the claim should the three criteria be satisfied.
4.
 - i. If proceedings are threatened (and not commenced), the General Manager must without undue delay inform Council's appointed Solicitor and Council's insurer of the notification. The Council's solicitor at Council's cost must form a view as to whether the Three Criteria are satisfied, and must notify the General Manager who will in turn notify the Councillor concerned in written form of that view.
 - ii. If the Council's solicitor considers that the Three Criteria are satisfied, the General Manager will either instruct Council's solicitors or if Council's Insurers have accepted the matter as a possible claim then it will represent the Councillor concerned.
5. If Council's solicitor forms the view that the Three Criteria are not satisfied under clause (4); the Councillor may request a review of that advice from an independent legal practitioner as agreed in advance between the Councillor concerned and the General Manager and failing agreement as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
6. If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
 - In the case that the claim is accepted by Council's insurer it will have carriage of the matter subject to consultation with the General Manager and the Councillor will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - If the Insurer does not accept the claim as it is of the opinion that the matter is outside the policy then the General Manager in consultation with Council's solicitor will nominate a legal practitioner that they consider should represent the Councillor. If the Councillor considers that such representation is appropriate then the procedures in clause 7 must be followed. If Council's solicitors are not of the same opinion as the insurers the General Manager in consultation with Council's solicitors will take whatever action is necessary (without unduly holding up the defamation proceedings) to have the question determined.

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- If the Councillor considers that the legal practitioner nominated is not appropriate then the Councillor concerned and the General Manager must attempt to reach agreement on an alternative legal practitioner, and failing agreement the legal practitioner must be as nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
7. If Council's insurers have not accepted the claim the General Manager must contact the proposed legal practitioner and must require that an agreement be entered into between the legal practitioner and the Council which will include such terms and conditions as the General Manager sees fit including:
- i. Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
 - ii. Accounts being considered and approved by the General Manager prior to payment; and
 - iii. All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.
8. Notwithstanding the provisions of paragraph 5.1 (ii) and 5 above, once proceedings have actually been commenced then the procedures set out in paragraph 5 above must be followed. (Note: The General Manager should regularly review Council's insurance policies with respect to the application of them to the Council's possible liability pursuant to this policy.)

Exclusion from Policy

This policy will not apply to any defamation or other action brought by any Councillor or Council employee against any Councillor, arising from the making of a statement by any of the latter of and concerning any of the former, unless in addition to the three Criteria set out above:

- i. the statement complained of is made to a person or body in circumstances where it is likely to be subject to qualified privilege or absolute privilege (including without limitation statements made in good faith to the Police or Director of Public Prosecutions, the Department of Local Government, statements made ancillary to, and in giving evidence to, a Court or Tribunal or other body conducting any inquiry, investigation or hearing, statements made to the Office of the Ombudsman and statements made to any Parliamentary Committee) (but in such circumstances the policy will only apply to the extent of the publication of the statement in these circumstances, and not to any other publication of the statement); or
- ii. The statement:

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- is made at a meeting of Council, a briefing of Councillors or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
- is in accordance with the Local Government (General) Regulations 2005 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
- Does not breach any other law.

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Part 3 Provision of Facilities

3.1 Provision of Facilities Generally

3.1.1 Unless otherwise stated, where a facility may be provided by Council in accordance with this Policy and a Councillor chooses to accept the facility, it shall be provided by Council with all establishment, routine maintenance, operating, training, replacement and insurance costs being met by Council, subject to any limits specified and adequate funds being allocated and available in Council's adopted Integrated Strategic Plans.

3.1.2 All facilities provided shall be of adequate capacity and functionality to allow the role of Councillor to be fully undertaken.

3.2 Private Use of Equipment and Facilities

3.2.1 Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes benefits such as a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.

3.2.2 If a Councillor does obtain a private benefit for the use of a facility provided by Council being more than incidental use, the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms.

3.2.3 The value of a private benefit to be invoiced under this clause 3.2 shall be determined by the General Manager or, at the request of the Councillor in receipt of the private benefit, the General Manager, or any two Councillors, by resolution of an open meeting of Council.

