



# **Policy: Council**

## **COUNCILLOR FACILITIES AND EXPENSES POLICY**



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### Policy Statement

Blue Mountains City Council (Council) shall demonstrate accountability and transparency in the reimbursement of expenses incurred, or to be incurred, by Councillors in the performance of their duties of civic office. Council shall also ensure that the provision of facilities to assist Councillors to carry out their civic duties is equitable and is accounted for. Council shall do so in accordance with the *Local Government Act 1993* (NSW) and the *Local Government (General) Regulation 2005*.

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2014	9 December 2014 (Minute No. 1237)	Annual review
2015/6	24 May 2016 (Minute No. 145)	Annual review
2017	19 September 2017 (Minute No. 302)	Review following Phase 1 Amendments & new term of Council

## Definitions

Term	Definition
the Act	<i>Local Government Act 1993 (NSW)</i>
Annual Fees	See clause 2.2 of this Policy.
Code of Conduct	The current <i>Code of Conduct</i> as adopted by Blue Mountains City Council.
Council Resources	<p>Council resources are anything which are paid for, owned by or controlled by Council. These include, but are not limited to, the following:</p> <ol style="list-style-type: none"> <li>1. Staff time;</li> <li>2. Materials and supplies;</li> <li>3. Facilities;</li> <li>4. Motor vehicles, fuel, spare parts and accessories;</li> <li>5. Office equipment;</li> <li>6. Council organised training, conferences, etc.; and</li> <li>7. Communication and information devices (including phones, iPads and their related call and data packages).</li> </ol>
Councillor	A Councillor means a local government official as elected in a Local Government election or by-election. Where this Policy refers to Councillors without distinction from the Mayor, the Mayor is taken as being included in that reference.
Expenses	Equipment and services that are provided or paid for by Council to Councillors to enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as Councillors.
Facilities	Payments made by Council to reimburse Councillors for reasonable costs or charges incurred or to be incurred for discharging their civic functions. Expenses are separate and additional to annual fees.
Functions	Refer to conferences, seminars, congresses, Sister City events, forums, workshops, training courses, meetings, deputations, information and training sessions or other events related to Council business and agreed to by the Council.
Private Benefit	See clause 1.3 of this Policy.
the Regulation	<i>Local Government (General) Regulation 2005 (NSW)</i>

## Related Documents

This document should be read in conjunction with:

- Division of Local Government, *Guidelines for the Payment of Expenses and the Provision of Facilities for Mayors and Councillors in NSW*, October 2009 (Circular 09/36)
- Blue Mountains City Council, *Code of Conduct*
- Office of Local Government, *Findings from review of Councillor Expenses and Facilities Policies* (Circular 11/27)
- Australian Taxation Office, *Income tax: what are the reasonable travel and overtime meal allowance expense amounts for the 2016-17 income year?* (TD 2016/13)
- Independent Commission Against Corruption, *No Excuse for Misuse* (2002)
- Blue Mountains City Council, *Motor Vehicle Management Policy 2016*
- Blue Mountains City Council, *Traffic Offences and Parking Fines Policy*

## Related Legislation:

- *Local Government Act 1993* (NSW)
- *Local Government (General) Regulation 2005* (NSW)

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# 1 General Provisions

## 1.1 Conditions for the provision of councillor expenses and facilities

The policy provides for the payment of appropriate expenses and the provision of necessary facilities on the basis that:

- It is reasonable and equitable that the Mayor, Deputy Mayor (if there is one) and Councillors should be reimbursed for expenses incurred in properly carrying out the duties of civic office as elected representatives of the community;
- Elected representatives should have the use of adequate facilities to enable them to appropriately and adequately fulfil their role as responsive and responsible community representatives; and
- Should a Councillor not claim a particular expense or use a particular facility, this fact cannot be used by the Councillor to support a claim for payment of some other expense or to justify the provision of some other facility.

Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions (s439 of the Act).

**Claims for expenses and for the provision of facilities not included in this Policy will not be approved (s252 of the Act).**

## 1.2 Key legislative provisions

This policy relies on **ss248-254A of the Act** in particular.

Section 252(1) of the Act provides that a Council **must adopt a policy** concerning the payment of expenses incurred or to be incurred by, or the provision of facilities to the Mayor, the Deputy Mayor (if there is one) and the other Councillors in relation to discharging their functions of civic office **within the first 12 months of each term of Council**. Before adopting or amending this Policy, the Council must give at least 28 days public notice of the proposal (s253).

## 1.3 Private Benefits

Councillors are encouraged to limit the use of the expenses and facilities provided for in this Policy to the minimum required to enable them to effectively and efficiently discharge their functions of civic office.

Councillors are reminded that they should not obtain more than incidental private use of Council Resources. Any private use which is more substantial should involve a compensatory payment back to Council to cover that private use (s252(2) of the Act). Where the General Manager and/or his/her delegate identifies that a Councillor has claimed a nominated expense that involved a Private Benefit to the Councillor, the expense will be disallowed, to the extent of that personal benefit.

