



PORT STEPHENS

C O U N C I L

SUPPLEMENTARY INFORMATION

ORDINARY COUNCIL MEETING
11 FEBRUARY 2025

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SUBJECT

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- Nb. **Bold** Items listed above have not been previously received or viewed by Councillors.

SUPPLEMENTARY INFORMATION

ITEM NO. 5

FILE NO: 25/28881
EDRMS NO: A2004-0284

POLICY REVIEW - PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS POLICY

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

RECOMMENDATION IS THAT COUNCIL:

- 1) Note no submissions were received.
- 2) Revoke the Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy dated 11 January 2022, Minute No. 005.
- 3) Adopt the revised Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy shown at **(ATTACHMENT 1)** of the Supplementary Information.

BACKGROUND

The purpose of this report is to inform Council of an update to **(ATTACHMENT 1)**.

ISSUES

Clause 3.44 has been updated to remove the reference to "75% of the total invoice, to", as resolved by Council. The public exhibited draft policy did not include the reference of "75% of the total invoice, to".

Current draft clause in the business paper:

3.44 Council will reimburse Elected members for expenses associated with appropriate ICT devices up to 75% of the total invoice, to a limit of \$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 Elected members for a maximum of three devices.

Updated draft clause:

3.44 Council will reimburse Elected members for expenses associated with appropriate ICT devices up to a limit of \$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 Elected members for a maximum of three devices.

ATTACHMENTS

- 1) Payment of Expenses and Provision of Facilities to Mayor and Councillors Policy. [↓](#)

ITEM 5 - ATTACHMENT 1 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.

Policy



FILE NO: A2004-0284

TITLE: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR/COUNCILLORS 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 Elected Mmembers to assist them in fulfilling their civic duties.
- 1.2 This Ppolicy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Elected Mmembers to help them undertake their civic duties.
- 1.3 It ensures accountability and transparency, and seeks to align Elected Mmembers expenses and facilities with community expectations. Elected members must not obtain private or political benefit from any expense or facility provided under this Ppolicy.
- 1.4 The Ppolicy has been prepared in accordance with the Local Government Act 1993 (the Act) and Local Government (General) Regulation 2021 (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 Ppolicy 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 the Mayor and 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 Elected members, as well as the facilities provided.
- 2.3 Council staff are empowered to question or refuse a request for payment from the Mayor or a Councillor when it does not accord with this Ppolicy.

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ITEM 5 - ATTACHMENT 1 PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO MAYOR AND COUNCILLORS POLICY.



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- 2.4 Expenses and facilities provided by this Policy are in addition to fees paid to Elected Members. The minimum and maximum fees a council may pay Elected Members 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.

3. SCOPE:

Part A – Expenses

3.1 General Expenses

- 3.1.1 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.

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

3.2 Specific expenses.

General travel arrangements and expenses

- 3.2.1 All travel by Elected Members should be undertaken using the most direct route and the most practicable and economical mode of transport. Should an Elected Member elect to travel an alternate route that is not the most economical, they will only be reimbursed the cost associated with taking the most direct and economical route.

- 3.2.2 Each Elected Member 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:

- a) for public transport fares.
- b) For the use of a private vehicle or hire car.
- c) For parking costs for Council and other meetings.
- d) For tools.
- e) By Cabcharge card or equivalent.
- f) 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.

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- 3.5 Elected members 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.

Interstate, overseas and long distance intrastate travel expenses

- 3.6 In accordance with the Policy Statement, Council will scrutinise the value and need for Elected members 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 travel (excluding the ACT), overseas and long distance intrastate travel expenses for each Elected Member will be capped at a maximum of \$2,000 per year. This amount will be set aside in Council's annual budget.
- 3.8 Elected members 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 Elected members 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:
- a) 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 Elected members civic duties;
 - b) who is to take part in the travel;
 - c) duration and itinerary of travel;
 - d) 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 Officer, 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.
- 3.14 Bookings for approved air travel are to be made through the General Manager's Office.

