

DRAFT

MINUTES – 12 MARCH 2019



PORT STEPHENS C O U N C I L

Minutes of Ordinary meeting of the Port Stephens Council held in the Council Chambers, Raymond Terrace on – 12 March 2019, commencing at 5.31pm.

PRESENT: Mayor R Palmer, Councillors J Abbott, G Arnott, C Doohan, G Dunkley, K Jordan, P Le Mottee, J Nell, S Smith, S Tucker, General Manager, Corporate Services Group Manager, Acting Facilities and Services Group Manager, Development Services Group Manager and Governance Section Manager.

044	Councillor Ken Jordan Councillor Sarah Smith It was resolved that the Minutes of the Ordinary Meeting of Port Stephens Council Ordinary Council held on 26 February 2019 be confirmed.
	There were no declaration of interest received.

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SUBJECT

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COUNCIL REPORTS

ITEM NO. 1

FILE NO: 19/31793
EDRMS NO: 58-2019-1-1

**AMENDMENTS TO THE PORT STEPHENS LOCAL ENVIRONMENTAL PLAN
2013 AND PORT STEPHENS DEVELOPMENT CONTRIBUTIONS PLAN 2007 TO
REGULATE MANUFACTURED HOME ESTATES**

REPORT OF: STEVEN PEART - STRATEGY & ENVIRONMENT SECTION
MANAGER
GROUP: DEVELOPMENT SERVICES

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the preparation and submission of a Planning Proposal for a Gateway certificate to the NSW Department of Planning seeking to amend the *Port Stephens Local Environmental Plan 2013* to ensure manufactured home estates are only permitted on land where caravan parks are permissible.
 - 2) Prepare an amendment to the Port Stephens Development Contributions Plan 2007 to increase the rate of development contributions charged for manufactured home estates (Amendment No.12) (**ATTACHMENT 1**).
 - 3) Exhibit Amendment No.12 for 28 days in accordance with the *Environmental Planning and Assessment Regulation 2000*.
 - 4) If no submissions are received in relation to Amendment No.12, approve the plan as exhibited in accordance with the *Environmental Planning and Assessment Regulation 2000*.
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**ORDINARY COUNCIL MEETING - 12 MARCH 2019
MOTION**

045	<p>Councillor Ken Jordan Councillor Paul Le Mottee</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the preparation and submission of a Planning Proposal for a Gateway certificate to the NSW Department of Planning seeking to amend the <i>Port Stephens Local Environmental Plan 2013</i> to enable Council to better plan for manufactured home estates in appropriate locations.2) Prepare an amendment to the Port Stephens Development Contributions Plan 2007 to increase the rate of development contributions charged for manufactured home estates (Amendment No.12) (ATTACHMENT 1).3) Exhibit Amendment No.12 for 28 days in accordance with the
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MINUTES ORDINARY COUNCIL - 12 MARCH 2019

	<i>Environmental Planning and Assessment Regulation 2000.</i> 4) If no submissions are received in relation to Amendment No.12, approve the plan as exhibited in accordance with the <i>Environmental Planning and Assessment Regulation 2000</i> .
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In accordance with Section 375 (A) of the *Local Government Act 1993*, a division is required for this item.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Giacomo Arnott.

BACKGROUND

The purpose of this report is to seek approval for proposed amendments to the Port Stephens Local Environmental Plan 2013 (PSLEP) and the Port Stephens Development Contributions Plan 2007 to better regulate manufactured home estates.

The proposed amendment to the PSLEP is necessary to restore a policy and legal position that existed prior to recent case law in relation to the permissibility of manufactured home estates.

The proposed amendment to the Port Stephens Development Contributions Plan 2007 (Amendment No.12) (**ATTACHMENT 1**) will ensure that manufactured home estates are charged development contributions at a rate that better reflects the impact of this type of medium density development on Council funded local infrastructure.

Proposed amendment to the Port Stephens Local Environmental Plan

The proposed amendment to the PSLEP will ensure manufactured home estates can only be developed under the provisions of *State Environmental Planning Policy No 36—Manufactured Home Estates*, which permits this land use wherever caravan parks are permitted.

This will restore the position prior to the Land and Environment Court's determination in *TMT Devco Pty Ltd v Cessnock City Council* [2016] NSWLEC1161, where the Court held that a manufactured home estate could be characterised as 'multi dwelling housing' for the purposes of the relevant LEP and establishing land use permissibility. Multi dwelling housing is a permissible use in a wide range of zones.

This decision represents a change from the policy position outlined in the NSW Department of Planning and Environment's Discussion Paper: 'Improving the Regulation of Manufactured Homes, Caravan Parks, Manufactured Home Estates and Camping Grounds (published November 2015)':

Manufactured homes and manufactured home estates are not defined in the Standard Instrument LEP as a land use term and can therefore not be included in any of the zones. Manufactured home estates can therefore only be developed under the provisions of State Environmental Planning Policy (SEPP) 36, which permits them wherever caravan parks are permitted.

As a result of the change, the proposed amendment is necessary to enable Council to continue to zone land for residential and other purposes without inadvertently permitting new manufactured home estates.

Proposed amendment to the Port Stephens Development Contributions Plan 2007

Manufactured homes and moveable dwellings are an alternative form of tourist or low cost residential accommodation capable of being relocated or transported to other sites. Manufactured home estates often include on site facilities for residents such as tennis courts, swimming pools and other recreation spaces.

Under the current Port Stephens Development Contributions Plan 2007, manufactured home estates and moveable dwellings are charged the same rate of contributions as for caravan parks. They are subject to a discount of more than 50% of the contributions rate applied to single dwellings. The rate is discounted to encourage affordable housing choices and to reflect the lower demands on Council funded local infrastructure that these types of less permanent residential accommodation can have.

Increasingly manufactured home estates have become an alternative form of medium density permanent residential accommodation. Innovations in building and construction techniques to meet changing housing needs has meant that manufactured home estates are becoming a popular housing choice. 'Moveable dwellings' are now being constructed on site and are being built in larger sizes and to a higher standard. The cost of homes in new manufactured home estates are often equivalent to Torrens title single dwellings in many areas in Port Stephens, for example two bedroom manufactured homes at Palm Lake Resort at Fern Bay are currently listed at \$680,000 (Source: <https://palm lakesort.com.au/homes-for-sale/fern-bay-villa-150/>).

Given these changes, it is no longer considered appropriate to discount development contributions for manufactured home estates as a form of low cost affordable housing and the development contributions rate is proposed to be increased to reflect the more permanent nature of this type of medium density housing.

In addition, other types of medium density development that can be 'gated communities' with onsite communal facilities for residents are not granted any discounts for development contributions (**Table 1**).

Development Type	Current contributions*	Proposed
Multi dwelling housing (eg 2 Bagnall Avenue, Corlette)	\$15,428 per dwelling	No change
Townhouses and terraces	\$15,428 per dwelling	No change
Seniors housing (not provided by a social housing provider) (eg Regis Aged Care, Corlette)	\$15,428 per dwelling	No change
Community title schemes (eg Seaside Estate, Fern Bay)	\$15,428 per dwelling	No change
Manufactured home estates (eg Latitude One, Anna Bay)	\$ 7,438 per dwelling	\$15,428 per dwelling

Table 1 Development contributions rates for medium density development

*Current levies, indexed for CPI as at December 2018

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Thriving and Safe Place to Live	Provide land use plans, tools and advice that sustainably support the community.

FINANCIAL/RESOURCE IMPLICATIONS

There are positive financial implications if Council adopts the recommendations. The proposed amendment to the Development Contributions Plan will ensure Council's facilities and infrastructure are adequately funded to meet demand. The amendments will be prepared using Council's existing resources.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		The amendments have been prepared using existing Council resources.
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS**Environmental Planning and Assessment Act 1979 (EP&A Act)**

Part 3 of the EP&A Act details the legislative process for making and amending Local Environmental Plans. The Planning Proposal would be prepared in accordance with the EP&A Act, and exhibited in accordance with any community consultation requirements in a Gateway Certificate, should it be issued by the Department of Planning and Environment.

Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

Under Clauses 28 and 29 of the EP&A Regulations, amendments to a Development Contributions plan are required to be placed on public exhibition for a minimum of 28 days.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that if the PSLEP is not amended, manufactured home estates will be permissible in locations that may not be suitable for this type of medium density development.	High	Adopt the recommendations.	Yes
There is a risk that if the Developer Contributions Plan is not amended that Council will not be able to collect the appropriate level of contributions for this type of medium density development to support local infrastructure needs.	High	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The proposed amendments to the PSELP are necessary to restore the policy and legal position that existed prior to the legal case in 2016 and will enable Council to plan for residential and other purposes without inadvertently permitting new manufactured home estates. Positive social, economic and environmental implications are expected as a result of the proposed amendment.

The amendment to the Development Contributions plan ensures that Council will be able to fund the local infrastructure to support this type of medium density development.

CONSULTATION

Appropriate consultation with key internal stakeholders has been undertaken by the Strategy and Environment Section.

Internal

Consultation with Council's Development Contributions Analysis Team has been undertaken and the draft amendments to the plan have been approved. Consultation has also been undertaken with Council's Planning and Developer Relations Unit with no objections raised.

External

If supported, Amendment No.12 to the Port Stephens Development Contributions Plan 2007 will be notified and exhibited in accordance with the EP&A Regulation. An advertisement will be placed in the Port Stephens Examiner and the Amendment will be made available on Council's website as well as a hard copy at Council's Administration Building (Raymond Terrace) and Tomaree Library. If submissions are received during exhibition, they will be considered in a future report back to Council with the detail of any post-exhibition changes.

If the proposed amendment to the PSLEP is supported, a Planning Proposal will be forwarded to the NSW Department of Planning and Environment for a Gateway certificate and consultation on the proposal will be undertaken in accordance with the Gateway determination, where issued.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Excerpt from Port Stephens Contributions Plan 2007 Amendment No.12.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.


**ITEM 1 - ATTACHMENT 1 EXCERPT FROM PORT STEPHENS
CONTRIBUTIONS PLAN 2007 AMENDMENT NO.12.**



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1. Plan Summary

1.1 General

This Contributions Plan is referred to as the ***Port Stephens Development Contributions Plan 2007 (Amendment No.12)***

The Plan applies to all land within the local government area of *Port Stephens Council* and that land zoned Village (2) within the Locality of Karuah within the local government area of *Great Lakes Council*.

The purpose of The Plan is to:

- Provide an administrative framework for Council to obtain a contribution from developers towards the provision, extension or augmentation of public amenities and services that will, or are likely to be required as a consequence of development in the area, or that have been provided in anticipation of or to facilitate such development;
- Ensure an adequate level of public infrastructure is provided;
- Authorise Council to impose conditions under section 7.11 of the *Environmental Planning and Assessment Act 1979* when granting consent to development on land to which this Plan applies;
- Enable the Council to recoup funds which it has spent in the provision of public facilities in anticipation of likely future development;
- Ensure that the existing community is not burdened by the provision of public amenities and public services required as a result of future development;
- Provide a comprehensive strategy for the assessment, collection, expenditure accounting and review of development contributions on an equitable basis; and
- Enable Council to be both publicly and financially accountable in its assessment and administration of the development contributions plan.

This Plan has been prepared pursuant to the provisions of Section 7.11 of the *Environmental Planning & Assessment Act 1979* and Part 4 of the *Environmental Planning & Assessment Regulation* and takes effect from the date on which public notice was published, pursuant to clause 31(4) of the *Environmental Planning & Assessment Regulation*.

The Plan was adopted by Council at a meeting held on Tuesday 26th June 2007 and came into effect on Saturday 30th June 2007.

The Port Stephens and Great Lakes Cross Boundary Development Contributions Plan 2008 was adopted by Great Lakes Council 22 July 2008, by Port Stephens Council 21 October 2008 and came into effect 30 October 2008.

The Port Stephens and Newcastle Cross Boundary Development Contributions Plan 2009 was adopted by Port Stephens Council 25th August 2009, by Newcastle Council 22nd September 2009 and came into effect 1st October 2009.

The Plan supplements the provisions of the *Port Stephens Local Environmental Plan LEP 2013* and any amendment or local environmental plan it may supersede.

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1.2 Summary Schedule – Contribution Rates by Development Type

The Environmental Planning and Assessment Regulation 2000 Clause 27 specifies what particulars a contributions plan must contain, including:

“(e) the section 7.11 contribution rates for different types of development, as specified in a schedule to the plan,”

The following schedule - Contribution Rates by Development Type - is provided as a summary of the more common development types only and more details are contained in the individual strategies within the plan.