Where a Private Benefit is obtained by a Councillor, this should be declared to the Executive Officer and appropriate compensation for use of the resource should be paid by the Councillor or otherwise deducted from their annual fee payment. See **Attachment 1** for a copy of a declaration form which can be submitted by Councillors to the Executive Officer

directly or via the Executive Assistant to the Mayor & Councillor Support.

Clauses 7.12 – 7.19 of Council's Code of Conduct specifically address the appropriate use of Council resources. The following extracts are included here for convenience only and Councillors and staff should refer to the adopted Code of Conduct for the complete and final version.

- You must use council resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate (cl.7.12)
- You must be scrupulous in your use of council property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body (cl.7.14)
- You must not convert any property of the council to your own use unless properly authorised (cl.7.18)

For the avoidance of doubt, matters which are considered to be of personal benefit or personal interest of a Councillor include, without limitation:

- A Councillor's re-election;
- Fundraising activities and events of political parties; and
- Frequent-traveller schemes and other loyalty programs.

Councillors should not obtain any of the foregoing benefits in the pursuit of Council business or functions and should not seek any related reimbursements from Council.

#### **1.4 Record keeping and reporting**

A public record, open for scrutiny, is to be kept concerning all facilities provided to Councillors and of the total expenses reimbursed to Councillors.

Clause 217 of the Regulation requires Council to include in the Annual Report the total amount of money expended during the year on providing those facilities and paying Councillor expenses, amongst other information as required by clause 217 of the Regulation.

#### **1.5 General approvals process**

With respect to claims for expenses and reimbursements under this Policy, all claims for expense reimbursement should be made on the appropriate forms and should be forwarded with the appropriate evidentiary documentation for approval by at least two people, including the General Manager's delegate. Approval should be normally sought and gained prior to expenses being incurred.

Decisions regarding Councillor expenditure in relation to overseas trips, attendance at conferences or other significant costs, will be referred to a meeting of Council for approval by resolution of the Council.

## 1.6 Disputes

Any dispute that arises in relation to the payment of expenses and provision of facilities are to be documented and handled as per the dispute resolution process in Council's Code of Conduct.

## 2 Payment of Annual Fees

### 2.1 General allowance

Councillors are not entitled to any payment which may be considered a general expense or general allowance.

### 2.2 Annual Fees

*Councillors* - A fee as determined by the Local Government Remuneration Tribunal will be paid to each Councillor (s248 of the Act), paid monthly in arrears for each month for which the Councillor holds office (s250 of the Act).

*Mayor/Deputy Mayor* - In addition to the fee paid to Councillors, the Mayor will be paid a fee to be paid monthly in arrears for each month for which the Mayor holds office (s249 of the Act). The Council also pays a fee to the Deputy Mayor as determined by the Council for such time as the Deputy Mayor acts in the office of the Mayor. The amount of the fee paid to the Deputy Mayor must be deducted from the Mayor's annual fee (s249(5)).

*Fee review* - The above fees are reviewed by the Local Government Remuneration Tribunal each financial year. The annual review of fees is reported to the Council following determination by the Local Government Remuneration Tribunal. The recommendations of the Tribunal are put into effect by resolution of the Council.

*Deductions* - Amounts owing by a Councillor relating to fees or expenses for overpayments, reimbursements and/or accompanying partner's expenses may be deducted from Annual Fee amounts due to the Councillor under this Policy.

### 2.3 Circumstances for non-payment of annual fees

*Suspension* - Fees, remuneration or expenses will not be paid to a Councillor in respect of any period during which the Councillor is suspended from civic office under the Act (or the Councillor's right to be paid any such fee or other remuneration, or expense, is suspended) subject to any specific authorisations for payment under the Act (s248A of the Act).

*Absence three (3) months or less* - Council **may resolve to not** pay a fee to a Councillor if that Councillor is absent from an ordinary meeting or ordinary meetings of the Council, with or without leave, for a period which is less than three (3) months or in any other circumstances prescribed by the Regulation (s254A(1) of the Act).

*Absence more than three (3) months* - If a Councillor is absent, with or without leave of the Council, from ordinary meetings of the council for any period of more than three (3) months, the Council **must not** pay any annual fee, or part of an annual fee, to that Councillor that relates to the period of absence which is in excess of 3 months (s254A(2) of the Act).

## **2.4 Employment status**

A person is not taken to be an employee of a Council and is not disqualified from holding civic office merely because the person is paid a fee under Division 5 of the Act (s251 of the Act).

## **2.5 Taxation**

**Councillors' Annual Fees are subject to tax** and it is the responsibility of Councillors to determine how the fee may affect their assessable income for taxation purposes. Councillors may request that they are paid below the fee fixed by the Local Government Remuneration Tribunal if it would adversely affect their entitlement to a pension, benefit or other allowance.

# **3 Provision of Councillor/Mayoral Facilities**

## **3.1 General provisions**

The facilities as set forth in this section will be provided to Councillors to assist them in the performance of their civic duties. These facilities are provided without reduction of Annual Fees, except where it is necessary for Councillors to appropriately compensate or reimburse Council for personal use of a facility or expense.