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- 3.15 For air travel that is reimbursed or costs met by Council as Council business, Elected members 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 Elected members 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 Elected Member lives more than 50 kilometres from the meeting location.
- 3.18 Council will meet the costs for accommodation and meals while Elected members 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 Elected Member per day inclusive. This will ensure accommodation costs in a capital city are covered.
- 3.20 The daily limits for meal expenses within Australia, (breakfast, lunch and dinner) will be reimbursed in accordance with the reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.
- 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 3.19 and 3.20 above.
- 3.22 Elected members will not be reimbursed or costs met by Council for alcoholic beverages.

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.

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- 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 reasonable meal allowance expense amounts as determined by the Australian Taxation Office from time to time.

Professional development (including conferences and seminars)

- 3.25 Council will set aside \$15,000 per Elected Member, per term in its budget to facilitate professional development of Elected members 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 Elected members 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 Elected Member's civic duties, the Elected Member 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 Any Elected Member seeking to undertake professional development such as the Australian Institute of Company Directors or other significant programs must complete the course within the first 18 months of the term.
- 3.29 Approval for professional development activities is subject to a prior written request to the General Manager outlining the:
- a) details of the proposed professional development.
 - b) relevance to Council priorities and business.
 - c) relevance to the exercise of the Councillor's civic duties.
- 3.30 In assessing an Elected members request for a professional development activity, the General Manager must consider the factors set out in Clause 3.29, as well as the cost of the professional development in relation to the Councillor's remaining budget.
- 3.31 Council is committed to ensuring its Elected members are up to date with contemporary issues facing Council and the community, and local government in NSW.
- 3.32 Council will set aside a total amount of \$30,000 annually in its budget to facilitate Elected members attendance at conferences and seminars. This allocation is for all Elected members. The General Manager will ensure that

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access to expenses relating to conferences and seminars is distributed equitably.

- 3.33 Approval to attend a conference or seminar is subject to approval of a full Council meeting. In assessing an Elected Member's request, the General Manager must consider the following factor prior to submitting the report to Council:
- a) relevance of the topics and presenters to current Council priorities and business and the exercise of the Elected Member's civic duties;
 - b) cost of the conference or seminar in relation to the total remaining budget.
- 3.34 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 travel, accommodation and meals not included in the conference fees will be subject to Clauses 3.2.1 and 3.18-3.22.

Awards and Ceremonies

- 3.35 Council will meet the costs of tickets for ceremony and award events where it is Council related.
- 3.36 Council will set aside \$1000 per year for the Mayor and \$500 per year for each Councillor.

Information and communications technology (ICT) expenses

- 3.44 Council will reimburse Elected members for expenses associated with appropriate ICT devices up to a limit of \$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 Elected members for a maximum of three devices.
- 3.45 Elected members may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as an Elected Member, within the maximum limit.
- 3.46 Council will reimburse Elected members 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 an Elected Member can provide evidence that 100% of the total invoice, should be paid.

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- 3.47 Reimbursements will be made only for communications devices and services used for Elected members to undertake their civic duties, such as:
- a) receiving and reading Council business papers.
 - b) relevant phone calls and correspondence.
 - c) diary and appointment management.
- 3.48 All communication device costs incurred above this maximum will be met by the Elected Member.
- 3.49 If an Elected Member does not have a telephone line or internet connection at their home, Council will meet reasonable connection costs.

Special requirement and carer expenses

- 3.50 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 Elected members and those with other disabilities.
- 3.51 Transportation provisions outlined in this Policy will also assist Elected members who may be unable to drive a vehicle.
- 3.52 In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow an Elected Member with a disability to perform their civic duties.
- 3.53 Elected members 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 \$6,000 per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- 3.54 Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- 3.55 In the event of caring for an adult person, Elected members 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

- 3.56 Each Elected Member may be reimbursed up to \$500 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

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Insurances and Mutual Scheme Protections