Table 1: Development Contribution Rates – Dwellings (excluding development types in Table 2)

Infrastructure type	Development Contribution at plan inception	Current levies December 2018 CPI
Consumer Price Index (CPI)	87.7	114.1
Civic Administration - Plan Management	\$577	\$748
Civic Administration - Works Depots	\$356	\$457
Recreation, Open Space, Parks and Reserves	\$1,935	\$2,640
Sports and Leisure Facilities	\$4,561	\$7,129
Cultural and Community Facilities	\$2,293	\$2,543
Roadworks	\$1,296	\$1,679
Fire & Emergency Services	\$186	\$232
TOTAL LGA-WIDE CONTRIBUTION	\$11,204	\$15,428
Richardson Road North, Raymond Terrace	\$1,923	\$2,506
Fern Bay Bus Shelters	\$125	\$164
Boat Harbour and Anna Bay Catchment – Drainage Upgrade	\$600	\$780
Medowie – Traffic and Transport	\$0	\$2,626
Karuah Cross Boundary	\$9,403 (CPI base = 92.7)	\$11,459
Fern Bay Cross Boundary	\$11,226 (CPI base = 94.3)	\$13,404

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Table 2: Development Contribution Rates – Discounted rates for certain residential development types

Infrastructure type - Current levies - December 2018 CPI – 114.1%						
	Secondary dwellings	Caravan parks & road registrable moveable dwellings	Tourist accommodation	Bed and breakfast	Seniors Living	
Civic Administration – plan management	\$375	\$375	\$375	\$186	\$375	
Civic Administration - works depots	\$229	\$229	\$229	\$120	\$229	
Public Open Space, Parks and Reserves	\$1,323	\$1,323	\$1,323	\$660	\$1,322	
Sports and Leisure Facilities	\$3,566	\$3,566	\$3,566	\$1,781	\$3,590	
Cultural and Community Facilities	\$1,269	\$1,269	\$0	\$0	\$1,269	
Roadworks	\$845	\$558	\$282	\$285	\$340	
Fire & Emergency Services	\$118	\$118	\$118	\$66	\$118	
• Local area contributions to be calculated accordingly						
TOTAL LGA-WIDE CONTRIBUTION	\$7,725	\$7,438	\$5,893	\$3,098	\$7,243	

Table 3: Development Contributions - non-residential development

Infrastructure type	Development Contribution (rate at date plan was first made)	Development Contribution (indexed contribution rate)
CONSUMER PRICE INDEX (CPI)	87.5	December 2018 – 114.1%
Raymond Terrace Commercial/Retail Area carparking	\$15,000 per parking space	\$19,547 per parking space
Nelson Bay Commercial/Retail and Foreshore Area carparking	\$11,714 per parking space	\$15,235 per parking space
Road Haulage	\$0.04 per tonne per kilometre*	\$0.05 per tonne per kilometre

* default contribution rate unless Transportation and Economic Assessment prepared for the development shows that a different rate is reasonable

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2. Administrative Provisions

2.1 Development to which this Plan applies

Column 1 of Table 4 identifies the development types to which this plan applies as limited by the circumstances identified in column 2 of that table.

Table 4:- Development to which this Plan applies

Development type*	Limiting circumstances
<p>The following <i>residential accommodation</i> development:</p> <ul style="list-style-type: none"> • <i>Dwellings</i> (including <i>dwelling houses, attached dwellings, semi-detached dwellings, dual occupancy, multi dwelling housing, residential flat building, shop top housing, secondary dwellings, moveable dwellings</i> and <i>mixed use development</i> that includes dwellings) 	<p>Contributions only apply where the development will or is likely to result in a net increase in the number of dwellings on the development site.</p>
<p>Accommodation units in <i>tourist and visitor accommodation</i>, which includes:</p> <ul style="list-style-type: none"> • <i>backpackers' accommodation</i> • <i>bed and breakfast accommodation</i> • <i>farm stay accommodation</i> • <i>hotel and motel accommodation</i> • <i>serviced apartments</i> <p>Accommodation units in the following <i>residential accommodation</i> development:</p> <ul style="list-style-type: none"> • <i>boarding houses</i> • <i>group homes</i> • <i>hostels</i> 	<p>Contributions only apply where the development will or is likely to result in a net increase in the number of accommodation units on the development site. For the purposes of this Plan 'accommodation units' include:</p> <ul style="list-style-type: none"> • a suite or room in a hotel or motel; • a serviced apartment • each bedroom after the first three in a house used as a bed and breakfast or farm stay, • every three beds in a backpackers, boarding house or hostel; and • each bedroom in a group home.
<p><i>Manufactured home estates, which includes multi-dwelling housing consisting of moveable dwellings</i></p>	<p>Contributions only apply where the development will or is likely to result in a net increase in the number of dwellings on the development site.</p>
<p><i>Caravan Parks and road registrable moveable dwellings</i></p>	<p>Contributions will apply to all sites whether powered or unpowered that have not previously paid development contributions. Contributions will not apply to unpowered camp sites.</p>
<p><i>Seniors housing</i> development</p>	<p>Contributions shall not apply where the development includes self-contained dwellings as defined in State</p>

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Development type*	Limiting circumstances
	Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004, <u>and</u> those dwellings are provided by a social housing provider as defined under that policy.
Subdivision of land	Contributions apply where additional lots are created.
<i>Industry, rural industry, extractive industry and mining</i>	Where the proposed development includes heavy haulage (refer section 4.5.1 of this Plan).
Commercial premises	Only applies in the Raymond Terrace Commercial/Retail Area and the Nelson Bay Commercial/Retail and Foreshore Area and only where there is a shortfall in the provision of car spaces.

* Note: Definitions of development types *in italics* are the definitions of those terms contained in the Dictionary of the Standard Instrument – Principal Local Environmental Plan.

2.2 Contributions Structure

2.2.1 Contribution Catchments

Contributions under this Plan may be required from development in the following catchments:

- LGA-wide Contribution
- Local Area Contribution
- Cross Boundary Area Contribution

Where Local Area contributions are required these shall be in addition to the applicable LGA-wide contribution. Karuah and Fern Bay Cross Boundary Area contributions, which are fixed amounts as agreed with the relevant adjoining Council, are not in addition to LGA-wide contributions.

2.2.2 Assessment of Contribution

Assessment of the amount of development contributions for specified amenities and services will be based on the increase in population generated by development and an assessment of the increased level of demand created for additional amenities and services. The amount of the contribution will be based on relevant factors, such as:

- Additional lots in the case of subdivision;
- Additional dwellings in the case of medium density development (including duplex and dual occupancy development);

Note: Defined as “additional lot or dwelling” in Part 4 - Contributions.

- Additional residential units in the case of **road registerable moveable dwellings** and caravans;
- Additional accommodation units in the case of defined categories of tourist accommodation;

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- The provision of a facility, service or land considered necessary for the increase in demand, identified by recognised and reasonable standards;
- Additional traffic generated, in the case of roadworks contributions;
- The demand for upgrading of infrastructure such as roads and services, resulting from development.

2.2.3 Calculation of Contribution

The formula for calculating the amount of contribution will vary according to the type of amenity or service to be provided.

The formula is based on a consideration of:

- The demand generated by a development, based on a calculation recognising population, dwellings, traffic or other relevant factors;
- The current capital cost of providing the amenity or service including, where appropriate, the current cost of acquiring land;
- The calculation will be rounded up to the nearest dollar.

2.2.4 Discount of Contribution

General

For types of affordable housing, as defined in State Environmental Planning Policy (Affordable Rental Housing) 2009, (the **ARH SEPP**), apart from those types specifically defined in this document, Council may waive or vary the general contribution rate at its complete discretion.

Summary of Discounts

Certain development types will likely have a lesser impact on the demand for infrastructure when compared to a residential dwelling; and so an adjustment or discount to the dwelling contribution rate will be applied in accordance with Table 5.

Further information about the calculation of contributions for these types of development is provided following Table 5.

Table 5: Contribution discounts for certain development types

Development type	Contribution as % of dwelling unit contribution inclusive of local area contributions
Secondary dwellings	50% of the rate for all infrastructure categories
Caravan parks – caravans and road registerable moveable dwelling sites	50% of the rate for all infrastructure categories except roadworks. 33% for roadworks.
Tourist Accommodation	Nil for Community and Cultural Facilities; 50% of the rate for all infrastructure categories except roadworks. 16.67% for roadworks.
Bed and Breakfast accommodation	Nil for Community and Cultural Facilities; 25% of the rate for all infrastructure categories except roadworks. 16.67% for roadworks.
Seniors Living	50% of the rate for all infrastructure categories except roadworks.

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20% for roadworks.

- Please note that the Local Infrastructure Contributions will also be calculated at the discounted rate.

Secondary dwellings

The State Environmental Planning Policy (Affordable Rental Housing) 2009, (the **ARH SEPP**), encourages the erection of secondary dwellings, or the creation of a secondary dwelling within a principal dwelling.

Subject to certain pre-conditions, the ARH SEPP permits secondary dwellings as development that may be carried out without consent or as complying development.

Recognising the reduced demand on infrastructure arising from the construction and use of secondary dwellings, Council may, in circumstances where secondary dwellings are approved pursuant to the provisions of the ARH SEPP, apply a contribution rate equivalent to 50% of the rate that applies to dwelling houses.

Tourist Accommodation

Recognising the impact tourist accommodation development and tourist visitation has on the provision of Council facilities and services, a Development Contribution will be required towards the provision of amenities within the categories of Civic Administration, Public Open Space, Parks and Reserves, Sports and Leisure Facilities, Roadworks and Fire and Emergency Services.

Background

Tourism is a significant factor in the demography of the Port Stephens LGA, as illustrated by the following:

Year	Annual Overnight Visitors	Annual Visitor Nights
92/93	525,000	1,544,000
94/95	614,000	1,795,000
2007-11 ann av.	680,000	2,375,000

The measure of tourist/visitor impact on Council facilities may be gauged by the above figures. The estimated expenditure each year by domestic visitors is \$384 million.

Source: Council Meeting Information Report No. 4 - 10th September 1996, National Visitor Survey, Destination NSW Local Area Profile 2012.

Nexus

Continuing growth in the development of tourist accommodation, which is occurring across the Council area, as well as the traditional coastal fringe, will create an increase in demand for the provision of Council facilities.

Tourist visitation creates an additional demand in excess of permanent population demand, for facilities such as roads, parking, cycleway, boat ramps, tourist information services, foreshore and beach facilities, wharf and aquatic facilities, playing field facilities and passive open space.

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The level of demand on the facilities varies with the category and stay time at the tourist accommodation provided, but there is an increase in demand, over that of the permanent population.

Calculation

The average occupation level for hotels/motels and a holiday unit is 50%. This proportion will apply to the general development contribution in each Contribution Plan for the categories of Public Open Space, Recreation Facilities, Fire Fighting and Emergency Facilities.

The contribution will apply to tourist accommodation such units as defined in Table 4.

The Contribution will be 50% of the general level for the categories indicated.

The Contribution for roadworks will be in accordance with Table 5.

Caravan Parks and Road Registrable Moveable Dwellings

The 2011 Census identified an occupancy rate of 2.5 persons per dwelling for the Port Stephens Council area. The occupancy rate for caravan/road registrable moveable dwellings was 1.5 persons, or 60% of the overall rate.

Occupants of caravan parks and road registrable moveable dwellings impose similar demands for the provision of Council facilities and services as occupants of houses, medium density dwellings and flats.

Recognising the level of recreation amenities provided in caravan and moveable dwelling parks, it is Council Policy to only require a 50% Development Contribution for additional sites created for the categories indicated. A Development Contribution will be required for the categories of Civic Administration, Public Open Space, Parks and Reserves, Sports and Leisure Facilities, Cultural and Community Facilities Roadworks and Fire and Emergency Services.

The contribution will apply to caravan and road registrable moveable dwelling sites as defined in Table 4.

The Contribution will be 50% of the general level for the categories indicated.

A Contribution will also be required for the category of roadworks as detailed in Table 5.

Development in accordance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004

All new development, including housing for seniors and people with disabilities, intensifies the use of the existing resources and adds incrementally to the demand for public amenities and services. In this regard, development for the purposes of housing for seniors or people with a disability, including residential care facilities, approved under the provisions of SEPP (Housing for Seniors or People with a Disability) 2004, will be levied development contributions under this Plan.

Development consents issued on or after 31 March 2004 to a Social Housing Provider as defined are exempt from development contribution pursuant to Ministerial direction under section 7.17 of the Act. Social Housing Provider includes:

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CONTRIBUTIONS PLAN 2007 AMENDMENT NO.12.**



- a) the New South Wales Land and Housing Corporation;
- b) the Department of Housing;
- c) a community housing organisation registered with the Office of Community Housing of the Department of Housing;
- d) the Aboriginal Housing Office;
- e) a registered Aboriginal housing organisation within the meaning of the Aboriginal Housing Act 1998;
- f) the Department of Ageing, Disability and Home Care;
- g) a local government authority that provides affordable housing;
- h) a not-for-profit organisation that is a direct provider of rental housing to tenants.

The 2011 Census found there were 550 people living in 461 self care dwellings in retirement villages in Port Stephens LGA, or an occupancy rate of 1.19 people per dwelling. The Developer Contribution Levy will therefore be 50% of the general levy for all infrastructure categories excluding roadworks.

The RTA Manual, Guide to Traffic Generating Developments indicates an average traffic generating rate of 1-2 vehicles per day for housing for aged and disabled persons. This compares to 9 vehicles per day for a residential dwelling. The Developer Contribution Levy will therefore be 20% of the general levy for roadworks as detailed in Table 5.

Bed and Breakfast Establishments

Occupants of bed and breakfast establishments impose similar demands on the provision of Council facilities and services as tourist accommodation elsewhere defined. However it is recognised that the average occupancy for these establishments are near 50% of other tourist accommodation types.

Source: Council Report 10 October 2000.

Calculation

The contribution will apply for the categories of Civic Administration, Public Open Space, Parks and Reserves, Sports and Leisure Facilities, Roadworks and Fire and Emergency Services. The contribution will be 25% of the residential level for the categories indicated.

A Contribution will also be required for the category of roadworks as detailed in Table 5.

The contribution will be applied per bedroom used for bed and breakfast in excess of the first three.

Manufactured Homes and Manufactured Home Estates

Manufactured homes are a type of relocatable home or moveable dwelling constructed off-site, transported and installed on site. A manufactured home comprises one or more major sections but is not a registrable vehicle like a motor home or campervan.

A manufactured home estate is land on which manufactured homes are, or are to be, erected. A manufactured home estate, for the purposes of this Development Contributions Plan, includes development characterised as multi dwelling housing consisting of moveable dwellings.

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Innovations in building and construction techniques to meet changing housing needs have meant that manufactured home estates are becoming a more popular form of medium density housing. Increasingly, manufactured homes are taking on the appearance of typical residential dwellings and are being built to a higher standard. There is also a trend for an increase in the size of manufactured homes. With this comes a decrease in the ability to relocate these dwellings and this type of development has evolved to house long term residents in the same way as other medium density development types.

Occupants of manufactured home estates impose similar demands for the provision of Council facilities and services as occupants of houses, other medium density dwellings (such as multi dwelling housing and community title estates) and flats. For this reason no discount is applied to the contributions levied for type of development.

It is acknowledged that a single Development Application may be submitted which includes both caravans and manufactured homes. In these instances, Council may apply the discount for caravan parks and road registerable moveable dwellings for that portion of the development and at its discretion, depending on the circumstances of the case.