Upon receipt of equipment (including communications equipment) and the provision of facilities, as specified in this policy, each Councillor will ensure that all costs associated with his/her duties as a Councillor are correct on the relevant accounts. Personal usage should be identified and quantified. If the Councillor does not provide this information, the General Manager may cancel this facility or deduct relevant charges from that Councillor's Annual Fee. The Councillor shall be responsible for the proper care and use of such equipment and shall promptly report to appropriate Councillor & Corporate Operations Staff any losses, faults, malfunctions or need for service/repair.

Any further requests for the issue of any additional equipment or the provision of any additional facilities shall be made to the Executive Officer.

All equipment and stationery under this policy is to be sourced by the Council and provided to Councillors by the Council. Councillors who source their own stationery or equipment outside of this Policy will not have their costs reimbursed by the Council.

### ***3.1.1 Set-up Costs at commencement of Council Terms***

The facilities set-up costs would normally be incurred per Councillor on a one-off basis every four (4) years, however may infrequently be incurred more often due to a local government by-election or where Council determines that it will cover the repair or replacement cost. Detailed costings and product selection will be determined subject to market conditions in the first quarter of an election year. Product selection will be based on ensuring a cost effective solution is provided to Councillors that is in line with Council's long-term financial strategies.

### ***3.1.2 Maximum Mobile Office Items – Setup***

Subject to market trends.

<b>ITEM</b>	<b>FUNCTION / DETAILS</b>
Apple iPhone	Phone calls, email, calendar, web access
Choice between: Apple iPad or MacBook	Email, calendar, web, view & annotate PDFs, create basic MS Office documents. Document and web page reading. Access council meeting documents
iPad Keyboard	iPad Keyboard
Quick Office Pro HD	iPad application for creation and editing of MS Office documents
Good Reader for iPad	iPad application for document reading and annotation
Air Printer	Printing, copying and scanning iPhone & iPad
Car kit	Car kit for Mayor only
Setup Technology provision	One-off allocation for minor incidentals as determined as part of setup

### **3.2 Office space and meeting rooms**

#### **3.2.1 Councillor office**

Councillors will be permitted to use a shared office within Council's Katoomba office, which will be appropriately equipped with office furniture, telephone, computer terminal, shared photocopying and facsimile equipment.

#### **3.2.2 Mayoral office**

The Mayor will be permitted to use an appropriately furnished office within the Katoomba office of Council. Office equipment to be shared with administrative staff will also be provided. Light refreshments will be made available within the Mayor's office for the purpose of entertaining dignitaries, other Councillors or the like, to the extent that doing so is appropriate and is in relation to Council business.

The Mayor may request administrative assistance associated with any Council functions, organisations, meetings, publications and the like by Councillor & Corporate Operations or other appropriate staff as determined by the General Manager.

#### **3.2.3 Meeting rooms**

Interview/meetings rooms within Council's offices or other Council building may be made available from time to time to allow Councillors (or the Mayor) to meet with residents or others in relation to Council business only.

### **3.4 Council vehicles**

Where long-distance travel (outside the local government area) is necessary in order to attend committee meetings, functions or events on Council business, and where travel by motor vehicle is required, a Council fleet vehicle should be used instead of a private vehicle if available and appropriate.

When utilising Council vehicles the general sections of the Motor Vehicle Management Policy apply to Councillors.

Councillors are personally responsible for all traffic or parking fines incurred while travelling in Council vehicles or while travelling in private vehicles on Council business. See also clause 4.5.2 of this Policy regarding the use of Private Vehicles.

### **3.4.1 Mayoral vehicle**

If requested by the Mayor, the Mayor will be provided with a suitable and appropriate vehicle in accordance with Council's Motor Vehicle Management Policy to be used for attending civic events, meetings and Council work/functions.

The Mayor should keep a monthly log book of vehicle usage and repay to Council the cost of any private use (beyond mere incidental private use) equivalent to the applicable rate recorded in the *Local Government (State) Award*, as amended.

If a Council vehicle is not provided and the Mayor wishes to claim for reimbursement for use of a private vehicle, log books will be provided to the Mayor, who will be required to complete and return Executives Services staff on a monthly basis for processing and payment.

## **3.5 Parking**

A total of 4 parking spaces have been allocated for Councillor use in the carpark at Council's offices in Katoomba. Councillors may use other parking spaces onsite when all designated parking spaces have been utilised. Upon request, Councillors may be issued with a permit to allow them to use the staff parking areas.