- 3.57 Elected members will receive the benefit of insurance cover or protection through the **Statewide Mutual NSW Councils Local Government Mutual Schemes**. Where the word 'insurer' is shown, it is for ease of reference however it should be construed as Statewide Mutual, a self-insurance scheme for which Council is a Member under a Deed. This includes for:
- 3.58 a) 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 an Elected Member's death or disablement. The cover applies anywhere in the world during and while travelling to and from Council business. The cover does not include medical expenses.
- 3.59 b) Professional Indemnity – Professional Indemnity protection 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 exclusions, limitations or conditions set out in the **NSW Local Government (Jardine) Statewide** Mutual Liability Scheme wording.
- 3.60 c) Public Liability – Public Liability protection covers Council's legal liability to pay compensation to third parties arising out of a negligent act, error or omission resulting in personal injury, loss or death or loss of use of property in connection with the business activities of Council. Cover is subject to any exclusions, limitations or conditions set out in the **NSW Local Government (Jardine) Statewide** Mutual Liability Scheme Policy wording.
- 3.64 d) Councillors' & Officers' Liability – Councillors' & Officers' Liability insurance protects Elected members and officers from the costs incurred in defending themselves against legal actions that arise from honest mistakes in the management of Council. It covers Elected members for personal liabilities as a result of wrongful acts subject to any exclusions, limitations or conditions set out in the **Schedule Policy of insurance**. Written approval must be obtained from the **Statewide** Mutual Scheme prior to incurring any legal defence costs.

Legal assistance

- 3.62 58 Elected members may be entitled to indemnity for an enquiry, investigation or hearing commenced by an official body.

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Council will not meet the legal costs:

- a) of legal proceedings initiated by an Elected Member under any circumstances;
- b) of an Elected Member seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation;
- c) for legal proceedings that do not involve an Elected Member performing their role as an Elected Member:

3.63 59 Reimbursement of expenses for reasonable legal expenses costs must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.

3.64 60 Legal proceedings being taken against an Elected Member, arising out of or in connection with the Elected Member's performance of his or her civic duties or exercise of his or her functions as an Elected Member (with the exception of defamation proceedings); Council shall reimburse such an Elected Member, after the conclusion of the inquiry, investigation, hearing or proceeding for all legal expenses properly and reasonably incurred on a solicitor/client basis, PROVIDED THAT:

- a) The amount of such reimbursement will be reduced by the amount of any monies that may be or are recouped by the Elected Member on any basis.
- b) The Elected Member'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).
- c) The amount of such reimbursement will 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.

3.65 61 Council may indemnify or reimburse the reasonable legal expenses of an Elected Member 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 Elected Member.

- a) Legal expenses incurred in relation to proceedings arising out of the performance by an Elected Member of his or her functions under the Act should be distinguished from expenses incurred in relation to proceedings arising merely from something, which an Elected Member 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.
- b) In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Elected

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Member. This may include circumstances in which a matter does not proceed to a finding. In relation to an Elected Member'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.

- 3.66 62 In the case of a code of conduct complaint made against an Elected Member, 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 Elected Member.
- 3.67 63 Council will not meet any Elected members' costs of any enquiry, investigation or hearing initiated at the request of, or to any legal proceedings taken by, Council itself.
- 3.68 64 In the case of defamation proceedings arising from the making of a public statement, where an Elected Member is a defendant or anticipated defendant in such proceedings:
- 3.69 a) Indemnity or reimbursement in respect of costs of defending an action in defamation is only available in circumstances where the Elected Member was acting properly when making the statement complained of. The threshold criteria for the application of the indemnity or reimbursement will apply (see 3.70 65).

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

Threshold Criteria – Defamation Proceedings

- 3.70 65 Where proceedings have been foreshadowed or commenced against the Mayor or a Councillor 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:
- The statement was made or the act was done in relation to discharging the functions of civic office;
 - The Elected Member concerned was acting in good faith (Section 731 of the Act); and
 - The statement or the act in question was reasonable in the circumstances and not made or done maliciously or frivolously and, in the case of a statement, was not made with knowledge of its falsity or with recklessness as to whether it was true or false, then Council will reimburse an Elected Member for all legal

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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 will be:

- a) reduced by the amount of any monies that may be or are recouped by the Elected Member on any basis; and
- b) 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

3.74~~66~~ 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. In the case of the Mayor, the Mayor is to notify the General Manager or Public Officer.