2.2.5 Savings and Transitional Agreements

A development application that has been submitted shall be determined in accordance with the provisions of the plan that applied at the date of determination of the application.

2.3 Adjustment of Contribution Rates and Amounts

Monetary development contributions are exempt from the Federal Government Goods and Services Tax (GST). To ensure that the value of contributions are not eroded over time by movements in the Consumer Price Index All Groups, Weighted Average of Eight Capital Cities, land value increases, the capital costs of administration of the Plan or through changes in the costs of studies used to support the Plan, Council will review the contribution rates by reference to the following specific indices:

- Changes in the capital costs associated with provision of administration and salary costs for staff involved in implementing Council's Development Contributions plan by reference to increases in salary rates under the Port Stephens Council Enterprise Agreement 2011.
- Changes in the capital costs of various studies and activities required to support the strategies in the plan by reference to the actual costs incurred by Council in obtaining these studies.

In accordance with clause 32(3)(b) of the *EP&A Regulation*, the following sets out the means that Council will make changes to the rates set out in this Plan.

For changes to the Consumer Price Index All Groups, Weighted Average of Eight Capital Cities the contribution rates within the plan will be amended on a quarterly basis in accordance with the following formula:

$$\text{\$Ca} + \frac{\text{\$Ca} \times (\text{Current Index} - \text{Base Index})}{\text{Base Index}}$$

Where:

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CONTRIBUTIONS PLAN 2007 AMENDMENT NO.12.



\$Ca	is the contribution at the time of adoption of the Plan expressed in dollars.
Current Index	is the Consumer Price Index All Groups, Weighted Average of Eight Capital Cities as published by the Australian Bureau of Statistics available at the time of review of the contribution rate.
Base Index	is the Consumer Price Index All Groups, Weighted Average of Eight Capital Cities as published by the Australian Bureau of Statistics. At the date of adoption of the Plan this figure is 157.5.

Note: In the event that the Current Consumer Price Index All Groups, Weighted Average of Eight Capital Cities is less than the previous Consumer Price Index All Groups, Weighted Average of Eight Capital Cities, the current index shall be taken as not less than the previous index.

Land Cost

The value assessed for land acquisition cost will be reviewed as and when required and this factor will be varied, as necessary, to reflect current costs.

Consent

The contributions stated in a consent are calculated on the basis of the development contribution rates determined in accordance with this plan. If the contributions are not paid within the quarter in which consent is granted, the contributions payable will be adjusted and the amount payable will be calculated on the basis of the contribution rates that are applicable at time of payment in the following manner:

$$\$Cp = \$Cdc + \frac{[\$Cdc \times (\$Cq - \$Cc)]}{\$Cc}$$

Where:

\$Cp	is the amount of the contribution calculated at the time of payment
\$Cdc	is the amount of the original contribution as set out in the development consent
\$Cq	is the contribution rate applicable at the time of payment
\$Cc	is the contribution rate applicable at the time of the original consent

The current contributions are published by Council and available from Council's Administration Building at 116 Adelaide Street, Raymond Terrace NSW 2324.

Contributions will be levied according to the estimated increase in demand. An amount equivalent to the contribution attributable to any existing (or approved) development on the site of a proposed new development will be allowed for in the calculation of contributions.

Pooling

The Plan expressly authorises monetary development contributions paid for different purposes to be pooled and applied (progressively or otherwise) for those purposes. The priorities for the expenditure of the levies are shown in the works schedule.

2.4 Settlement of Contribution

**ITEM 1 - ATTACHMENT 1 EXCERPT FROM PORT STEPHENS
CONTRIBUTIONS PLAN 2007 AMENDMENT NO.12.**



The contribution must be paid to Council at the time specified in the condition that imposes the contribution. If no such requirement is specified, the contribution must be paid in accordance with 2.4.3 Timing of Settlement.

2.4.1 Construction Certificates and the obligation of Accredited Certifiers

In accordance with section 7.21 of the *EP&A Act* and Clause 146 of the *EP&A Regulation*, a certifying authority must not issue a construction certificate for building work or subdivision under development consent unless it has verified that each condition requiring the payment of monetary contributions has been satisfied.

In particular, the certifier must ensure that the applicant provides a receipt(s) confirming that contributions have been fully paid and copies of such receipts must be included with copies of the certified plans provided to Council in accordance with clause 142(2) of the *EP&A Regulation*. Failure to follow this procedure may render such a certificate invalid.

The only exceptions to the requirement are where a works in kind, material public benefit, dedication of land or deferred payment arrangement has been agreed by Council. In such cases, Council will issue a letter confirming that an alternative payment method has been agreed with the applicant.

2.4.2 Complying Development and the obligation of Accredited Certifiers

In accordance with 7.21(1) of the *EP&A Act*, accredited certifiers must impose a condition requiring monetary contributions in accordance with this Development Contributions Plan, which satisfies the following criteria.

The conditions imposed must be consistent with Council's standard development contributions consent conditions and be strictly in accordance with this Developments Contributions Plan. It is the professional responsibility of accredited certifiers to accurately calculate the contribution and to apply the development contributions condition correctly.

2.4.3 Timing of Settlement

Settlement of monetary contributions or completion of a Material Public Benefit agreement shall be finalised at the following stages:

- Development applications for subdivision - prior to release of the subdivision certificate;
- Development applications for building or other work - prior to the issue of the construction certificate;
- Applications for both work and subdivision – prior to the issue of the construction certificate or release of the subdivision certificate, whichever comes first;
- Development applications where no building approval is required – prior to commencement of use in accordance with the conditions of consent or upon issue of the occupation certificate whichever occurs first; or
- Development requiring a complying development certificate – prior to issue of the complying development certificate.
- Applications for Caravans, Mobile Homes and the like - prior to approval to operate under Section 68 of the Local Government Act, 1993

ITEM NO. 2

**FILE NO: 19/46515
EDRMS NO: A2004-0284**

NEW MODEL CODE OF MEETING PRACTICE

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Code of Meeting Practice shown at **(TABLED DOCUMENT 1)**.
- 2) Place the Code of Meeting Practice on public exhibition for a period of 28 days, allowing 42 days for submissions to be received.
- 3) Approve the Code of Meeting Practice as publicly exhibited, should no submissions be received, without a further report to Council.
- 4) Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329, **(TABLED DOCUMENT 2)**, should no submissions be received.

**ORDINARY COUNCIL MEETING - 12 MARCH 2019
MOTION**

	<p>Councillor Ken Jordan Councillor Paul Le Mottee</p> <p>That Council:</p> <ol style="list-style-type: none">1) Endorse the Code of Meeting Practice shown at (TABLED DOCUMENT 1).2) Place the Code of Meeting Practice on public exhibition for a period of 28 days, allowing 42 days for submissions to be received.3) Approve the Code of Meeting Practice as publicly exhibited, should no submissions be received, without a further report to Council.4) Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329, (TABLED DOCUMENT 2), should no submissions be received.
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**ORDINARY COUNCIL MEETING - 12 MARCH 2019
AMENDMENT**

046	<p>Councillor Giacomo Arnott Mayor Ryan Palmer</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the Code of Meeting Practice shown at (TABLED DOCUMENT 1), with an amendment to clause 5.21 to read 'A recording of each meeting of the Council and committee of the Council is to be retained on the Council's website for a minimum of 12 months or to the limit of Council's Information Technology storage capacity, whichever is greater. Recordings of meetings may be disposed of in accordance with the <i>State Records Act 1998</i>.'2) Place the Code of Meeting Practice on public exhibition for a period of 28 days, allowing 42 days for submissions to be received.3) Approve the Code of Meeting Practice as publicly exhibited, should no submissions be received, without a further report to Council.4) Revoke the Code of Meeting Practice dated 12 December 2017, Min. No. 329, (TABLED DOCUMENT 2), should no submissions be received.
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The amendment on being put became the motion which was carried.

BACKGROUND

The purpose of this report is to provide Council with the new prescribed Code of Meeting Practice for Local Councils in NSW (the Code).

The amendments to the *Local Government Act 1993* in August 2016 by the *Local Government Amendment (Governance and Planning) Act 2016* (Phase 1 amendments) provided for a model code of meeting practice for all local councils in NSW.

In December 2018, the Office of Local Government released the new model Code of Meeting Practice. Prior to this time, the *Local Government (General) Regulation 2005*, required Council to adopt a Code of Meeting Practice, however, a prescribed code of meeting practice was not in place.

The Code applies to meetings of the Council and Committees of Council where the membership comprises all elected members. The model code also applies to boards of joint organisations and county councils.

Council is required to adopt a new Code of Meeting Practice based on the model Code by 14 June 2019, and may enhance the Code, however, any supplementary clauses cannot be inconsistent with the model Code.

The new Code contains mandatory and non-mandatory provisions. The majority of the Code is the same or similar to Council's existing Code of Meeting Practice.

Webcasting of Council meetings is mandatory under the model Code. A number of the non-mandatory provisions have been incorporated into the Code.

Key inclusions with regards to the non-mandatory provisions are:

- 1) Clause 3.11 – permits the General Manager to report on a Notice of Motion if there are legal, strategic, financial or policy implications which should be taken into consideration at the same meeting.
- 2) Clause 3.12- requires a funding source to be identified in relation to a Notice of Motion for expenditure of funds on works and/or services, other than those provided for in the adopted Operational Plan.
- 3) Clauses 3.31 to 3.36 – inclusion of pre-meeting briefings sessions (existing two-way conversation sessions).
- 4) Clauses 4.1 to 4.23 – inclusion of public forum (existing public access).
- 5) Clause 5.13 and 5.14 – permits the Mayor, in consultation with the General Manager, to cancel a meeting where it becomes apparent that a quorum may not be present at a meeting, or the safety and welfare of councillors, Council staff and members of the public may be put at risk by attending the meeting because of a natural disaster.
- 6) Clauses 7.1 to 7.4 – inclusion of the modes of address to be used at a meeting.
- 7) Clause 9.10 - requires a funding source to be identified in relation to a Mayoral Minute for expenditure of funds on works and/or services, other than those provided for in the adopted Operational Plan.
- 8) Clause 10.9 - requires a funding source to be identified in relation to a motion or amendment moved at a Council meeting for expenditure of funds on works and/or services, other than those provided for in the adopted Operational Plan.
- 9) Clauses 13.1 to 13.7 – permits Council to resolve multiple items by way of a single resolution.
- 10) Clauses 15.14 to 15.15 – authorises the chairperson of Council meetings and committee meetings to expel a person (other than a councillor) from the meeting.
- 11) Clause 17.10 – provides a timeframe for lodging a rescission motion where it involves a development application.
- 12) Clauses 17.15 to 17.20 – permits recommitting a resolution to correct an error with leave from the chairperson.
- 13) Clauses 18.1 to 18.5 – provides process and timeframes to conclude meetings.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance and Civic Leadership.	Manage the civic leadership and governance functions of Council. Manage relationships with all levels of government, stakeholder organisations and Hunter Councils Inc.

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications are within the existing budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to adopt a new Code of Meeting Practice based on the model Code to ensure it meets all legislative requirements in relation to conducting a meeting of the Council and a committee meeting of Council. The new Code must be adopted by 14 June 2019.

Section 361 of the *Local Government Act 1993*, requires Council to publicly exhibit the Code for a period of 28 days and allow 42 days for submissions to be received from the community.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the <i>Local Government Act 1993</i> should it not adopt a new Code of Meeting Practice.	Low	Adopt the recommendations.	Yes.

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

There are limited sustainability implications associated with this report.

CONSULTATION

Internal

- General Manager
- Mayor

External

The new Code of Meeting Practice is required to be publicly exhibited for a period of 28 days and allow 42 days for submissions to be received from the community. Public exhibition will take place in the Port Stephens Examiner, Council's library network, at the Administration Building and be available from Council's website.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Current Code of Meeting Practice.
- 2) New Code of Meeting Practice.

ITEM NO. 3

**FILE NO: 19/49258
EDRMS NO: PSC2017-00739**

POLICY: COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the Councillor Induction and Professional Development Guidelines 2018 shown at **(TABLED DOCUMENT 1)**.
- 2) Endorse the Councillor Induction and Professional Development policy shown at **(ATTACHMENT 1)**.
- 3) Place the Councillor Induction and Professional Development policy on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.

**ORDINARY COUNCIL MEETING - 12 MARCH 2019
MOTION**

047	<p>Councillor Paul Le Mottee Councillor Chris Doohan</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the Councillor Induction and Professional Development Guidelines 2018 shown at (TABLED DOCUMENT 1).2) Endorse the Councillor Induction and Professional Development policy shown at (ATTACHMENT 1).3) Place the Councillor Induction and Professional Development policy on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted, without a further report to Council.
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ORDINARY COUNCIL MEETING - 12 MARCH 2019
MATTER ARISING

	<p>Councillor Giacomo Arnott Councillor John Nell</p> <p>That Council:</p> <ol style="list-style-type: none">1. Express its frustration that the NSW State Government is yet again forcing requirements onto councils without providing funding to meet those requirements.2. Write to Local Government NSW, requesting assistance with this matter and asking for a campaign to be conducted encouraging the NSW State Government to provide funds to assist councils in meeting these new requirements.3. Write to the Minister for Local Government, requesting an immediate transfer of funds, and ongoing, equal to the expected cost of meeting these requirements for all Councillors and the Mayor.
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Cr Arnott and Cr Nell called for a division.

ORDINARY COUNCIL MEETING - 12 MARCH 2019
AMENDMENT

048	<p>Mayor Ryan Palmer Councillor Ken Jordan</p> <p>It was resolved that Council defer the Matter Arising until the next Council meeting on 26 March 2019.</p>
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The amendment on being put became the motion which was carried.

Cr Arnott and Cr Nell called for a division on the amendment.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee and Sarah Smith.

Those against the Motion: Crs Giacomo Arnott, John Nell and Steve Tucker.

Cr Arnott and Cr Nell called for a division on the motion.

Those for the Motion: Mayor Ryan Palmer, Crs Jaimie Abbott, Chris Doohan, Glen Dunkley, Ken Jordan, Paul Le Mottee, John Nell, Sarah Smith and Steve Tucker.