## **3.6 Communications and Connectivity**

### **3.6.1 Mobile Phone & iPad / MacBook**

The purpose of the allocation of a mobile phone and iPad/MacBook is to facilitate Councillors replying to residents' and ratepayers' communications in a timely manner. Councillors' respective Council-based email addresses and mobile phone numbers will be made available to the public on Council's website (or additionally made available by the Councillors) to ensure that he/she is accessible to the residents and ratepayers within the Blue Mountains. iPads/MacBooks should also be used to download and view business papers and other materials relevant to the performance of their civic duties. Councillors are provided with iPads/MacBooks to reduce paper waste. This supports the Council and community's united goal for a Sustainable Blue Mountains and Councillors are strongly encouraged to use iPads/MacBooks and if needed seek assistance from Councillor & Corporate Operations staff.

Council will supply each Councillor with one (1) phone and one (1) tablet device or MacBook during the term of Council. The Mayor may also request a mobile phone car kit, however the Mayor will be individually responsible for installation of the car kit if it is to be used in a private vehicle.

Council will cover the costs of repairs or replacement for the phone and tablet device once per term only. **Except in the case of faulty devices, any further repairs or replacement will be at the costs of the Councillor.** Council will meet the cost of any standard maintenance/servicing of the equipment. Councillors with special needs (for example, sight or hearing impairment) can request special facilities to maximise their performance of civic duties and participation in the business of Council.

### **3.6.2 Data usage**

Councillors are provided with adequate data for use on iPads or MacBooks and phones for Council business. Councillors must use phone and iPad or MacBook data for Council business only, and must self-report and reimburse Council for any personal use which is more than merely incidental.

### **3.6.3 Call costs**

Call cost provisions are subject to Council's current phone and broadband contracts with its provider. Maximum monthly allowances for each year of the Council term will be reviewed and adjusted if required as part of the annual budget development process. There is a monthly budget of approximately \$2,600 set aside for all Councillors. As a guide this is equivalent to a:

For the Mayor, the maximum monthly mobile phone amount is \$400.00 (including GST).

For Councillors, the monthly mobile phone amount is \$200.00 (including GST).

The cost of calls any private use (beyond mere incidental private use) shall be reimbursed to Council by the relevant Councillor. Monthly statements are provided to Councillors for quarterly reconciliation.

Councillors must contact the Councillor & Corporate Operations Branch prior to any overseas travel to arrange for a global roaming pack to be organised with the telecommunications carrier in order to minimise costs.

### **3.6.4 ADSL and NBN**

The provision of an ADSL or NBN connection may be considered by Council's IT Manager upon request from a Councillor. This is not considered a standard cost for all Councillors and will be assessed on a case by case basis dependent on need. This will be limited to:

ADSL Service \$60 per month

NBN Service \$60 per month

Any connection provided by Council is to be used for Council business only and any private use (beyond mere incidental private use) shall be reimbursed to Council by the relevant Councillor.

### **3.6.5 Technology support**

Councillors may request assistance from Council's information technology helpdesk to understand how to use Council-provided technology equipment effectively, to make hardware or software changes to Council-provided technology equipment or other such relevant assistance.

Council budgets will include provision for annual technology costs for Councillors for items such as but not limited to Office 365 annual licence, Big Tin Can Licence and other software licences and 4G sim cards for iPads as have been determined to assist Councillors in carrying out their civic duties. The annual amount will be determined as part of the annual budget development and provision for services will be on request by each Councillor.

## **3.7 Meals and refreshments**

Councillors will be provided with suitable meals and refreshments associated with Council meetings (including Briefing Sessions) and other functions or meetings arranged by Council, including meetings of Councillors with Parliamentary representatives, guests, visiting dignitaries or other delegations.

### **3.8 Attendance at training and functions**

The provision of appropriate training courses, workshops or seminars must be approved by Council resolution or otherwise approved in accordance with the General Approvals Process set out in clause 1.5 of this Policy. Requests must be made in writing and must demonstrate benefit to the Council. This may include courses which are aimed at the professional development of the Councillor or attendance at courses conducted by Local Government NSW.

### **3.9 Stationery**

Councillors will be provided with business cards, letterhead paper, envelopes and other appropriate stationery including Christmas cards. In the course of their civic duties, Councillors shall use the letterhead/facsimile cover page as provided by Council.

The Councillor must not amend a Council-supplied letterhead or other Council-based stationery/communication to display details of any organisations to which the Councillor belongs or with which the Council is affiliated.

Councillors with printers will be provided with printer cartridges and 3 reams of recycled paper per year to meet printing requirements. Note: printers are only provided on request of the Councillor and are therefore not necessarily a standard cost for each Councillor. The provision of printers will be assessed on case by case basis.

### **3.10 Attire**

#### ***3.10.1 Corporate jacket***

At the commencement of Council term, and upon the request of a Councillor, a Councillor will be provided with one (1) corporate jacket with Council logo to be used for the term of the Council. The cost of the jacket shall not exceed \$250.00 per Councillor. A Councillor may wear the corporate jacket when representing Council at functions and events. All additional expenses such as dry cleaning and/or alterations are at the Councillor's own expense.

#### ***3.10.2 Mayoral robes***

Mayoral robes and chains and other insignia of office will be made available to the Mayor to be worn at civic functions. These will ordinarily be kept on Council premises when not in use. Such items remain the property of Council and must be returned to Council upon the end of the Mayor's term.