3.72~~67~~ This notification must:

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

3.73~~68~~ The Elected Member 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.

3.74~~69~~ The Elected Member must at all times without undue delay keep Council fully informed of any oral or written communications made to the Elected Member by the alleged injured party or the injured party's agents or legal representative in respect of the claim.

3.75~~70~~ 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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- 3.76 ~~71~~ If proceedings are threatened (and not yet commenced), the General Manager must without undue delay inform Council's appointed Solicitor and/or 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 Elected Member concerned in written form of that view.
- 3.77 ~~72~~ 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 Elected Member concerned.
- 3.78 ~~73~~ If Council's solicitor forms the view that the Three Criteria are not satisfied, the Elected Member may request a review of that advice from an independent legal practitioner as agreed in advance between the Elected Member 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.
- 3.79 ~~74~~ If the proceedings are commenced and the Three Criteria are satisfied then the following procedure must be followed:
- a) 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 Elected Member will be required to abide by any reasonable instruction of the insurer or its nominated lawyer.
 - b) 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 Elected Member. If the Elected Member 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.
 - c) If the Elected Member considers that the legal practitioner nominated is not appropriate then the Elected Member 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.
- 3.80 ~~75~~ 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

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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 Elected Member concerned to be subject to the concurrence of the General Manager.

3.84 76 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

3.82 77 This Policy will not apply to any defamation or other action brought by any Elected Member or Council employee against any Elected Member, 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:

- a) 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
- b) The statement:
 - o is made at a meeting of Council, a briefing of Elected members or a meeting of a Committee of Council in respect of an item on the agenda for that meeting or briefing; and
 - o is in accordance with the Local Government (General) Regulations 2005 2021 and Council's Code of Meeting Practice current at the time the statement was alleged to have been made; and
 - o does not breach any other law.

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Part B – Facilities

General facilities for all Elected Members

Facilities

3.83 78 Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:

- a) a Councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol).
- b) access to shared car parking spaces while attending Council offices on official business.
- c) personal protective equipment for use during site visits.
- d) 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.

3.84 79 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.

3.85 80 The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

Stationery

3.86 81 Council will provide the following stationery to Elected Members each year:

- a) letterhead, to be used only for correspondence associated with civic duties.
- b) business cards.
- c) up to the cost of 50 ordinary postage stamps.
- d) 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.

3.87 82 As per Section 3.86 81, postage costs will only be used to support an Elected Member's civic duties. Any postage costs not used will not be carried over to the next year's allocation.

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Administrative support

- 3.88 83 Council will provide administrative support to Elected Mmembers 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.
- 3.89 84 As per Section 7 clause 3.83, Council staff are expected to assist Elected Mmembers with civic duties only, and not assist with matters of personal or political interest, including campaigning.

Corporate Uniform

- 3.90 85 Elected Mmembers 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 Elected Mmembers for payment of the balance. Alternatively, a deduction can be made from the Elected Mmembers monthly allowance.

Superannuation

- 3.94 86 Elected Mmembers may elect to contribute all or part of their Elected Mmember's Allowance into an approved Superannuation Scheme.
- 3.92 87 Council will make superannuation contribution equivalent in amount to superannuation guarantee payments.

Health & Wellbeing Initiative

- 3.93 88 Elected Mmembers 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.~~
- 3.94 89 Elected Mmembers will investigate any taxation implications for individual Elected Mmembers as a result of the membership.
- 3.90 Elected members are able to access the Council's Assistance Program (EAP). The Program is an initiative of Port Stephens Council provides you with confidential counselling and support in your civic role.
- 3.95 91 Further details can be obtained through Council's Senior Executive Assistant.

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Additional facilities for the Mayor

- 3.96 92 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.
- 3.97 93 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.
- 3.98 94 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.
- 3.99 95 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.
- 3.400 96 Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
- 3.401 97 A corporate credit card only to be used for official Council business in accordance with this Policy.
- 3.402 98 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.
- 3.403 99 The number of exclusive staff provided to support the Mayor and Councillors will not exceed one full time equivalent.
- 3.404 100 As per Section 3.402 98, 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.