Those against the Motion: Cr Giacomo Arnott.

BACKGROUND

The purpose of this report is to provide Council with the new Councillor Induction and Professional Development Policy (the 'Policy').

The amendments to the *Local Government Act 1993* in August 2016 by the *Local Government Amendment (Governance and Planning) Act 2016* (Phase 1 amendments) provide for the *Local Government (General) Regulation 2005* (Regulation) to be amended to include an ongoing councillor induction and professional development program for the Mayor and Councillors.

To give effect to this amendment, the Office of Local Government (OLG) has issued guidelines under Section 23A of the *Local Government Act 1993*, namely; Councillor Induction and Professional Development Guidelines 2018.

The Regulation requires the General Manager to ensure that an ongoing councillor induction and professional development program for the Mayor and Councillors is in place. The program must provide the support and assistance to the Mayor and Councillors in the development of the skills necessary to perform their respective roles, and maintain those skills over the term of office.

The guidelines and Policy are provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

The financial and resource implications are within the existing budget upon adoption of the Payment of Expenses and Provision of Facilities to Councillors Policy.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Council is required to comply with the Regulation and any guidelines issued by the OLG.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may be in breach of the <i>Local Government Act 1993</i> , the Regulations and the OLG should it not comply with all requirements associated with the program.	Low	Adopt the recommendation.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATIONInternal

General Manager.

External

The Policy requires public exhibition which will take place in the Port Stephens Examiner, Council's library network, at the Administration Building and be available from Council's website.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Councillor Induction and Professional Development Policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Office of Local Government – Councillor Induction and Professional Development Guidelines 2018.

ITEM 3 - ATTACHMENT 1
DEVELOPMENT POLICY.

COUNCILLOR INDUCTION AND PROFESSIONAL

Policy



FILE NO: PSC2017-00739

TITLE: COUNCILLOR INDUCTION AND PROFESSIONAL
DEVELOPMENT POLICY

POLICY OWNER: GOVERNANCE SECTION MANAGER

1. PURPOSE:

- 1.1 The purpose of this policy is to demonstrate Port Stephens Council's commitment to ensuring that the Mayor and Councillors have access to induction and ongoing professional development which will assist them to develop and maintain the skills and knowledge required to effectively perform their civic role and responsibilities under the *Local Government Act 1993* ('the Act').

2. CONTEXT/BACKGROUND:

- 2.1 This policy has been developed to recognise the diversity of elected officials from a professional development perspective. Those elected to Port Stephens Council come from different backgrounds and it is acknowledged that they will already have some skills and experience to assist them in carrying out their role as a mayor or councillor. In an effort to further assist elected officials with a greater understanding of the local government framework and complexities, professional development has been enacted in the *Local Government (General) Regulation 2005*.

3. SCOPE:

- 3.1 This policy applies to all Councillors of Port Stephens Council, including the Mayor.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Act	means <i>Local Government Act 1993</i>
Council	means Port Stephens Council
Councillors	means Elected members of Port Stephens Council
General Manager	means General Manager of Port Stephens Council.
Mayor	means Mayor of Port Stephens Council
Year	means financial year

Policy

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Policy



5. POLICY STATEMENT:

Statement of commitment

- 5.1 Port Stephens Council is committed to developing an induction and ongoing professional development program for the Mayor and Councillors to ensure they can fulfil their statutory roles and responsibilities. As part of this program, the Mayor and each Councillor will have a professional development plan that identifies specific gaps in their capabilities (ie their knowledge, skills and attributes) and identify professional development activities to build these capabilities.

Induction program

- 5.2 Port Stephens Council will develop an induction program for new and returning Councillors as well as a supplementary program for the Mayor to ensure they are provided all the information they need to effectively fulfil their roles in the first few months of Council's term and feel confident in their ability to do so. The induction program will cover:
- a) an orientation to Council facilities and the local government area.
 - b) an overview of the key issues and tasks for the new council including Council's Community Strategic Plan, Delivery Program, Operational Plan, Resourcing Strategy and Community Engagement Plan.
 - c) the legislation, rules, principles and political context under which councils operate.
 - d) the roles and responsibilities of councillors and the mayor.
 - e) Council's organisational structure, workforce management strategy and the roles and responsibilities of the General Manager and Council staff.
 - f) what Council does and how it operates, including an overview of integrated planning and reporting, land-use planning, natural resource management, financial management and asset management by Council.
 - g) key Council policies and procedures Councillors must comply with including the Code of Conduct.
 - h) the role of Council meetings and how to participate effectively in them.
 - i) the support available to the Mayor and Councillors and where they can go to get more information or assistance, and
 - j) information on the process for taking the oath of office.
 - k) other information that may be relevant at the time.

Policy

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Policy



- 5.3 In the case of the mayor, the program will also cover:
- a) how to be an effective leader of the governing body and the Council.
 - b) the role of the Chair and how to chair council meetings.
 - c) the Mayor's role in integrated planning and reporting.
 - d) the Mayor's role and responsibilities under the Code of Conduct.
 - e) the Mayor's role and responsibilities in relation to the General Manager's employment.
 - f) the Mayor's role at regional and other representative bodies, and
 - g) the Mayor's civic and ceremonial role.
- 5.4 The Mayor and Councillors must have a working knowledge and understanding of these areas by the end of the induction program.
- 5.5 The induction program will also include team building activities to help the governing body establish itself as a cohesive and collaborative team focused on a common purpose with shared values and goals. Activities will aim to ensure the Mayor and councillors:
- a) identify how they would like to work together as a team and identify a common vision for the governing body.
 - b) build relationships with each other based on trust and mutual respect that facilitate collaboration.
 - c) contribute to a positive and ethical culture within the governing body.
 - d) work towards consensus as members of the governing body for the benefit of the community.
 - e) develop respectful negotiation skills and manage alternative views within the governing body without damaging relationships.
 - f) understand what supports or undermines the effective functioning of the governing body.
 - g) respect the diversity of skills and experiences on the governing body, and
 - h) communicate and uphold the decisions of Council in a respectful way, even if their own position was not adopted.
- 5.6 Activities should also help the Mayor, as the leader of the governing body, to:
- a) act as a stabilising influence and show leadership, and
 - b) promote a culture of integrity and accountability within Council and when representing Council in the community and elsewhere.
- 5.7 The Mayor and Councillors, including those re-elected to office, must attend all induction sessions.

Policy

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ITEM 3 - ATTACHMENT 1
DEVELOPMENT POLICY.

COUNCILLOR INDUCTION AND PROFESSIONAL

Policy



- 5.8 Port Stephens Council will evaluate the induction program at the end of each Council term to determine whether it has achieved these outcomes, and to identify and address areas for improvement.

Ongoing professional development program

- 5.9 An individual ongoing professional development plan will be developed for the Mayor and each Councillor to address any gaps in the capabilities (ie the knowledge, skills and attributes) needed to effectively fulfil their role.
- 5.10 Each professional development plan will span the Council's term, and identify professional development activities that the Mayor or Councillor will participate in. Professional development activities will be prioritised according to need and approved by the General Manager where Council funds are required in accordance with Council's Payment of Expenses and Provision of Facilities to Mayor and Councillors policy. The Mayor and Councillors are expected to complete all the activities included in their professional development plan.
- 5.11 Professional development activities will, wherever possible, follow the 70/20/10 principle. The 70/20/10 principle requires that:
- a) 70% of learning activities are provided via learning and developing from experience – for example, on-the-job training, self-directed learning, developmental roles, problem solving, exposure and practice
 - b) 20% of learning activities are provided via learning and training through others – for example, personal or professional networks, coaching, mentoring, feedback, memberships and professional associations, and
 - c) 10% of learning activities are provided via learning and developing through structured programs – for example, training courses, external or in-house workshops, seminars, webinars and other e-learning and briefing sessions conducted by the council, external training providers or industry bodies.
- 5.12 The timing of professional development activities for the Mayor and Councillors will be designed in such a way so as to not overload Councillors with learning activities in the early part of Council's term. The timing will reflect what knowledge and skills Councillors and the Mayor need at various points in Council's term to undertake their roles.
- 5.13 The Mayor and Councillors will be provided with as much notice as possible for upcoming induction and professional development activities.

Policy

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ITEM 3 - ATTACHMENT 1
DEVELOPMENT POLICY.

COUNCILLOR INDUCTION AND PROFESSIONAL

Policy



Budget

- 5.14 An annual budget allocation will be provided to support the induction and professional development activities undertaken by the Mayor and Councillors. Expenditure will be monitored and reported quarterly.
- 5.15 Approval of training and/ or expenses Professional development activities that require Council funds are to be approved by the General Manager in accordance with Council's Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy.

Evaluation

- 5.16 Council will evaluate the professional development program at the end of each Council term to assess whether it was effective in assisting the Mayor and Councillors to develop the capabilities required to fulfil their civic roles.

Reporting

- 5.17 The General Manager will publically report each year in Council's annual report:
- a) the name of the Mayor and each individual Councillor that completed Council's induction program (where an induction program has been delivered during the relevant year).
 - b) the name of the Mayor and each Councillor who participated in any ongoing professional development program during the year.
 - c) the number of training and other activities provided to the Mayor and Councillors during the year as part of a professional development program, and
 - d) the total cost of induction and professional development activities and any other training provided to the Mayor and Councillors during the relevant year.

6. POLICY RESPONSIBILITIES:

- 6.1 The Mayor and each Councillor are responsible for making themselves available to attend any development activities identified in the professional development plan.
- 6.2 The Mayor and all Councillors must make all reasonable endeavours to attend and participate in the induction sessions and professional development activities arranged for them during the term of the Council.
- 6.3 The Governance Section Manager is responsible for planning, scheduling and facilitating induction and professional development activities for the Mayor and Councillors in consultation with the General Manager.

Policy

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ITEM 3 - ATTACHMENT 1
DEVELOPMENT POLICY.

COUNCILLOR INDUCTION AND PROFESSIONAL
DEVELOPMENT POLICY.

Policy



- 6.4 The General Manager has overall responsibility for Port Stephens Council's induction and professional development program.
- 6.5 The Governance Section Manager is responsible for monitoring, evaluating, reviewing and providing advice on the policy.

7. RELATED DOCUMENTS:

- 7.1 *Local Government Act 1993*
- 7.2 *Local Government (General) Regulations 2005*
- 7.3 *Councillor Induction and Professional Development Guidelines 2018*

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No		EDRMS record No	
Audience	Mayor and Councillors		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	Two years	Next review date	March 2021
Adoption date			

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
1.0		Governance Section Manager	First version of policy based on the model policy provided in the Councillor Induction and Professional Development Guidelines 2018.	

Policy

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ITEM NO. 4

**FILE NO: 19/47759
EDRMS NO: A2004-0284**

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

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Endorse the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at **(ATTACHMENT 1)**.
- 2) Place the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.
- 3) Revoke the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 26 September 2017, Minute. No. 226 **(ATTACHMENT 2)**, should no submissions be received.

**ORDINARY COUNCIL MEETING - 12 MARCH 2019
MOTION**

049	<p>Councillor Steve Tucker Councillor Glen Dunkley</p> <p>It was resolved that Council:</p> <ol style="list-style-type: none">1) Endorse the revised Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy shown at (ATTACHMENT 1) of the Supplementary Information paper.2) Place the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy, as amended, on public exhibition for a period of 28 days and should no submissions be received, the policy be adopted as amended, without a further report to Council.3) Revoke the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy dated 26 September 2017, Min. No. 226 (ATTACHMENT 2), should no submissions be received.
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BACKGROUND

The purpose of this report is to provide Council with the Payment of Expenses and Provision of Facilities to Councillors Policy (the 'Policy') in accordance with Section 252 of the *Local Government Act 1993* and the Office of Local Government's guidelines.

The Policy has been reviewed following the release of the Councillor Induction and Professional Development Guidelines (Guidelines) and the drafting of the new Councillor Induction and Professional Development Policy. The Policy changes ensure current and future elected members have the opportunity to participate in ongoing professional development as required by the new Guidelines.

Candidates who stand to become councillors are from a variety of backgrounds and with different professional and personal experiences. With this in mind, Council needs to ensure that the right development opportunities exist and provide assistance to those who may need further professional development to meet their obligations as an elected official on Council. Therefore, professional development financial limits have been increased.

Minor amendments have also been made to the information and communication technology expenses to support the Guidelines, and paragraph formatting has been updated.

A copy of the revised Policy is shown at **(ATTACHMENT 1)**.

A copy of Council's current policy is shown at **(ATTACHMENT 2)**.

The Policy is provided for Council's consideration.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Governance	Provide a strong ethical governance structure.

FINANCIAL/RESOURCE IMPLICATIONS

Expenditure associated with this Policy is included in Council's 2018-2019 budget.

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Section 94	No		

MINUTES ORDINARY COUNCIL - 12 MARCH 2019

Source of Funds	Yes/No	Funding (\$)	Comment
External Grants	No		
Other	No		

LEGAL, POLICY AND RISK IMPLICATIONS

Section 252 of the *Local Government Act 1993* was amended in August 2016 requiring Council to adopt a policy within the first twelve (12) months of each term of Council, rather than annually. This amendment also makes provision for the Policy to be reviewed as and when required.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council would be in breach of Section 252 and 253 of the <i>Local Government Act 1993</i> , should this policy not be adopted.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

The Policy allows Councillors to effectively carry out their responsibilities as members of the Council and as community representatives without suffering financial hardship.

CONSULTATION

Consultation with key stakeholders has been undertaken by the Governance and Legal Services Unit.

Internal

- The Executive Team has been consulted to seek management endorsement.
- The General Manager has been consulted to seek endorsement prior to Council's consideration.

External

Public exhibition will take place in the Port Stephens Examiner, Council's library network, at the Administration Building and be available from Council's website.

OPTIONS

- 1) Accept the recommendations.
- 2) Amend the recommendations.
- 3) Reject the recommendations.