### **3.11 Gifts**

Councillors should always act in accordance with Part 5 of Council's Code of Conduct and the adopted Gifts and Benefits Policy with respect to the giving of and receiving of gifts.

### **3.12 Special requirements**

If a Councillor has a special need (including dietary needs or equipment designated by a rehabilitation provider), these needs should be communicated in writing to the Executive Officer for review by the General Manager. The Executive Officer and General Manager will

determine what special arrangements can be made for the Councillor concerned.

### **3.13 Return of equipment**

All equipment provided to Councillors is the property of the Council and must be returned to the Council **within one week** of the Councillor leaving office or following the provision of a replacement item. Councillors are to ensure passwords have been cleared on any equipment when it is being returned to council.

Council equipment allocated to Councillors may be available for purchase at the end of their service as Councillor at an agreed fair market price or written down value, subject to approval of the General Manager and his/her delegate.

## **4 Payment of Councillor Expenses**

### **4.1 General conditions for payment of expenses**

Reimbursement can only be provided for expenses that are directly related to Council-approved business or functions.

All claims must be made within three (3) months after the expenses were incurred and within one (1) month after the Councillor ceases to hold office.

### **4.2 Out-of-pocket expenses**

Only reasonable out-of-pocket expenses which relate to Council business may be claimed. All relevant dockets and receipts must be attached to the appropriate form in *Attachment 3: Councillor Claim for Expenses* and submitted for approval and processing to the Executive Officer. The maximum reimbursement for out-of-pocket expenses (excluding payments for kilometre allowances) in any financial year is **\$500**.

See also clause 4.5.4 of this Policy with respect to out-of-pocket expenses incurred in relation to attendance at a function.

### **4.3 Meals**

Council would normally provide meals and/or refreshments at Council functions as required, however where this is not practicable, Councillors shall be entitled to claim reimbursement for such costs by filling out and submitting *Attachment 3: Councillor Claim for Expenses*. Council will meet the reasonable cost of sustenance and incidental expenses.

As a guide, the current reasonable amounts for meals suggested by the Australian Taxation Office (TD 2016/13) are:

Breakfast: \$26.45

Lunch: \$29.75

Dinner: \$50.70

Councillors will not be reimbursed for alcoholic beverages.

#### **4.4 Advanced payment of expenses**

Councillors expenses will only receive pre-payment of expenses in exceptional circumstances and then only on authorisation from the General Manager or his/her delegate. In the event that an approval for pre-payment is given, a reconciliation of the funds expended is to be submitted to the Executive Officer within three (3) months from the date of the pre-payment, to be supported with receipts. Any unused funds or any funds which cannot be reconciled against reasonable receipts, must be promptly returned to the Council by the Councillor.

#### **4.5 Attendance at functions**

Approval for expenses related to attendance at functions should only be given when the function is pre-approved and is relevant to Council's interests; that is, the function should be of benefit to Council and/or relate to the professional development of the Councillor as a councillor. Only the cost of the service provided will be met and **expenses for a Councillor's spouse or partner will not be met by Council**, except as set forth in clause 4.7 of this Policy.

As a condition of attending functions on behalf of Council, Councillors will provide a report back to the Council about any conference attended by them within three (3) months of the date of the conference, however, no written report is required following attendance at the Annual Conferences of the Local Government NSW and the Australian Local Government Association.

##### **4.5.1 Registration costs**

Council will pay on behalf of a Councillor all normal registration costs charged by the organisers of an approved function, including official luncheons, dinners and tours/inspections which are relevant to the interests of the Council or which assist the Councillor to discharge the functions of his/her civic office.

##### **4.5.2 Accommodation costs**

Overnight accommodation will only be reimbursed if prior approval is given in accordance with the General Approval Process in clause 1.5 of this Policy. Accommodation, travel and other arrangements will normally be made by Councillor & Corporate Operations staff and paid directly by Council to the service provider.

Council will pay reasonable accommodation costs, including for the night before and/or after the function, where those costs were necessarily incurred because of travel and/or function timetables.

##### **4.5.4 Additional expenses**

Reasonable out-of-pocket or incidental expenses will be reimbursed for costs associated with attending functions but excluding expenses of a normal private nature. Only reasonable amounts are claimed or accepted towards necessary out-of-pocket expenses. Incidental expenses are taken to include items such as:

- Telephone or facsimile calls related to Council business (documentation will need to

be provided); and/or

- Meals not included in the function registration fee.

See also clause 4.2 of this Policy regarding annual limitations on out-of-pocket expenses.

#### **4.6 Travel expenses**

The following applies with respect to the payment of travel expenses:

- Councillors' reasonable travel costs to and from a function will be met by the Council;
- Councillors are to ensure that the most economical method of transport is used;
- Costs of vehicle hire, taxi fares and parking which are reasonably required and incurred in attending approved functions will be reimbursed by the Council on the production of receipts and a completed *Attachment 3: Councillor Claim for Expenses*; and
- Reasonable transport provisions will be made for Councillors who are unable or unwilling to drive a vehicle because of illness or disability, or because a Councillor does not hold a driver's licence.