- 3.405 101 Expenses should only be incurred by Elected Members in accordance with the provisions of this Policy.
- 3.406 102 Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.

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3.407 **103** Up to the maximum limits specified in this Policy, approval for the following may be sought after the expense is incurred:

- a) local travel relating to the conduct of official business.
- b) carer costs.
- c) ICT expenditure.

3.408 **104** Final approval for payments made under this Policy will be granted by the General Manager or their delegate.

Direct payment

3.409 **105** 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.

3.440 **106** Alternatively, if Council makes the arrangements then the costs will be paid by Council for official Council business.

Reimbursement

3.444 **107** 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

3.442 **108** Council may pay a cash advance for Elected Members attending approved conferences, seminars or professional development.

3.443 **109** The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$400.

3.444 **110** 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.

3.445 **111** Elected Members 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) a full reconciliation of all expenses including appropriate receipts and/or tax invoices;

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- b) reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

- 3.446 112 If a claim is approved, Council will make payment directly or reimburse the Elected Mmember through accounts payable.
- 3.447 113 If a claim is refused, Council will inform the Elected Mmember in writing that the claim has been refused and the reason for the refusal.

Reimbursement to council

- 3.448 114 If Council has incurred an expense on behalf of a Elected Mmember that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this Ppolicy:
- a) Council will invoice the Elected Mmember for the expense;
- b) the Elected Mmember will reimburse Council for that expense within 14 days of the invoice date.
- 3.449 115 If the Elected Mmember 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 Elected Mmember's allowance.

Timeframe for reimbursement

- 3.420 116 Unless otherwise specified in this Ppolicy, Elected Mmembers' must provide all claims for reimbursement within ~~three~~ 3 months of ~~each~~ **calendar month where the expense was incurred**. ~~an expense being incurred~~. Claims made after this time cannot be approved, unless approved by the General Manager due to extenuating circumstances.

Disputes

- 3.421 117 If an Elected Mmember disputes a determination under this Ppolicy, the Elected Mmember should discuss the matter with the General Manager.
- 3.422 118 If the Elected Mmember and the General Manager cannot resolve the dispute, the Elected Mmember may submit a notice of motion to a Council meeting seeking to have the dispute resolved.

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Return or retention of facilities

- 3.423 119 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.
- 3.424 120 Should an Elected Member desire to keep any equipment allocated by Council, then this Policy enables the Elected Member 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.
- 3.425 121 The prices for all equipment purchased by Elected Members under Clause 3.423 119 will be recorded in Council's annual report.

Publication

- 3.426 122 This Policy will be published on Council's website.

Reporting

- 3.427 123 Council will report on the provision of expenses and facilities to Elected Members as required in the Act and Regulations.
- 3.428 124 Detailed reports on the provision of expenses and facilities to Elected Members will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure incurred by Elected Members. The report will also show the total cost incurred to Council by Elected Members (including the monthly allowance) for each costing category listed.

Auditing

- 3.429 125 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

- 3.430 126 Suspected breaches of this Policy are to be reported to the General Manager.
- 3.434 127 Alleged breaches of this Policy will 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.

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4. DEFINITIONS:

4.1 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 Local Government Act 1993 (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 Local Government Act 1993 (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.
Elected member	Means a person who is a local government Councillor or 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	Means travel by private vehicle to other parts of NSW of more than three hours duration from the Port Stephens Council Administration building.
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.

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- 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.

5. STATEMENT:

5.1 The objectives of this Policy are to:

- enable the reasonable and appropriate reimbursement of expenses incurred by Elected Members while undertaking their civic duties;
- enable facilities of a reasonable and appropriate standard to be provided to Elected Members to support them in undertaking their civic duties;
- ensure accountability and transparency in reimbursement of expenses and provision of facilities to Elected Members;
- 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:** Elected Members and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions.
- Reasonable expenses:** Providing for Elected Members to be reimbursed or costs met by Council for expenses reasonably incurred as part of their role as Elected Members.
- Participation and access:** Enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as an Elected Member.
- Equity:** There must be equitable access to expenses and facilities for all Elected Members.
- Appropriate use of resources:** Providing clear direction on the appropriate use of Council resources in accordance with legal requirements and community expectations.