ATTACHMENTS

- 1) Draft Payment of Expenses and Provision of Facilities to Mayor/Councillors policy.
- 2) Current Payment of Expenses and Provision of Facilities to Mayor/Councillors policy.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM 4 - ATTACHMENT 1 DRAFT 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 **SECTION** MANAGER

1. PURPOSE:

- 1.1 The purpose of the Payment of Expenses and Provision of Facilities to Mayor/Councillors Policy ('Policy') is to clearly state the facilities and support that are available to Councillors to assist them in fulfilling their civic duties.
- 1.2 This Policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Councillors to help them undertake their civic duties.
- 1.3 It ensures accountability and transparency, and seeks to align Councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this Policy.
- 1.4 The Policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.
- 1.5 The Policy sets out the maximum amounts Council will pay for specific expenses and facilities.

2. CONTEXT/BACKGROUND:

- 2.1 The provision of expenses and facilities enables Councillors to fulfil their civic duties as the elected representatives of Port Stephens Council.
- 2.2 The community is entitled to know the extent of expenses paid to Councillors, as well as the facilities provided.
- 2.3 Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this Policy.
- 2.4 Expenses and facilities provided by this Policy are in addition to fees paid to Councillors. The minimum and maximum fees a council may pay each councillor are set by the Local

Policy

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**ITEM 4 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY.**

Policy



Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

3. SCOPE:

Part A – Expenses

3.1 General expenses

- a. All expenses provided under this Policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this Policy.
- b. Expenses not explicitly addressed in this Policy will not be paid or reimbursed.

3.2 Specific expenses

General travel arrangements and expenses

- a. All travel by Councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.
 - b. Each Councillor may be reimbursed or costs met by Council up to a total of \$7,000 per year, and the Mayor may be reimbursed or costs met by Council up to a total of \$7,000 per year, for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW.
- 3.3 This includes reimbursement:**
- o for public transport fares;
 - o for the use of a private vehicle or hire car;
 - o for parking costs for Council and other meetings;
 - o for tolls;
 - o by Cabcharge card or equivalent;
 - o for documented ride-share programs, such as Uber, where tax invoices can be issued.
- 3.4 Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.**
- 3.5 Councillors seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. The claim form must include such details.**

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**ITEM 4 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY.**

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Interstate, overseas and long distance intrastate travel expenses

- 3.6 In accordance with the Policy Statement, Council will scrutinise the value and need for Councillors to undertake overseas travel. Council should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister and friendship cities.
- 3.7 Total interstate, overseas and long distance intrastate travel expenses for all Councillors will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.
- 3.8 Councillors seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 3.9 Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 3.10 The case should include:
- objectives to be achieved in travel, including an explanation of how the travel aligns with current Council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Councillor's civic duties;
 - who is to take part in the travel;
 - duration and itinerary of travel;
 - a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.

Note: for the most part a report will be submitted to a full Council meeting by the General Manager's Office, detailing the proposed travel.

- 3.11 For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.
- 3.12 For interstate journeys by air of more than three hours, the class of air travel may be premium economy.
- 3.13 For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.

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**ITEM 4 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND
PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY.**

Policy



- 3.14 Bookings for approved air travel are to be made through the General Manager's Office.
- 3.15 For air travel that is reimbursed or costs met by Council as Council business, Councillors will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

- 3.16 Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

- 3.17 In circumstances where it would introduce undue risk for a Councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the General Manager. This includes where a meeting finishes later than 10pm or starts earlier than 7am and the Councillor lives more than 50 kilometres from the meeting location.
- 3.18 Council will meet the costs for accommodation and meals while Councillors are undertaking prior approved travel or professional development outside the Hunter area.
- 3.19 The maximum daily limits for accommodation expenses within Australia is \$400 per Councillor per day inclusive. This will ensure accommodation costs in a capital city are covered.
- 3.20 The daily limits for meal expenses within Australia, where breakfast, lunch and dinner are to be consistent with those set out in the Port Stephens Council Enterprise Agreement, as adjusted.
- 3.21 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 2.18 **3.19**.
- 3.22 Councillors will not be reimbursed or costs met by Council for alcoholic beverages.

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Policy



Refreshments for council related meetings

- 3.23 Appropriate refreshments will be available for Council meetings, Council committee meetings, Councillor briefings, approved meetings and engagements, and official Council functions as approved by the General Manager.
- 3.24 As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of the Port Stephens Council Enterprise Agreement, as adjusted.

Professional development (including conferences and seminars)

- 3.25 Council will set aside \$2,000 15,000 per Councillor, annually per term in its budget to facilitate professional development of Councillors through programs, training, education courses and membership of professional bodies.
- 3.26 In the first year of a new Council term, Council will provide a comprehensive induction program for all Councillors which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 3.27 Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's civic duties, the Councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 3.28 Approval for professional development activities is subject to a prior written request to the General Manager outlining the:
- o details of the proposed professional development;
 - o relevance to Council priorities and business;
 - o relevance to the exercise of the Councillor's civic duties.
- 3.29 In assessing a Councillor request for a professional development activity, the General Manager must consider the factors set out in Clause 2-27 3.28, as well as the cost of the professional development in relation to the Councillor's remaining budget.

Conferences and seminars

- 3.30 Council is committed to ensuring its Councillors are up to date with contemporary issues facing Council and the community, and local government in NSW.

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- 3.31 Council will set aside a total amount of \$30,000 annually in its budget to facilitate Councillor attendance at conferences and seminars. This allocation is for all Councillors. The General Manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.
- 3.32 Approval to attend a conference or seminar is subject to approval of a full Council meeting. In assessing a Councillor request, the General Manager must consider the following factor prior to submitting the report to Council:
- relevance of the topics and presenters to current Council priorities and business and the exercise of the Councillor's civic duties
 - cost of the conference or seminar in relation to the total remaining budget.
- 3.33 Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved Council. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 2.17-2.21 **3.18-3.22**.

Spouse and Partner Expenses

- 3.34 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 3.35 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 within 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 annually, not including the Local Government NSW annual conference.
- 3.36 Costs and expenses 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.
- 3.37 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 annually, not including the Local Government NSW annual conference.

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- 3.38 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.
- 3.39 Costs associated with spouse, partner or accompanying person associated with attendance at conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.
- 3.40 In no circumstances will the peripheral expenses of a spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Information and communications technology (ICT) expenses

- 3.40 Council will reimburse Councillors for expenses associated with appropriate ICT devices up to a limit of \$4,000 **\$5,000** per term. This may include a combination of devices such as; mobile phone, a tablet and a desktop computer or laptop. Council will only reimburse a Councillor for a maximum of three devices.
- 3.41 Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a Councillor, within the maximum limit.
- 3.42 Council will reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business, up to 75% of the total invoice, to a maximum cost of \$200 per month. Unless a Councillor can provide evidence that 100% of the total invoice should be paid.
- 3.43 As an alternative to clause 2.42, Council will 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, up to 75% of the total invoice, to a maximum cost of \$120 per month. The reimbursement for a mobile phone plan will be, up to 75% of the total invoice, to a maximum cost of \$100 per Councillor per month. Unless a Councillor can provide evidence that 100% of the total invoice should be paid
- 3.44 Council will meet the cost of providing and maintaining an internet connection at the residence of a Councillor up to 75% of the total invoice, to a maximum of \$60 per month, where not included in a bundle plan. Any internet costs incurred above this maximum will

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**ITEM 4 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND
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be met by the Councillors. Unless a Councillor can provide evidence that 100% of the total invoice should be paid

3.45 Reimbursements will be made only for communications devices and services used for Councillors to undertake their civic duties, such as:

- receiving and reading Council business papers.
- relevant phone calls and correspondence.
- diary and appointment management.

3.46 All communication device costs incurred above this maximum will be met by the Councillor.

3.47 If a Councillor does not have a telephone line or internet connection at their home, Council will meet reasonable connection costs.

Special requirement and carer expenses

3.48 Council encourages wide participation and interest in civic office. It will seek to ensure Council premises and associated facilities are accessible, including provision for sight or hearing impaired Councillors and those with other disabilities.

3.49 Transportation provisions outlined in this Policy will also assist Councillors who may be unable to drive a vehicle.

3.50 In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow a Councillor with a disability to perform their civic duties.

3.51 Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$2,000 per annum for attendance at official business, plus reasonable travel from the principal place of residence.

3.52 Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.

3.53 In the event of caring for an adult person, Councillors will need to provide suitable evidence to the General Manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

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Home office expenses

- 3.54 Each Councillor may be reimbursed up to \$300 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

Insurances

Councillors shall receive the benefit of insurance cover for:

- 3.55 Personal Accident – Personal Accident insurance covers personal injury, which is caused by 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.
- 3.56 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.
- 3.57 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.
- 3.58 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.
- 3.59 Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by Council's Organisation Development Section.

Legal assistance

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

Council will not meet the legal costs:

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- of legal proceedings initiated by a councillor under any circumstances
 - of a councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
 - for legal proceedings that do not involve a councillor performing their role as a councillor.
- 3.61 Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.
- 3.62 **In the event of 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).**
- 3.63 After the conclusion of the enquiry, investigation, hearing or proceeding, Council shall reimburse a Councillor for all legal expenses properly and reasonably incurred 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 an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.
- 3.64 Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the NSW Civil and Administrative 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.

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- o 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.
- 3.65 In the case of a code of conduct complaint made against a Councillor, legal costs will only be made available where the matter has been referred by the General Manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor.
- 3.66 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.
- 3.67 **In the case of defamation proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings**
- 3.68 Indemnity or reimbursement in respect of costs of defending an action in defamation is only available in circumstances where the Councillor was acting properly when making the statement complained of. The threshold criteria for the application of the indemnity or reimbursement will apply (see 4.7 **3.69**).

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).

Threshold Criteria – Defamation Proceedings

- 3.69 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:
 - i. The statement was made or the act was done in relation to discharging the functions of civic office;
 - ii. The Councillor concerned was acting in good faith (Section 731 of the Act); and
 - iii. 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,

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then Council shall reimburse a Councillor for all legal expenses, fees, liabilities or costs 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) properly and reasonably incurred 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; and
- limited to an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

Engagement of Legal Representatives – Requisite Procedure

3.70 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.

3.71 This notification must:

- be in written form;
- include all details including any correspondence from the alleged injured party concerning the possible claim; and
- include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.

3.72 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.

3.73 The Councillor must at all times without undue delay keep Council fully 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.

3.74 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.

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- 3.75 If proceedings are threatened (and not yet 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.
- 3.76 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.
- 3.77 If Council's solicitor forms the view that the Three Criteria are not satisfied, 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.
- 3.78 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 the paragraph below 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 nominated by the President for the time being of the Law Society of NSW or the President of the NSW Bar Association.
- 3.79 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:

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- a) Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
- b) Accounts being considered and approved by the General Manager prior to payment; and
- c) All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.

3.80 Notwithstanding the provisions of paragraph above, once proceedings have actually been commenced then the procedures set out 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

- 3.81 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:
- 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 Office 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
 - 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
 - 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 B – Facilities

General facilities for all Councillors

Facilities

- 3.82 Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:
- a Councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol);
 - access to shared car parking spaces while attending Council offices on official business;
 - personal protective equipment for use during site visits;
 - a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or deputy Mayor.
- 3.83 Councillors may book meeting rooms for official business in a specified Council building at no cost. Rooms may be booked through a specified officer in the Mayor's office or other specified staff member.
- 3.84 The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

Stationery

- 3.85 Council will provide the following stationery to Councillors each year:
- letterhead, to be used only for correspondence associated with civic duties;
 - business cards;
 - up to the cost of 50 ordinary postage stamps;
 - up to 30 Christmas or festive cards per year for Councillors and 100 for the Mayor.

Note: all postage is to be lodged at the Council Administration Building.

- 3.86 As per Section 5.4 **3.85**, postage costs shall only be used to support a Councillor's civic duties. Any postage costs not used will not be carried over to the next year's allocation.

Administrative support

- 3.87 Council will provide administrative support to Councillors to assist them with their civic duties only. Administrative support may be provided by staff in the Mayor's Office or by a

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member of Council's administrative staff as arranged by the General Manager or their delegate.

- 3.88 As per Section 7, Council staff are expected to assist Councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

Corporate Uniform

- 3.89 Councillors may choose from a selection of Corporate Uniforms 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.

Superannuation

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

Health & Wellbeing Initiative

- 3.91 Councillors will 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.
- 3.92 Councillors will investigate any taxation implications for individual Councillors as a result of the membership.
- 3.93 Further details can be obtained through Council's Councillor Support Executive Assistant.

Additional facilities for the Mayor

- 3.94 Council will provide to the Mayor a maintained vehicle to a similar standard of other Council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the Mayor's office.
- 3.95 The Mayor must keep a log book setting out the date, distance and purpose of all private travel. The log book must be submitted to Council on a monthly basis.
- 3.96 The Mayoral monthly claim for expenses will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.

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- 3.97 A parking space at Council's offices will be reserved for the Mayor's Council-issued vehicle for use on official business, professional development and attendance at the Mayor's Office.
- 3.98 Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
- 3.99 A corporate credit card only to be used for official Council business in accordance with this Policy.
- 3.100 In performing his or her civic duties, the Mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the General Manager.
- 3.101 The number of exclusive staff provided to support the Mayor and Councillors will not exceed one full time equivalent.
- 3.102 As per Section 7 **3.100**, staff in the Mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

Part C – Processes

Approval, payment and reimbursement arrangements.

- 3.103 Expenses should only be incurred by Councillors in accordance with the provisions of this Policy.
- 3.104 Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 3.105 Up to the maximum limits specified in this Policy, approval for the following may be sought after the expense is incurred:
- local travel relating to the conduct of official business;
 - carer costs;
 - ICT expenditure.
- 3.106 Final approval for payments made under this Policy will be granted by the General Manager or their delegate.

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Direct payment

- 3.107 Council may approve and directly pay expenses. Requests for direct payment must be submitted to the General Manager for assessment against this Policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.
- 3.108 Alternatively, if Council makes the arrangements then the costs will be paid by Council for official Council business.

Reimbursement

- 3.109 All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the General Manager.