Travelling expenses and/or other expenses are not payable where a Councillor attends community meetings not relevant to the duties of a Councillor, fundraising activities and/or rallies held by or for political parties, or social events or functions which are not clearly associated with their duties as a Councillor.

Councillors are personally responsible for the cost of any travel, accommodation, meals or other expenses which are not directly related to Council business and that may be booked prior to or following a Council function.

##### **4.6.1 Air travel**

Where appropriate and approved in advance, travel may be made by air (economy class). Depending on the location or circumstances, it may be more appropriate for travel to be undertaken by car or train.

Councillors may not accrue frequent flyer points for personal use when travelling on Council-related business when Council has paid for the travel. Where possible, all frequent flyer points accruing as a result of such travel paid for by Council will be transferred to Council, as the party entitled to benefit from the accrual of those points.

##### **4.6.2 Use of private vehicles**

Private cars used on Council business must be comprehensively insured.

Councillors may claim a kilometre allowance for the use of a private vehicle for return travel from their place of residence for the purpose of attending:

- Council or Committee meetings;
- Inspections arranged by Council staff within the Local Government area;
- Public meetings convened by the Council;

- Meetings as a duly authorised Council delegate of the Mayor;
- Official functions, deputations and/or social events where the Councillor has been invited as a representative of Council; or
- Meetings with local community members to discuss issues of concern.

Kilometre rates for travel covered by this policy will be paid at the rate set by an appropriate Local Government Industry Award, as amended, as at the date of travel. The vehicle log sheet in *Attachment 4: Council Claim for Reimbursement for Use of Private Vehicle* must be filled in and submitted by a Councillor to claim a kilometre allowance.

**Councillors are personally responsible for all traffic or parking fines incurred while driving Council or private vehicles in accordance with Council's Traffic Offences and Parking Fines Policy.**

#### ***4.6.3 Overseas travel***

Approval for Councillors to attend conferences and other visits overseas on behalf of Council (including Sister City visits) must be given by resolution of Council prior to the trip being undertaken. Detailed proposals for overseas travel should be presented to the Council at an Ordinary Meeting, including the nomination of the Councillors undertaking the trip, the purpose of the trip and expected benefits, along with the duration, itinerary and approximate total costs. Approved overseas travel expenses will be reimbursed in Australian dollars.

Upon return from an overseas trip, a Councillor or member of Council staff, as appropriate, should provide a detailed written report to Council on the aspects of the trip relevant to Council business and/or the local community, and details of overseas travel should be included in the Annual Report.

Mayoral Minutes may not be used to approve overseas travel.

Please see clause 4.6.1 of this Policy regarding the accrual of frequent flyer points.

#### **4.7 Spouse and partner expenses**

In the event that a Councillor's spouse, partner or accompanying person provides a necessary carer role to that Councillor, and the Councillor's attendance at a function or event is dependent on the attendance of their spouse, partner or other accompanying person, Council may cover the expenses for that accompanying person, subject to prior approval.

The payment of expenses for a spouse, partner or other accompanying person to attend appropriate functions as permitted by Council is limited to the ticket, meal and/or the direct cost of attending the function. Peripheral expenses incurred by a spouse, partner or accompanying person such as grooming, special clothing and transport are not reimbursable expenses.

#### **4.8 Carer expenses**

In order to encourage and facilitate wide community involvement in nominating for and holding civic office, Council will reimburse Councillors for fair and reasonable carers expenses under this Policy where a Councillor is a **primary carer** of a child or of an elderly,

disabled or sick family member.

Reasonable carer expenses, payable to the rate as set forth in the relevant employment award (for example the *Children's Services Award 2010* or its replacement) will be reimbursable to Councillors where it is necessary in order to allow the Councillor to attend Council and Committee meetings, briefing sessions and other civic functions. Reimbursement of necessary carer expenses for family members (including child care expenses) to enable a Councillor to attend Council business is available to a maximum entitlement of \$4,000 to each councillor in each financial year. Appropriate documentation concerning expenditure is required.

For the purposes of this policy, 'family' is defined to include a:

- Parent (including foster and step-parent);
- Legal guardian;
- Grandparent;
- Spouse (including de facto and same sex partner);
- Parent of spouse;
- Child or adult child (including adopted, step, foster and ex-nuptial child);
- Grandchild or Sibling (including half, foster and step-sibling) of the Councillor or spouse or de facto spouse of the Councillor; and
- Relative (i.e. a person related by blood, marriage or affinity) of the Councillor who is a member of the same household.