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- f) **Accountability and transparency:** Clearly stating and reporting on the expenses and facilities provided to Elected Mmembers.

5.3 Private or political benefit:

- a) Elected Mmembers must not obtain private or political benefit from any expense or facility provided under this Ppolicy.
- b) Private use of Council equipment and facilities by Elected Mmembers 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) Elected Mmembers 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, Elected Mmembers 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:
 - 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. RESPONSIBILITIES:

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

7. RELATED DOCUMENTS:

- 7.1 Local Government Act 1993, Sections 252 and 253.
- 7.2 Local Government (General) Regulation 2021, Sections 217 and 403.
- 7.3 Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009.
- 7.4 Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities.

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- **7.5** Local Government Circular 05-08 legal assistance for Councillors and Council Employees.
- **7.6** Local Government Circular 17-17 Councillor Expenses and Facilities Policy – Better Practice Template.

7.47 Related Council policies:

- Port Stephens Council 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
• 3.2.2	• General travel expenses	• \$7,000 per Councillor. • \$7,000 for the Mayor.	• Per year
• 3.7	• Interstate, overseas and long distance intrastate travel expenses	• \$2,000 total for all Councillors.	• Per year
• 3.20	• Meals	• As per the Port Stephens Enterprise Agreement, as adjusted.	• Per meal
• 3.19	• Accommodation	• \$400 per Councillor/Mayor.	• Per night
• 3.25	• Professional development	• \$15,000 per Councillor/Mayor.	• Per term
• 3.32	• Conferences and seminars	• \$30,000 total for all Councillors and Mayor.	• Per year
• 3.36	• Awards and ceremonies	• \$1000 per year for Mayor • \$500 per year for a Councillor	• Per year
• 3.38	• Spouse/partner expenses	• \$500 per Councillor.	• Per year
• 3.40	• Spouse/partner expenses	• \$1,000 for the Mayor.	• Per year
• 3.44	• ICT expenses	• 75% up to \$5,000 per Councillor.	• Per term
• 3.46	• Communication devices (mobile phone, landline phone rental & calls, facsimile)	• 75% up to \$200.	• Per month
• 3.53	• Carer expenses	• \$6,000 per Councillor.	• Per year
• 3.56	• Home office expenses	• \$500 per Councillor.	• Per year

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• Clause	• Expense or facility	• Maximum amount	• Frequency
• 3.83	• Access to facilities in a Councillor common room	• Provided to all Councillors.	• Not relevant
• 3.86	• Postage stamps	• 50.	• Per year
• 3.86	• Christmas or festive cards	• 30 per Councillor. • 100 for the Mayor.	• Per year
• 3.95	• Council vehicle and fuel card	• Provided to the Mayor.	• Not relevant
• 3.99	• Reserved parking space at Council offices	• Provided to the Mayor.	• Not relevant
• 3.100	• Furnished office	• Provided to the Mayor.	• Not relevant
• 3.102	• Number of exclusive staff supporting Mayor and Councillors	• Provided to the Mayor and Councillors.	• Not relevant
• 3.113	• Advance payment for conferences, seminars	• \$100 per Councillor/Mayor up to \$400.	• Per event

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

Elected Mmembers 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 Elected Mmembers 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 Elected Mmember and as a total for all Elected Mmembers.