Advance payment

- 3.110 Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development.
- 3.111 The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$400.
- 3.112 Requests for advance payment must be submitted to the General Manager for assessment against this Policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 3.113 Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:
- a full reconciliation of all expenses including appropriate receipts and/or tax invoices;
 - reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

- 3.114 If a claim is approved, Council will make payment directly or reimburse the Councillor through accounts payable.
- 3.115 If a claim is refused, Council will inform the Councillor in writing that the claim has been refused and the reason for the refusal.

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Reimbursement to council

- 3.116 If Council has incurred an expense on behalf of a Councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this Policy:
- Council will invoice the Councillor for the expense;
 - the Councillor will reimburse Council for that expense within 14 days of the invoice date.
- 3.117 If the Councillor cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the General Manager. The General Manager may elect to deduct the amount from the Councillor's allowance.

Timeframe for reimbursement

- 3.118 Unless otherwise specified in this Policy, Councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Disputes

- 3.119 If a Councillor disputes a determination under this Policy, the Councillor should discuss the matter with the General Manager.
- 3.120 If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to a Council meeting seeking to have the dispute resolved.

Return or retention of facilities

- 3.121 All unexpended facilities or equipment supplied under this Policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
- 3.122 Should a Councillor desire to keep any equipment allocated by Council, then this Policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
- 3.123 The prices for all equipment purchased by Councillors under Clause ~~13.2~~ 3.122 will be recorded in Council's annual report.

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Publication

3.124 This Policy will be published on Council's website.

Reporting

3.125 Council will report on the provision of expenses and facilities to Councillors as required in the Act and Regulations.

3.126 Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Councillor and as a total for all Councillors.

Auditing

3.127 The operation of this Policy, including claims made under the Policy, will be included in Council's audit program and an audit undertaken at least every two years.

Breaches

3.128 Suspected breaches of this Policy are to be reported to the General Manager.

3.129 Alleged breaches of this Policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

4. DEFINITIONS:

An outline of the key definitions of terms included in the Policy.

Accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor.
Appropriate refreshments	Means food and beverages, excluding alcohol, provided by Council to support Councillors undertaking official business.
Act	Means the <i>Local Government Act 1993</i> (NSW).
Clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this Policy.

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Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted.
Council term	As defined by the <i>Local Government Act 1993</i> (NSW) or the NSW Government from time to time.
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the Mayor.
General Manager	Means the general manager of Council and includes their delegate or authorised representative.
Incidental personal use	Means use that is infrequent and brief and use that does not breach this Policy or the Code of Conduct.
Long distance intrastate travel	Means travel to other parts of NSW of more than three hours duration by private vehicle.
Mayor	Means the Mayor of Port Stephens Council.
Maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Schedule 1.
NSW	New South Wales.
Official business	Means functions that the Mayor or Councillors are required or invited to attend to fulfil their legislated role and responsibilities for Council or result in a direct benefit for Council and/or for the local government area, and includes: <ul style="list-style-type: none"> • meetings of Council and committees of the whole • meetings of committees facilitated by Council • civic receptions hosted or sponsored by Council • meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by Council.
Professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor.
Regulation	Means the Local Government (General) Regulation 2005 (NSW).
Year	Means the financial year that is the 12 month period commencing on 1 July each year.

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5. POLICY STATEMENT:

5.1 The objectives of this Policy are to:

- enable the reasonable and appropriate reimbursement of expenses incurred by Councillors while undertaking their civic duties.
- enable facilities of a reasonable and appropriate standard to be provided to Councillors to support them in undertaking their civic duties.
- ensure accountability and transparency in reimbursement of expenses and provision of facilities to Councillors.
- ensure facilities and expenses provided to Councillors meet community expectations.
- support a diversity of representation.
- fulfil the Council's statutory responsibilities.

5.2 Council commits to the following principles:

- **Proper conduct:** Councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions.
- **Reasonable expenses:** Providing for Councillors to be reimbursed or costs met by Council for expenses reasonably incurred as part of their role as Councillor.
- **Participation and access:** Enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as a Councillor.
- **Equity:** There must be equitable access to expenses and facilities for all Councillors.
- **Appropriate use of resources:** Providing clear direction on the appropriate use of Council resources in accordance with legal requirements and community expectations.
- **Accountability and transparency:** Clearly stating and reporting on the expenses and facilities provided to Councillors.

5.3 Private or political benefit:

- a. Councillors must not obtain private or political benefit from any expense or facility provided under this Policy.
- b. Private use of Council equipment and facilities by Councillors may occur from time to time. For example, telephoning home to advise that a Council meeting will run later than expected.
- c. Such incidental private use does not require a compensatory payment back to Council.
- d. Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council facilities does occur, Councillors must reimburse the Council.

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- e. Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
 - o production of election material;
 - o use of Council resources and equipment for campaigning;
 - o use of official Council letterhead, publications, websites or services for political benefit;
 - o fundraising activities of political parties or individuals, including political fundraising events.

6. POLICY RESPONSIBILITIES:

- 6.1 The General Manager is responsible for implementing and ensuring compliance.
- 6.2 The Governance Manager is responsible for implementing, ensuring compliance, monitoring, evaluating, reviewing and providing advice on the Policy.
- 6.3 Mayor and Councillors are responsible for complying with the Policy.

7. RELATED DOCUMENTS:

- *Local Government Act 1993*, Sections 252 and 253
- *Local Government (General) Regulation 2005*, Clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.
- Local Government Circular 17-17 Councillor Expenses and Facilities Policy – Better Practice Template

Related Council policies:

- Code of Conduct.

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SCHEDULE 1

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Clause	Expense or facility	Maximum amount	Frequency
2.2 3.2b	General travel expenses	\$7,000 per Councillor \$7,000 for the Mayor	Per year
2.6 3.7	Interstate, overseas and long distance intrastate travel expenses	\$2,000 total for all Councillors	Per year
2.19 3.20	Meals	As per the Port Stephens Enterprise Agreement, as adjusted.	Per meal
2.19 3.21	Accommodation	\$400 per Councillor/Mayor	Per night
2.24 3.25	Professional development	\$2,000 15,000 per Councillor/Mayor	Per year term
2.30 3.31	Conferences and seminars	\$30,000 total for all Councillors and Mayor	Per year
2.34 3.35	Spouse/partner expenses	\$500 per Councillor	Per year
2.36 3.37	Spouse/partner expenses	\$1,000 for the Mayor	Per year
2.40 3.40	ICT expenses	\$4,000 5,000 per Councillor	Per term
2.42 3.42	Communication devices (mobile phone, landline phone rental & calls, facsimile)	75% up to \$200	Per month
2.43 3.43	Communication devices bundle plan (landline phone rental & calls, facsimile)	75% up to \$100	Per month
2.43 3.43	Communication devices bundle plan (mobile phone)	75% up to \$100	Per month
2.44 3.43	Internet where not included in a bundle plan	75% up to \$60	Per month

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Clause	Expense or facility	Maximum amount	Frequency
2.51 3.51	Carer expenses	\$2,000 per Councillor	Per year
2.54 3.54	Home office expenses	\$300 per Councillor	Per year
6.4 3.85	Postage stamps	50	Per year
6.4 3.85	Christmas or festive cards	30 per Councillor 100 for the Mayor	Per year
6.1 3.82	Access to facilities in a Councillor common room	Provided to all Councillors	Not relevant
7.1 3.94	Council vehicle and fuel card	Provided to the Mayor	Not relevant
7.4 3.97	Reserved parking space at Council offices	Provided to the Mayor	Not relevant
7.5 3.98	Furnished office	Provided to the Mayor	Not relevant
7.8 3.100	Number of exclusive staff supporting Mayor and Councillors	Provided to the Mayor and Councillors	Not relevant
8.9 3.111	Advance payment for conferences, seminars	\$100 per Councillor/Mayor up to \$400	Per event

Additional costs incurred by a Councillor in excess of these limits are considered a personal expense that is the responsibility of the Councillor.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Councillor and as a total for all Councillors.

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TRIM container No	A2004-0284	EDRMS record No	
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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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ITEM 4 - ATTACHMENT 1 DRAFT PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY.

Policy



Version	Date	Author	Details	Minute No.
15.0	26/11/2013	Executive Officer		345
16.0	26/08/2014	Executive Officer		229
17.0	22/09/2015	Governance Manager	Transferred Policy to new corporate Policy template and updated forms. No changes to the intent or objectives of the Policy.	295
18.0	23/08/2016	Governance Manager	<p>It is proposed to amend the Policy as follows:</p> <ol style="list-style-type: none"> 1) Increase cl. 1.12.1 to increase the allowance from \$3,000 to \$4,000 per term. 2) Amend cl. 1.15.1 change name of the Local Government Pecuniary Interest Tribunal to NSW Civil and Administrative Tribunal. 3) Cl. 8 change clause references stated in clause 8. 4) Under the "Exclusion from Policy" change name of Department of Local Government to Office of Local Government. 	242

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Policy



Version	Date	Author	Details	Minute No.
18.1	13/12/2016	Governance Manager	<p>It is proposed to amend the Policy as follows:</p> <ol style="list-style-type: none"> 1) Update the context/background to reflect adopt timeframes in accordance with the Local Government Act. 2) Update cl.252 (1) page 2. 3) Remove cl.253 (4) page 3. 4) Update cl 217 (a1) (vii), page 5. 5) Update cl 1.3.1, page 8 6) Update cl 1.6.2 & 1.6.4, page 9. 7) Update cl 1.8.1, page 11. 8) Update cl 1.10.1, page 12. 9) Update cl 1.12.1, page 13. 10) Update cl 1.13.3, page 14. 11) Update Related documents, page 24. 	368
19	26/09/2017	Governance Manager	Redrafted Policy into the Office of Local Government template Policy, with some additions.	226

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Policy



Version	Date	Author	Details	Minute No.
20		Governance Manager	<p>Reviewed the policy, included numbering to each paragraph and updated the version control.</p> <p>Updated title of policy owner.</p> <p>3.21 – updated reference to 3.19.</p> <p>3.25 – increase professional development for the introduction of new guidelines.</p> <p>3.29 – updated reference to 3.28.</p> <p>3.33 – updated reference to 3.18-3.22.</p> <p>3.40 – increased ICT expenses.</p> <p>3.68 – updated reference to 3.69.</p> <p>3.86 – updated reference to 3.85.</p> <p>3.102 – updated reference to 3.100.</p> <p>3.123 – updated reference to 3.122.</p> <p>7 – included reference to OLG Circular 17-17.</p> <p>Schedule 1 – updated reference numbers.</p>	

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**ITEM 4 - ATTACHMENT 2 CURRENT 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 ('Policy') is to clearly state the facilities and support that are available to Councillors to assist them in fulfilling their civic duties.

This Policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Councillors to help them undertake their civic duties.

It ensures accountability and transparency, and seeks to align Councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this Policy.

The Policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

The Policy sets out the maximum amounts Council will pay for specific expenses and facilities.

CONTEXT/BACKGROUND:

1. The provision of expenses and facilities enables Councillors to fulfil their civic duties as the elected representatives of Port Stephens Council.
2. The community is entitled to know the extent of expenses paid to Councillors, as well as the facilities provided.
3. Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this Policy.
4. Expenses and facilities provided by this Policy are in addition to fees paid to Councillors. The minimum and maximum fees a council may pay each councillor are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

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Policy



SCOPE:

Part A – Expenses

1. General expenses

1.1. All expenses provided under this Policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this Policy.

1.2. Expenses not explicitly addressed in this Policy will not be paid or reimbursed.

2. Specific expenses

General travel arrangements and expenses

2.1. All travel by Councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.

2.2. Each Councillor may be reimbursed or costs met by Council up to a total of \$7,000 per year, and the Mayor may be reimbursed or costs met by Council up to a total of \$7,000 per year, for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW.

This includes reimbursement:

- for public transport fares;
 - for the use of a private vehicle or hire car;
 - for parking costs for Council and other meetings;
 - for tolls;
 - by Cabcharge card or equivalent;
 - for documented ride-share programs, such as Uber, where tax invoices can be issued.
- 2.3. Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.
- 2.4. Councillors seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. The claim form must include such details.

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Policy



Interstate, overseas and long distance intrastate travel expenses

- 2.5. In accordance with the Policy Statement, Council will scrutinise the value and need for Councillors to undertake overseas travel. Council should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister and friendship cities.
- 2.6. Total interstate, overseas and long distance intrastate travel expenses for all Councillors will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.
- 2.7. Councillors seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 2.8. Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.
- 2.9. The case should include:
- objectives to be achieved in travel, including an explanation of how the travel aligns with current Council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Councillor's civic duties;
 - who is to take part in the travel;
 - duration and itinerary of travel;
 - a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.

Note: for the most part a report will be submitted to a full Council meeting by the General Manager's Office, detailing the proposed travel.

- 2.10. For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.
- 2.11. For interstate journeys by air of more than three hours, the class of air travel may be premium economy.
- 2.12. For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.

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2.13. Bookings for approved air travel are to be made through the General Manager's Office.

2.14. For air travel that is reimbursed or costs met by Council as Council business, Councillors will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

2.15. Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

2.16. In circumstances where it would introduce undue risk for a Councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the General Manager. This includes where a meeting finishes later than 10pm or starts earlier than 7am and the Councillor lives more than 50 kilometres from the meeting location.

2.17. Council will meet the costs for accommodation and meals while Councillors are undertaking prior approved travel or professional development outside the Hunter area.

2.18. The maximum daily limits for accommodation expenses within Australia is \$400 per Councillor per day inclusive. This will ensure accommodation costs in a capital city are covered.

2.19. The daily limits for meal expenses within Australia, where breakfast, lunch and dinner are to be consistent with those set out in the Port Stephens Council Enterprise Agreement, as adjusted.

2.20. The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of Clause 2.18.

2.21. Councillors will not be reimbursed or costs met by Council for alcoholic beverages.

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Refreshments for council related meetings

- 2.22. Appropriate refreshments will be available for Council meetings, Council committee meetings, Councillor briefings, approved meetings and engagements, and official Council functions as approved by the General Manager.
- 2.23. As an indicative guide for the standard of refreshments to be provided at Council related meetings, the General Manager must be mindful of the Port Stephens Council Enterprise Agreement, as adjusted.