3.2.4 Equipment, facilities and services provided under this Policy shall not be used to produce election material or for any other political purposes.

3.3 Councillors' Room

3.3.1 Councillors shall be provided with equipment and facilities at the Raymond Terrace Administration Building. Equipment provided under this clause remains the property of Council.

3.3.2 The Councillors' Room furnished for use by all Councillors shall be provided with:

- a) A telephone, computer with internet access, multifunction device and computer peripherals for use by all Councillors.

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- b) A library including Council policies, relevant legislation, reports on Development Applications and other relevant documents.

3.4 Administration Support, Stationery, Postage & Business Cards

- 3.4.1 Council shall provide the support services of Councillor Support Executive Assistant with suitable experience and skills to support Councillors.
- 3.4.2 Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office.
- 3.4.3 Council shall provide appropriate letterhead stationery, business cards and Christmas cards for use by Councillors.
- 3.4.4 Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.
- 3.4.5 Under no circumstances shall Councillors use the administration services, staff or other facilities provided in association with Local, State or Federal Government Elections.
- 3.4.6 Under no circumstances shall Councillors use the administration services or other facilities provided for the initiation of circular type letters without prior authority of the Council being obtained.
- 3.4.7 Council shall provide Councillors with official name badges indicating the wearer holds the office of Councillor, to wear at Civic functions.

3.5 Meals

- 3.5.1 Councillors will be provided with meals and refreshments following Committee and Council meetings and at other times considered appropriate by the Mayor and General Manager. The standard of the meal will be determined by the Mayor and/or the General Manager.
- 3.5.2 Light refreshments such as biscuits, health bars and beverages will be provided in the Councillors Room.

3.6 Transport Facilities

- 3.6.1 Four designated car parking spaces shall be provided for Councillors in the Council car park at the Council administration building, to be shared amongst Councillors.
- 3.6.2 Councillors will be reimbursed for all transport costs (taxi, use of private vehicle, etc) in accordance with clause 2.2 for their attendance at official Council functions. This includes deputising for the Mayor.

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3.7 Corporate Uniform

- 3.7.1 Councillors may choose from a selection of Corporate Uniform provided by Council's approved supplier. Council will contribute a subsidy to 35% of the initial cost to a maximum of \$250 per annum. A sundry debtor account will then be forwarded to the Councillor for payment of the balance. Alternatively, a deduction can be made from the Councillor's monthly allowance.

3.8 Superannuation

- 3.8.1 Councillors may elect to contribute all or part of their Councillor Allowance into an approved Superannuation Scheme by completing FORM 3.

3.9 Health & Wellbeing Initiative

- 3.9.1 Councillors shall be able to access a Health Initiative program which includes gym membership at local facilities. The program requires a minimum six (6) month membership with a payment to be made in advance for three (3) months – non refundable.
- 3.9.2 Councillors shall investigate any taxation implications for individual councillors as a result of the membership.
- 3.9.3 Further details can be obtained through Council's Councillor Support Executive Assistant.

3.10 Provision of Safety equipment

- 3.10.1 Councillors shall be provided with the following Protective Apparel:
- hard hat;
 - safety vest;
 - safety footwear;
 - safety glasses and;
 - hearing protection

to accord with the NSW Workplace Health & Safety Act, for on-site inspections.

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Provision of Additional Expenses, Equipment and Facilities for the Mayor

3.11 Additional Expenses, Equipment and Facilities

3.11.1 The Mayor is paid an additional annual fee. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

3.11.2 This Policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is generally not intended to offset those costs.

3.12 Equipment and Facilities

3.12.1 The Mayor shall be provided with additional equipment and facilities. Equipment provided under this clause remains the property of Council.