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EDRMS container No.	A2004-0284	EDRMS record No.	TBC
Audience	Mayor and Councillors		
Process owner	Governance Section Manager		
Author	Governance Section Manager		
Review timeframe	3 years 4 years	Next review date	30 September 2024 8
Adoption date	28/06/1994		

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VERSION HISTORY:

Version	Date	Author	Details	Minute No.
20	14 May 2019	Governance Manager	<p>Reviewed the policy, included numbering to each paragraph and updated the version control.</p> <p>Updated title of policy owner to Governance Section Manager.</p> <p>3.21 – updated reference to 3.19.</p> <p>Conferences and seminars included in Professional development heading.</p> <p>3.25 – increase dollar value and timing for professional development.</p> <p>3.28 – updated reference to 3.27.</p> <p>Delete Conferences and Seminars heading.</p> <p>3.33 – updated reference to 3.18-3.22.</p> <p>3.41 – increased ICT expenses.</p> <p>3.44 – Update reference to 3.43 and maximum cost to \$100.</p> <p>3.69 – updated reference to 3.70.</p> <p>3.87 – updated reference to 3.86.</p> <p>3.103 – updated reference to 3.101.</p> <p>3.124 – updated reference to 3.123.</p> <p>7 – included reference to OLG Circular 17-17.</p> <p>Schedule 1 – updated reference numbers.</p> <p><u>Following submission</u></p> <p>Where the term 'Councillors' refers to the Mayor and Councillors changed to 'Elected Members'.</p> <p>Included definition for Elected Members.</p> <p>Updated definition of Long Distance Intrastate travel.</p> <p>Updated definition of Councillor.</p> <p>Updated clause 3.2.1, 3.2.2, 3.7, 3.20, 3.21, 3.24, 3.33, 3.35, 3.36, 3.37, 3.39, 3.71, 3.94, 3.127.</p>	093

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Version	Date	Author	Details	Minute No.
20.1	11 January 2022	Governance Section Manager	<p>Reviewed the policy, included updating policy template, re-numbering to each paragraph and updated the version control.</p> <p>1.4 – replace 2005 with 2021. 3.28 – new clause graph requiring completion of training within the first 18 months of the term. 3.35-3.36 – new clause for awards and ceremonies. 3.39 – update reference to clause 3.35 to 3.38. 3.44-3.45 – remove clauses with overall provision available at new clause 3.46. 3.53 – increase carer expense to \$6,000. 3.56 – increase to \$500. 3.57 – include clause number. 3.58-3.59, 3.63 – update clauses to reflect current policy. 3.60 – remove clause. 3.64 – removed and added to 3.63. 3.76 – include ‘or’ 3.92 – new provision for superannuation contribution. 3.104 – update reference to clause 3.101 to 3.102. Schedule 1 updated to reflect new clauses for 3.32, 3.37, 3.39, 3.43, 3.45, 3.99, 3.100, 3.102, 3.113, 3.52 increase to \$6,000 and increase 3.56 to \$500. 7 – updated Regulation from 2005 to 2021. 7.1 – included ‘Port Stephens Council’.</p>	005

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20.2	# 2024	Governance Section Manager	<p>Policy transferred into correct template, reviewed the policy, included re-numbering to each paragraph and updated the version control. Policy review timeframe updated to 4 years as per Council's current process.</p> <p>2.3 – Insert 'from the Mayor'. 3.40 – Delete 'Each' and insert 'The'. 3.44 – insert '75% of the total invoice, to'. 3.57, 3.59, 3.61 – Update reference to the Statewide Mutual and insert "Schedule". 3.58 to 3.61 – removed paragraph numbering. 3.58 – updated numbering from 3.58 to 3.127. 3.63 – Remove "expenses" and inserted "costs". 3.64b) – inserted "will". 3.65 – inclusion of clause 3.65. 3.69 – removed paragraph numbering and updated "Note". 3.77b) – updated 2021 from 2005. 3.87 – updated reference to section 3.81. 3.89 – delete 'Section 7' and insert 'clause 3.83'. 3.93 – delete reference to timeframes. 3.90 – insert new paragraph for the Council Assistance Program. 3.104 – updated reference to Section 3.98. 3.120 – Updated reference to expense timeframe. 3.125 – Updated reference to Section 3.119. 4 – delete 'means' from each definition. 6.2 – insert 'Section'. Sch.1 – insert '75% up to' at 3.44.</p>	TBC
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