Professional development

- 2.24. Council will set aside \$2,000 per Councillor annually in its budget to facilitate professional development of Councillors through programs, training, education courses and membership of professional bodies.
- 2.25. In the first year of a new Council term, Council will provide a comprehensive induction program for all Councillors which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 2.26. Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's civic duties, the Councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 2.27. Approval for professional development activities is subject to a prior written request to the General Manager outlining the:
- o details of the proposed professional development;
 - o relevance to Council priorities and business;
 - o relevance to the exercise of the Councillor's civic duties.
- 2.28. In assessing a Councillor request for a professional development activity, the General Manager must consider the factors set out in Clause 2.27, as well as the cost of the professional development in relation to the Councillor's remaining budget.

Conferences and seminars

- 2.29. Council is committed to ensuring its Councillors are up to date with contemporary issues facing Council and the community, and local government in NSW.

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- 2.30. Council will set aside a total amount of \$30,000 annually in its budget to facilitate Councillor attendance at conferences and seminars. This allocation is for all Councillors. The General Manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.
- 2.31. Approval to attend a conference or seminar is subject to approval of a full Council meeting. In assessing a Councillor request, the General Manager must consider the following factor prior to submitting the report to Council:
- relevance of the topics and presenters to current Council priorities and business and the exercise of the Councillor's civic duties
 - cost of the conference or seminar in relation to the total remaining budget.
- 2.32. Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved Council. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 2.17-2.21.

Spouse and Partner Expenses

- 2.33 Accompanying person means a person who has a close relationship with a Councillor and/or provides carer support to the Councillor.
- 2.34 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 within 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 annually, not including the Local Government NSW annual conference.
- 2.35 Costs and expenses 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.
- 2.36 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

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of a formal or ceremonial nature. Each Mayor is entitled to a maximum of \$1000 annually, not including the Local Government NSW annual conference.

- 2.37 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.
- 2.38 Costs associated with spouse, partner or accompanying person associated with attendance at conferences other than the Local Government NSW annual conference, or any seminars or training shall not be met by Council.
- 2.39 In no circumstances will the peripheral expenses of a spouse, partner or accompanying person, such as grooming, special clothing and transport be considered reimbursable expenses.

Information and communications technology (ICT) expenses

- 2.40 Council will reimburse Councillors for expenses associated with appropriate ICT devices up to a limit of \$4,000 per term. This may include a combination of devices such as; mobile phone, a tablet and a desktop computer or laptop. Council will only reimburse a Councillor for a maximum of three devices.
- 2.41 Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a Councillor, within the maximum limit.
- 2.42 Council will reimburse Councillors for their communication device costs (including mobile phone, landline rental, landline telephone and facsimile) incurred in attending to Council business, up to 75% of the total invoice, to a maximum cost of \$200 per month. Unless a Councillor can provide evidence that 100% of the total invoice should be paid.
- 2.43 As an alternative to clause 2.42, Council will 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, up to 75% of the total invoice, to a maximum cost of \$120 per month. The reimbursement for a mobile phone plan will be, up to 75% of the total invoice, to a maximum cost of \$100 per Councillor per month. Unless a Councillor can provide evidence that 100% of the total invoice should be paid

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- 2.44 Council will meet the cost of providing and maintaining an internet connection at the residence of a Councillor up to 75% of the total invoice, to a maximum of \$60 per month, where not included in a bundle plan. Any internet costs incurred above this maximum will be met by the Councillors. Unless a Councillor can provide evidence that 100% of the total invoice should be paid
- 2.45 Reimbursements will be made only for communications devices and services used for Councillors to undertake their civic duties, such as:
- receiving and reading Council business papers.
 - relevant phone calls and correspondence.
 - diary and appointment management.
- 2.46 All communication device costs incurred above this maximum will be met by the Councillor.
- 2.47 If a Councillor does not have a telephone line or internet connection at their home, Council will meet reasonable connection costs.

Special requirement and carer expenses

- 2.48 Council encourages wide participation and interest in civic office. It will seek to ensure Council premises and associated facilities are accessible, including provision for sight or hearing impaired Councillors and those with other disabilities.
- 2.49 Transportation provisions outlined in this Policy will also assist Councillors who may be unable to drive a vehicle.
- 2.50 In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow a Councillor with a disability to perform their civic duties.
- 2.51 Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$2,000 per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- 2.52 Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.

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- 2.53 In the event of caring for an adult person, Councillors will need to provide suitable evidence to the General Manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

Home office expenses

- 2.54 Each Councillor may be reimbursed up to \$300 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

3 Insurances

Councillors shall receive the benefit of insurance cover for:

- 3.1 **Personal Accident –** Personal Accident insurance covers personal injury, which is caused by 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.
- 3.2 **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.
- 3.3 **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.
- 3.4 **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.
- 3.5 Full details of the abovementioned insurance policies are available in Council's Insurance Handbook held by Council's Organisation Development Section.

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4. Legal assistance

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

Council will not meet the legal costs:

- of legal proceedings initiated by a councillor under any circumstances
- of a councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
- for legal proceedings that do not involve a councillor performing their role as a councillor.

Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.

- 4.2 **In the event of 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).**

After the conclusion of the enquiry, investigation, hearing or proceeding, Council shall reimburse a Councillor for all legal expenses properly and reasonably incurred 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 an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

- 4.3 Council may indemnify or reimburse the reasonable legal expenses of a councillor for proceedings before the NSW Civil and Administrative 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.

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- o 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.
 - o 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.
- 4.4 In the case of a code of conduct complaint made against a Councillor, legal costs will only be made available where the matter has been referred by the General Manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor.
- 4.5 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.
- 4.6 **In the case of defamation proceedings arising from the making of a public statement, where a Councillor is a defendant or anticipated defendant in such proceedings**

Indemnity or reimbursement in respect of costs of defending an action in defamation is only available in circumstances where the Councillor was acting properly when making the statement complained of. The threshold criteria for the application of the indemnity or reimbursement will apply (see 4.7).

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).

4.7 **Threshold Criteria – Defamation Proceedings**

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:

- i. The statement was made or the act was done in relation to discharging the functions of civic office;

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- ii. The Councillor concerned was acting in good faith (Section 731 of the Act); and
- iii. 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 shall reimburse a Councillor for all legal expenses, fees, liabilities or costs 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) properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT the amount of such reimbursement shall be:

- o reduced by the amount of any monies that may be or are recouped by the Councillor on any basis; and
- o limited to an hourly rate being charged by Council's Hunter based Solicitors ie any portion of the expenses representing an hourly charge rate higher than the hourly rate charge rate of Council's Hunter based Solicitors will not be reimbursed.

4.8 Engagement of Legal Representatives – Requisite Procedure

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:

- o be in written form;
- o include all details including any correspondence from the alleged injured party concerning the possible claim; and
- o include the Councillor's comments on whether the Councillor considers that the Three Criteria are satisfied.

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 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.

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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.

If proceedings are threatened (and not yet 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.

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.

If Council's solicitor forms the view that the Three Criteria are not satisfied, 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.

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 the paragraph below 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

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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.

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:

- a) Terms and conditions as to costs and disbursements including procedures for costs estimates to be given at appropriate times; and
- b) Accounts being considered and approved by the General Manager prior to payment; and
- c) All instructions provided to the legal representatives by the Councillor concerned to be subject to the concurrence of the General Manager.

Notwithstanding the provisions of paragraph above, once proceedings have actually been commenced then the procedures set out 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.)

4.9 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:

- o 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 Office 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
- o 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.

Part B – Facilities

5. General facilities for all Councillors

Facilities

- 5.1. Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:
- a Councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol);
 - access to shared car parking spaces while attending Council offices on official business;
 - personal protective equipment for use during site visits;
 - a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or deputy Mayor.
- 5.2. Councillors may book meeting rooms for official business in a specified Council building at no cost. Rooms may be booked through a specified officer in the Mayor's office or other specified staff member.
- 5.3. The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

Stationery

- 5.4. Council will provide the following stationery to Councillors each year:
- letterhead, to be used only for correspondence associated with civic duties;
 - business cards;
 - up to the cost of 50 ordinary postage stamps;
 - up to 30 Christmas or festive cards per year for Councillors and 100 for the Mayor.

Note: all postage is to be lodged at the Council Administration Building.

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- 5.5. As per Section 5.4, postage costs shall only be used to support a Councillor's civic duties. Any postage costs not used will not be carried over to the next year's allocation.

Administrative support

- 5.6. Council will provide administrative support to Councillors to assist them with their civic duties only. Administrative support may be provided by staff in the Mayor's Office or by a member of Council's administrative staff as arranged by the General Manager or their delegate.
- 5.7. As per Section 7, Council staff are expected to assist Councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

Corporate Uniform

- 5.8 Councillors may choose from a selection of Corporate Uniforms 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.

Superannuation

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

Health & Wellbeing Initiative

- 5.10 Councillors will 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.
- 5.11 Councillors will investigate any taxation implications for individual Councillors as a result of the membership.
- 5.12 Further details can be obtained through Council's Councillor Support Executive Assistant.

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6. Additional facilities for the Mayor
 - 6.1. Council will provide to the Mayor a maintained vehicle to a similar standard of other Council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the Mayor's office.
 - 6.2. The Mayor must keep a log book setting out the date, distance and purpose of all private travel. The log book must be submitted to Council on a monthly basis.
 - 6.3. The Mayoral monthly claim for expenses will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.
 - 6.4. A parking space at Council's offices will be reserved for the Mayor's Council-issued vehicle for use on official business, professional development and attendance at the Mayor's Office.
 - 6.5. Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
 - 6.6. A corporate credit card only to be used for official Council business in accordance with this Policy.
 - 6.7. In performing his or her civic duties, the Mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the General Manager.
 - 6.8. The number of exclusive staff provided to support the Mayor and Councillors will not exceed one full time equivalent.
 - 6.9. As per Section 7, staff in the Mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

Part C – Processes

7. Approval, payment and reimbursement arrangements.
 - 7.1. Expenses should only be incurred by Councillors in accordance with the provisions of this Policy.

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- 7.2. Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 7.3. Up to the maximum limits specified in this Policy, approval for the following may be sought after the expense is incurred:
- local travel relating to the conduct of official business;
 - carer costs;
 - ICT expenditure.
- 7.4. Final approval for payments made under this Policy will be granted by the General Manager or their delegate.

Direct payment

- 7.5. Council may approve and directly pay expenses. Requests for direct payment must be submitted to the General Manager for assessment against this Policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.
- 7.6. Alternatively, if Council makes the arrangements then the costs will be paid by Council for official Council business.

Reimbursement

- 7.7. All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the General Manager.

Advance payment

- 7.8. Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development.
- 7.9. The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$400.
- 7.10. Requests for advance payment must be submitted to the General Manager for assessment against this Policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.

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7.11. Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:

- a full reconciliation of all expenses including appropriate receipts and/or tax invoices;
- reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

7.12. If a claim is approved, Council will make payment directly or reimburse the Councillor through accounts payable.

7.13. If a claim is refused, Council will inform the Councillor in writing that the claim has been refused and the reason for the refusal.

Reimbursement to council

7.14. If Council has incurred an expense on behalf of a Councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this Policy:

- Council will invoice the Councillor for the expense;
- the Councillor will reimburse Council for that expense within 14 days of the invoice date.

7.15. If the Councillor cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the General Manager. The General Manager may elect to deduct the amount from the Councillor's allowance.

Timeframe for reimbursement

7.16. Unless otherwise specified in this Policy, Councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

8. Disputes

8.1. If a Councillor disputes a determination under this Policy, the Councillor should discuss the matter with the General Manager.

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- 8.2. If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to a Council meeting seeking to have the dispute resolved.
9. Return or retention of facilities
 - 9.1. All unexpended facilities or equipment supplied under this Policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
 - 9.2. Should a Councillor desire to keep any equipment allocated by Council, then this Policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
 - 9.3. The prices for all equipment purchased by Councillors under Clause 13.2 will be recorded in Council's annual report.
10. Publication
 - 10.1. This Policy will be published on Council's website.
11. Reporting
 - 11.1. Council will report on the provision of expenses and facilities to Councillors as required in the Act and Regulations.
 - 11.2. Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Councillor and as a total for all Councillors.
12. Auditing
 - 12.1. The operation of this Policy, including claims made under the Policy, will be included in Council's audit program and an audit undertaken at least every two years.
13. Breaches
 - 13.1. Suspected breaches of this Policy are to be reported to the General Manager.

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13.2. Alleged breaches of this Policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

DEFINITIONS:

An outline of the key definitions of terms included in the Policy.

Accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor.
Appropriate refreshments	Means food and beverages, excluding alcohol, provided by Council to support Councillors undertaking official business.
Act	Means the <i>Local Government Act 1993</i> (NSW).
Clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this Policy.
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted.
Council term	As defined by the <i>Local Government Act 1993</i> (NSW) or the NSW Government from time to time.
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the Mayor.
General Manager	Means the general manager of Council and includes their delegate or authorised representative.
Incidental personal use	Means use that is infrequent and brief and use that does not breach this Policy or the Code of Conduct.
Long distance intrastate travel	Means travel to other parts of NSW of more than three hours duration by private vehicle.
Mayor	Means the Mayor of Port Stephens Council.
Maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Schedule 1.
NSW	New South Wales.

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Official business	Means functions that the Mayor or Councillors are required or invited to attend to fulfil their legislated role and responsibilities for Council or result in a direct benefit for Council and/or for the local government area, and includes: <ul style="list-style-type: none">• meetings of Council and committees of the whole• meetings of committees facilitated by Council• civic receptions hosted or sponsored by Council• meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by Council.
Professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor.
Regulation	Means the Local Government (General) Regulation 2005 (NSW).
Year	Means the financial year that is the 12 month period commencing on 1 July each year.