#### **4.9 Legal expenses**

Under the Guidelines, Council is permitted to include in this Policy relevant provisions allowing the Council to indemnify or reimburse a Councillor's reasonable legal costs, properly incurred. However, the legal expenses incurred by a Councillor may only be met for legal proceedings being taken **against** a Councillor in defending an action (including defending an action in defamation) arising from the performance in good faith of a function under s731 of the Act. In either case, legal expenses incurred by a Councillor in such an action must be reimbursed only when the outcome of the legal proceedings is favourable to the Councillor. **The Council will not be liable for legal expenses where a Councillor initiates a legal action.**

A Councillor may also receive reimbursement of legal costs in respect of an enquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body, including:

- the Local Government Pecuniary Interest Tribunal and Disciplinary Tribunal;
- the Independent Commission Against Corruption;
- the Office of the NSW Ombudsman;
- the Office of Local Government NSW;
- the NSW Police Force;
- the Director of Public Prosecutions; or

- Council's Conduct Review Committee/Conduct Reviewer.

Reimbursement is only available provided that the subject of the enquiry, investigation or hearing arises from the performance in good faith of a Councillor's functions under the Act and if the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review.

A Councillor's legal costs may also be reimbursed in the case of a conduct complaint made against the Councillor. However, this will only occur where the matter has been referred by the General Manager to a conduct reviewer or conduct review committee, to make formal enquiries into the matter concerned, in accordance with the procedure specified in Council's Code of Conduct. In the case of a pecuniary interest or misbehaviour matter, legal costs should only be reimbursed where a formal investigation has been commenced by the Office of Local Government.

Legal costs must only be reimbursed 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 as a substantially unfavourable outcome.

The Council will not meet the legal costs of legal proceedings initiated by a Councillor under any circumstance. The Council must not meet the legal costs of a Councillor seeking advice in respect of possible defamation proceedings, or in seeking a non-litigious remedy for possible defamation.

**Legal costs will not be reimbursed by the Council in respect of legal proceedings that do not involve a Councillor performing his or her role or functions as a Councillor.**

The Council may obtain insurance cover against the risk of having to meet the reasonable legal costs of a Councillor, or to reimburse those costs. However, the costs reimbursements concerned must fall within the categories that the Council is authorised, under the Act, to meet.

Any reimbursement to a Councillor, at the conclusion of legal proceedings (including any appeal), would be for all legal expenses properly and reasonably incurred on a solicitor/client basis, including the costs of proceedings for the recovery of costs against the other party to the proceedings.

A Councillor shall only be entitled to reimbursement provided that:

- The Councillor will diligently pursue the recovery of any costs which he/she is awarded in the proceedings, unless the Council is satisfied that there is no realistic prospect of the recovery of any such costs;
- The amount of any such reimbursement shall be reduced by any amount which is recovered by the Councillor on any basis and upon any recovery being made after reimbursement from the Council, the amount recovered shall be paid to the Council;
- The proceedings result in a decision which is in favour of the Councillor; and
- The Councillor submits a Statutory Declaration which details his/her contributions to legal bills and any contributions received by the Councillor in respect to such matters.

## **4.10 Insurance provision**

### **4.10.1 Insurance expenses and obligations**

Councillors are to receive the benefit of insurance coverage effected by Council subject to any terms, conditions, exclusions and limitations of the policy of insurance effected by Council, for:

- a) Public Liability and Professional Indemnity insurance for personal injury, damage and/or loss;
- b) Councillors and Officers insurance for matters arising out of Councillors' performance of their civic duties and/or exercise of their Civic Functions;
- c) Travel insurance for Councillors and accompanying spouses/partners on Council Business within Australia (outside of 100km from home or Council) and Worldwide:
  - Personal injury and capital benefits;
  - Medical, evacuation and additional expenses (excluding medical expenses payable within Australia);
  - Evacuation cover (non-medical);
  - Baggage, travellers cheques, travel documents and credit cards, portable computers, display property and money;
  - Loss of deposits and cancellation charges;
  - Rental vehicle excess expenses; and
  - Personal liability.
- d) Personal Accident insurance for lost wages for injury and capital benefits for death or permanent disability.

### **4.10.2 Legal expenses and obligations**

1. Councillors are to receive the benefit of relevant insurance coverage that may be effected by Council for Legal Services in the event of:
  - a. An enquiry, investigation or hearing by an appropriate investigative or review body including:
    - Council's Conduct Review Committee/Reviewer;
    - Independent Commission Against Corruption;
    - Office of the NSW Ombudsman;
    - Office of Local Government;
    - NSW Police Force;
    - Director of Public Prosecutions or
    - NSW Civil and Administrative Tribunal;

into the conduct of a Councillor; or

- b. Legal proceedings being taken against a councillor, arising out of or in connection with the councillor's exercise in good faith of their functions as a Councillor;

provided the circumstances of the matter are reported to Council's relevant insurance provider who in turn consents to the legal services and costs prior to the costs being incurred.