3.12.2 The following facilities and equipment shall be provided to the Mayor:

3.12.3 A furnished office with computer, printer, internet access, phone, facsimile and computer peripherals.

3.12.4 Office refreshments.

3.12.5 Mayoral letterhead.

3.12.6 A corporate credit card, to be used only to pay expenses allowed under this policy.

3.12.7 All items provided to the Mayor under this clause 3.12 must be returned to Council when the Mayor ceases to hold office.

3.13 Mayor's Staff

3.13.1 Council shall provide the services of the Councillor Support Executive Assistant with suitable experience and skills to support the Mayor.

3.13.2 The Councillor Support Executive Assistant shall provide support to the Deputy Mayor in the absence of the Mayor.

3.14 Mayoral Motor Vehicle

3.14.1 The Mayor shall be provided with:

3.14.2 A fully maintained motor vehicle, of a standard appropriate to the Office of the Mayor for the use of discharging function of the Mayor.

3.14.3 A fuel card, to be used for official Council business.

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3.14.4 A car parking space at the Raymond Terrace Administration Building.

3.14.5 All items provided to the Mayor under this clause 3.14 must be returned to Council when the Mayor ceases to hold office.

Part 4 Other Matters

4.1 Status of the Policy

4.1.1 This Policy replaces the previous version of the Policy adopted by Council on 26 November 2013.

4.2.2 This Policy shall only be amended by resolution of Council.

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COUNCILLORS' EXPENSES CLAIM FORM

116 Adelaide Street, Raymond Terrace NSW
2324
PO Box 42, Raymond Terrace NSW 2324

Form 1

COUNCILLOR.....

MONTH.....

| DATE | PURPOSE | \$ | POLICY LIMITS | Kms TRAVELLED | TOTAL CLAIM \$ (Office Use Only) |
|--------------|--|----|--|---------------|----------------------------------|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | Bundle Plan (alternate to claiming the above) | | \$120/month (landline rental, calls, facsimile and internet) | | |
| | Mobile Claim (alternate to claiming the above) | | \$100/month (when claiming the bundle plans) | | |
| | Internet Claim | | \$60.00/month | | |
| | Travel (log required) | | \$6,000/year | | |
| | Conference/Seminars | | \$3,500/year | | |
| | Partner Expenses | | \$500/year for Councillor & \$1,000/year for Mayor | | |
| | Computer/laptop, multifunction devices, peripherals and software | | \$3,000/term of Council | | |
| TOTAL | | | | | |

***PAYMENT WILL ONLY BE MADE WHERE RECEIPTS AND VEHICLE LOG IS PROVIDED.**

Signature of Claimant..... Date

Councillors Please note that ALL Councillor's reimbursement claims will be paid the first Friday of each month. Therefore Councillors are required to lodge their claims with the Executive Assistant Councillor Support at the end of each month at the **Ordinary Council meeting** for payment the following week.

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COUNCILLORS' REMUNERATION
SACRIFICE ELECTION FORM –
SUPERANNUATION

116 Adelaide Street, Raymond Terrace NSW
2324
PO Box 42, Raymond Terrace NSW 2324

Form 3

Councillor Name: _____

Date to commence arrangement _____

Annual Remuneration _____

Annual Sacrifice Amount _____

Your Superannuation Fund Details:

Fund Name _____

Membership No (if applicable) _____

Account Name _____

Super Fund ABN (if applicable) _____

Superannuation Product
Identification Number (if applicable) _____

DECLARATION OF COUNCILLOR

I, _____ hereby certify that I have not relied on information or advice gathered through sources or resources from Port Stephens Council to make the decision to enter into a sacrifice arrangement.

I certify that I have obtained independent financial advice or made the decision based on my own investigation in relation to this sacrifice election.

I understand that at all times it remains my responsibility as a Councillor to notify Finance in writing of any change to the benefits sacrificed.

I have attached:

- A letter from the trustee stating that this is a complying fund and (for a self managed superannuation fund) a copy of documentation from the Tax Office confirming the fund is regulated
- Written evidence from the fund that they will accept contributions from Council, and
- Details about how Council can make contributions to this fund

Signed: _____ Councillor Date: _____
Signed: _____ Finance Officer Date: _____