POLICY STATEMENT:

- 1) The objectives of this Policy are to:
 - enable the reasonable and appropriate reimbursement of expenses incurred by Councillors while undertaking their civic duties.
 - enable facilities of a reasonable and appropriate standard to be provided to Councillors to support them in undertaking their civic duties.
 - ensure accountability and transparency in reimbursement of expenses and provision of facilities to Councillors.
 - ensure facilities and expenses provided to Councillors meet community expectations.
 - support a diversity of representation.
 - fulfil the Council's statutory responsibilities.
- 2) Council commits to the following principles:
 - **Proper conduct:** Councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions.
 - **Reasonable expenses:** Providing for Councillors to be reimbursed or costs met by Council for expenses reasonably incurred as part of their role as Councillor.
 - **Participation and access:** Enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as a Councillor.

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- **Equity:** There must be equitable access to expenses and facilities for all Councillors.
 - **Appropriate use of resources:** Providing clear direction on the appropriate use of Council resources in accordance with legal requirements and community expectations.
 - **Accountability and transparency:** Clearly stating and reporting on the expenses and facilities provided to Councillors.
- 3) Private or political benefit:
- a. Councillors must not obtain private or political benefit from any expense or facility provided under this Policy.
 - b. Private use of Council equipment and facilities by Councillors may occur from time to time. For example, telephoning home to advise that a Council meeting will run later than expected.
 - c. Such incidental private use does not require a compensatory payment back to Council.
 - d. Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council facilities does occur, Councillors must reimburse the Council.
 - e. Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
 - production of election material;
 - use of Council resources and equipment for campaigning;
 - use of official Council letterhead, publications, websites or services for political benefit;
 - fundraising activities of political parties or individuals, including political fundraising events.

POLICY RESPONSIBILITIES:

- 1) The General Manager is responsible for implementing and ensuring compliance.
- 2) The Governance Manager is responsible for implementing, ensuring compliance, monitoring, evaluating, reviewing and providing advice on the Policy.
- 3) Mayor and Councillors are responsible for complying with the Policy.

RELATED DOCUMENTS:

- *Local Government Act 1993*, Sections 252 and 253
- *Local Government (General) Regulation 2005*, Clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities

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- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

Related Council policies:

- Code of Conduct.

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SCHEDULE 1

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Clause	Expense or facility	Maximum amount	Frequency
2.2	General travel expenses	\$7,000 per Councillor \$7,000 for the Mayor	Per year
2.6	Interstate, overseas and long distance intrastate travel expenses	\$2,000 total for all Councillors	Per year
2.19	Meals	As per the Port Stephens Enterprise Agreement, as adjusted.	Per meal
2.19	Accommodation	\$400 per Councillor/Mayor	Per night
2.24	Professional development	\$2,000 per Councillor/Mayor	Per year
2.30	Conferences and seminars	\$30,000 total for all Councillors and Mayor	Per year
2.34	Spouse/partner expenses	\$500 per Councillor	Per year
2.36	Spouse/partner expenses	\$1,000 for the Mayor	Per year
2.40	ICT expenses	\$4,000 per Councillor	Per term
2.42	Communication devices (mobile phone, landline phone rental & calls, facsimile)	75% up to \$200	Per month
2.43	Communication devices bundle plan (landline phone rental & calls, facsimile)	75% up to \$100	Per month
2.43	Communication devices bundle plan (mobile phone)	75% up to \$100	Per month
2.44	Internet where not included in a bundle plan	75% up to \$60	Per month
2.51	Carer expenses	\$2,000 per Councillor	Per year
2.54	Home office expenses	\$300 per Councillor	Per year
6.4	Postage stamps	50	Per year
6.4	Christmas or festive cards	30 per Councillor 100 for the Mayor	Per year

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Clause	Expense or facility	Maximum amount	Frequency
6.1	Access to facilities in a Councillor common room	Provided to all Councillors	Not relevant
7.1	Council vehicle and fuel card	Provided to the Mayor	Not relevant
7.4	Reserved parking space at Council offices	Provided to the Mayor	Not relevant
7.5	Furnished office	Provided to the Mayor	Not relevant
7.8	Number of exclusive staff supporting Mayor and Councillors	Provided to the Mayor and Councillors	Not relevant
8.9	Advance payment for conferences, seminars	\$100 per Councillor/Mayor up to \$400	Per event

Additional costs incurred by a Councillor in excess of these limits are considered a personal expense that is the responsibility of the Councillor.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by an individual Councillor and as a total for all Councillors.

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Audience	Mayor and Councillors		
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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
15.0	26/11/2013	Executive Officer		345
16.0	26/08/2014	Executive Officer		229
17.0	22/09/2015	Governance Manager	Transferred Policy to new corporate Policy template and updated forms. No changes to the intent or objectives of the Policy.	295

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Policy



Version	Date	Author	Details	Minute No.
18.0	23/08/2016	Governance Manager	<p>It is proposed to amend the Policy as follows:</p> <ol style="list-style-type: none"> 1) Increase cl. 1.12.1 to increase the allowance from \$3,000 to \$4,000 per term. 2) Amend cl. 1.15.1 change name of the Local Government Pecuniary Interest Tribunal to NSW Civil and Administrative Tribunal. 3) Cl. 8 change clause references stated in clause 8. 4) Under the "Exclusion from Policy" change name of Department of Local Government to Office of Local Government. 	242

Policy

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Review Date: 26/09/2017

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ITEM 4 - ATTACHMENT 2 CURRENT PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR/COUNCILLORS POLICY.

Policy



Version	Date	Author	Details	Minute No.
18.1	13/12/2016	Governance Manager	It is proposed to amend the Policy as follows: 1) Update the context/background to reflect adopt timeframes in accordance with the Local Government Act. 2) Update cl.252 (1) page 2. 3) Remove cl253 (4) page3. 4) Update cl 217 (a1) (vii), page 5. 5) Update cl 1.3.1, page 8 6) Update cl 1.6.2 & 1.6.4, page 9. 7) Update cl 1.8.1, page 11. 8) Update cl 1.10.1, page 12. 9) Update cl 1.12.1, page 13. 10) Update cl 1.13.3, page 14. 11) Update Related documents, page 24.	368
19	26/09/2017	Governance Manager	Redrafted Policy into the Office of Local Government template Policy, with some additions.	226

Policy

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ITEM NO. 5

**FILE NO: 19/50418
EDRMS NO: PSC2017-00178**

REQUESTS FOR FINANCIAL ASSISTANCE

REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE

RECOMMENDATION IS THAT COUNCIL:

- 1) Approves provision of financial assistance under Section 356 of the *Local Government Act 1993* from the respective Mayor and Ward funds to the following:
- a. NextGen Academy Inc – Mayoral funds - \$1,000 donation towards the 2019 Rugby NextGen program.
 - b. Nelson Bay Diggers Bowls Club – Mayoral funds - \$500 donation towards funding to help with transportation to other clubs in the district.
 - c. Medowie Little Athletics – Ward funds Cr Chris Doohan - \$500 donation towards the purchase and installation of a water bubbler and bottle filling station at Kindlebark Oval.
 - d. Georgia Casumaro, Matthew Peacock, Connor McElwain and Eamonn Cullen – Mayoral funds - \$500 (each) donation towards academic funding assistance.
 - e. Salamander Bay Rotary Club – Mayoral funds - \$2,500 donation towards roundabout project on Nelson Bay Road entrance way project.

**ORDINARY COUNCIL MEETING - 12 MARCH 2019
MOTION**

050	<p>Councillor John Nell Councillor Glen Dunkley</p> <p>It was resolved that Council approves provision of financial assistance under Section 356 of the <i>Local Government Act 1993</i> from the respective Mayor and Ward funds to the following:</p> <ul style="list-style-type: none">a. NextGen Academy Inc – Mayoral funds - \$1,000 donation towards the 2019 Rugby NextGen program.b. Nelson Bay Diggers Bowls Club – Mayoral funds - \$500 donation towards funding to help with transportation to other clubs in the district.c. Medowie Little Athletics – Ward funds Cr Chris Doohan - \$500 donation towards the purchase and installation of a water bubbler and bottle filling station at Kindlebark Oval.d. Georgia Casumaro, Matthew Peacock, Connor McElwain and Eamonn Cullen – Mayoral funds - \$500 (each) donation towards academic funding assistance.
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MINUTES ORDINARY COUNCIL - 12 MARCH 2019

	e. Salamander Bay Rotary Club – Mayoral funds - \$2,500 donation towards roundabout project on Nelson Bay Road entrance way project.
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BACKGROUND

The purpose of this report is to determine and, where required, authorise payment of financial assistance to recipients judged by the Mayor and or Councillors as deserving of public funding. The Grants and Donations Policy gives the Mayor and Councillors a wide discretion either to grant or to refuse any requests.

Council's Grants and Donations Policy provides the community, the Mayor and Councillors with a number of options when seeking financial assistance from Council. Those options being:

- 1) Mayoral Funds.
- 2) Rapid Response.
- 3) Community Financial Assistance Grants – (bi-annually).
- 4) Community Capacity Building.

Council is unable to grant approval of financial assistance to individuals unless it is performed in accordance with the *Local Government Act 1993*. This would mean that the financial assistance would need to be included in the Operational Plan or Council would need to advertise for 28 days of its intent to grant approval. Council can make donations to community groups.

The requests for financial assistance are shown below:

CENTRAL WARD FUNDS – Councillor Doohan

Medowie Little Athletics Club	Little Athletics aspires to provide the community with recreational athletics activities that contribute to the healthy development of children.	\$500	Donation towards the purchase and installation of a water bubbler and bottle filling station at Kindlebark Oval.
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MAYORAL FUNDS – Mayor Palmer

Nelson Bay Diggers Bowls Club	An intra club of the Nelson Bay Wests Diggers Group with 100 members, the majority of which are veterans.	\$500	Donation towards funding to help with transportation to other clubs in the district.
NextGen Academy Inc	A non-profit organisation.	\$1,000	Donation towards the 2019 Rugby NextGen program.
Georgia Casumaro	Undertaking a Bachelor of Mechatronics Engineering (Honours) at University of Newcastle.	\$500	Donation towards academic funding assistance.
Matthew Peacock	Undertaking a Diploma of Building Design at TAFE Newcastle.	\$500	Donation towards academic funding assistance.
Connor McElwain	Undertaking a Bachelor of Paramedicine at Charles Sturt University.	\$500	Donation towards academic funding assistance.
Eamonn Cullen	Undertaking Bachelor of Marine and Antarctic Studies at University of Tasmania.	\$500	Donation towards academic funding assistance.
Salamander Bay Rotary Club	Rotary Clubs are part of an international network of business, professional and community leaders who strive to make the world a better place through practical efforts.	\$2,500	Donation towards roundabout project on Nelson Bay Road entrance way project.

COMMUNITY STRATEGIC PLAN

Strategic Direction	Delivery Program 2018-2021
Community Partnerships	Support financially creative and active communities.

FINANCIAL/RESOURCE IMPLICATIONS

Source of Funds	Yes/No	Funding (\$)	Comment
Existing budget	Yes		
Reserve Funds	No		
Developer Contributions (\$7.11)	No		
External Grants	No		
Other	No		

LEGAL AND POLICY IMPLICATIONS

To qualify for assistance under Section 356(1) of the *Local Government Act 1993*, the purpose must assist the Council in the exercise of its functions. Functions under the Act include the provision of community, culture, health, sport and recreation services and facilities.

The policy interpretation required is whether the Council believes that:

- a) applicants are carrying out a function, which it, the Council, would otherwise undertake;
- b) the funding will directly benefit the community of Port Stephens;
- c) applicants do not act for private gain.

Risk	<u>Risk Ranking</u>	Proposed Treatments	Within Existing Resources?
There is a risk that Council may set a precedent when allocating funds to the community and an expectation those funds will always be available.	Low	Adopt the recommendations.	Yes

SUSTAINABILITY IMPLICATIONS

Includes Social, Economic and Environmental Implications

Nil.

CONSULTATION

Consultation with key stakeholders has been undertaken by the General Manager's Office.

Consultation has been undertaken with the key stakeholders to ensure budget requirements are met and approved.

As per the financial assistance guidelines, any assistance provided to private individuals requires 28 days public exhibition.

OPTIONS

- 1) Accept the recommendation.
- 2) Vary the dollar amount before granting each or any request.
- 3) Decline to fund all the requests.

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

Nil.

ITEM NO. 6**FILE NO: 19/53651
EDRMS NO: PSC2017-00015****INFORMATION PAPERS****REPORT OF: WAYNE WALLIS - GENERAL MANAGER
GROUP: GENERAL MANAGER'S OFFICE**

RECOMMENDATION IS THAT THAT COUNCIL:

Receives and notes the Information Papers listed below being presented to Council on 12 March 2019.

No: Report Title Page:

1 Designated Persons' Return 109

**ORDINARY COUNCIL MEETING - 12 MARCH 2019
MOTION**

051	Councillor Sarah Smith Councillor Ken Jordan	
	It was resolved that Council receives and notes the Information Papers listed below being presented to Council on 12 March 2019.	
	<hr/>	
	No: Report Title	Page:
	1 Designated Persons' Return	109

INFORMATION PAPERS

ITEM NO. 1

**FILE NO: 19/49618
EDRMS NO: PSC2018-01339**

DESIGNATED PERSONS' RETURN

REPORT OF: TONY WICKHAM - GOVERNANCE SECTION MANAGER
GROUP: GENERAL MANAGER'S OFFICE

BACKGROUND

The purpose of this report is to advise Council of new Council staff who have submitted their Designated Persons' Return (Return).

In accordance with Section 450A of the *Local Government Act 1993*, all new staff are required to lodge a Return within three (3) months of commencement. These Returns are to be tabled at the first Council meeting after the lodgement date.

The following is a list of position/s who have submitted Return/s:

- Senior Environmental Planner (PSC951).

ATTACHMENTS

Nil.

COUNCILLORS ROOM

Nil.

TABLED DOCUMENTS

- 1) Designated Persons' Return.

There being no further business the meeting closed at 6.26pm.