Council shall subject to the terms and condition of the insurance coverage reimburse such Councillor, after the conclusion of the enquiry, investigation, hearing or proceeding, for expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a Solicitor/client basis, provided that:

- I. approval of the General Manager and insurance provider for the nominated solicitor and their hourly rates is both sought and gained in writing prior to legal expenses being incurred;
  - II. approval of the General Manager and insurance provider for any additional legal expenses is both sought and gained in writing prior to those expenses being incurred;
  - III. the outcome of the legal proceedings is favourable to the Councillor or where an investigator or review body makes a finding that is not substantially unfavourable to the Councillor;
  - IV. 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
  - V. the Councillor's exercise of their function was, in the opinion of Council, bona fide and proper and as a Councillor.
2. Notwithstanding any other provisions of this Policy the following costs cannot be the subject of reimbursement:
- I. the costs of any action in defamation taken by a Councillor as plaintiff in any circumstances;
  - II. the costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation;
  - III. legal costs for legal proceedings that do not involve a Councillor performing their role as a Councillor;
  - IV. legal costs of legal proceedings initiated by a Councillor under any circumstances; or
  - V. the costs of defending any matter relating to the eligibility of a Councillor to stand for election.

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**Attachment 1: Declaration regarding Mobile Phone Accounts**

# Memorandum

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TO: *[[Councillor Name]]*  
COPY TO:  
FROM: *[[Council officer – Executive Assistant]]*  
DATE: FILE: F09697  
SUBJECT: *[[Councillor Name]]* Mobile Phone Account – *[[Billing period]]*

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The Councillor Facilities and Expenses Policy requires Councillors to identify the costs of any private usage of the mobile phones issued to them by Council.

Attached are your outstanding mobile phone accounts. Can you please identify any private usage and complete and signed the endorsement on each account. Please return the completed endorsement to the Executive Assistant with a copy of the account.

If you have any questions, please contact the Executive Assistant on 4780 5520.

Kind regards,

[SIGNATURE]  
[POSITION]

.....  
**To be completed by Councillor:**

I have reviewed the attached telephone charges bill and identified any calls or other charges which were for private use and not for Council business. The amount of \$\_\_\_\_\_ represents private expenditure and should be deducted from my Councillor fees unless otherwise advised.

I certify that the remaining amount, when the above private use amount is deducted from the total bill, was incurred by me and is directly and wholly attributable to the discharge of my function as a civic officer.

Councillor Name: \_\_\_\_\_

Councillor Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment 2: Declaration regarding Private Benefit

# Memorandum

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TO: Executive Officer  
COPY TO: General Manager  
FROM: *[[Councillor Name]]*  
DATE: FILE: F09697  
SUBJECT: Declaration of Private Benefit

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The Councillor Facilities and Expenses Policy requires Councillors to identify the costs of any private benefits obtained by Councillors which are more than merely incidental.

I have identified that I have obtained a private benefit from the use of Council resources as follows:

*[[Councillor to complete]]*

I estimate that the amount reimbursable to Council which I believe is fair and reasonable for this private benefit is \$\_\_\_\_\_. I believe that this amount is appropriate based on *[[Councillor to complete]]*. I understand that this amount will be reviewed by relevant Council staff and I may be advised of a revised amount for reimbursement.

I acknowledge that once the amount for reimbursement is finalised that it will be deducted from my Councillor fees unless otherwise advised.

If you have any questions, please contact me on *[[Councillor contact details]]*.

Kind regards,

*[[Councillor Signature and name]]*

### Attachment 3: Councillor Claim Form for Expenses

To be used for expenses incurred in officially representing the Council.

**COUNCILLOR NAME:** \_\_\_\_\_

Claim for month/year: \_\_\_\_\_

Date	Meeting/Function Attended	Description & Nature of Expense	AMOUNT CLAIMED
<b>TOTAL</b>			

***(Please submit all available documentation in support of this claim to Councillor & Corporate Operations).***

I hereby certify the above expenses were incurred by me and are in accordance with Council's currently adopted policy for the payments and expenses and provision of facilities.

Councillor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Approval:**

Staff reviewed and checked	<i>(Name)</i>	<i>(Signature)</i>	<i>(Date)</i>
Executive Officer	<i>(Name)</i>	<i>(Signature)</i>	<i>(Date)</i>

**Note: Claim forms must be provided to Councillor & Corporate Operations within 3 months of claim date.**

Payroll Supervisor/Manager	
Date: _____	PAYROLL NUMBER: _____

## Attachment 4: Councillor Claim for Reimbursement for Use of Private Vehicle

To be used for expenses incurred in officially representing the Council.

Councillor name:		Claim for month/year:	
Engine size:		Registration No:	

Date	Total Kilometres	Description & Purpose of Journey
<b>TOTAL</b>		

I hereby certify the above expenses were incurred by me and are in accordance with Council’s currently adopted policy for the payments and expenses and provision of facilities.

Councillor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Approval:**

Staff reviewed and checked	(Name)	(Signature)	(Date)
Executive Officer	(Name)	(Signature)	(Date)

**Note**

1. Claim forms must be provided to Councillor & Corporate Operations within 3 months of travel date.
2. Amount reimbursed will be based in accordance with Award prices as per staff.

Payroll Supervisor/Manager: _____
Date: _____ PAYROLL NUMBER: _____