



Warringah Council

***Policy for Payment and Re-imburement of Expenses
Incurred by, and Provision of Facilities to,
The Mayor, Deputy Mayor and Councillors***

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WARRINGAH COUNCIL

POLICY FOR PAYMENT AND RE-IMBURSEMENT OF EXPENSES INCURRED BY, AND PROVISION OF FACILITIES TO, THE MAYOR, DEPUTY MAYOR AND COUNCILLORS

Introduction

This policy is made under the Local Government Act 1993 (the Act) including Sections 252 to 254A. The Act requires that the Council must adopt a policy concerning the payment of expenses incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor and other Councillors. In the event of Administration, application of this policy is also relevant to Council Administrators.

Section 428 (2) (f) of the Act requires the Council to include in its Annual report:

- The total amount of money expended during the year on Mayoral fees and Councillor fees
- The Council's policy on the provision of facilities for use by Councillors and the payment of Councillor's expenses
- A statement as to the total amount of money expended during the year on the provision of such facilities and the payment of such expenses

Section 12 of the Act provides that the public is entitled to inspect the Council's policy concerning the payment of expenses incurred by, and the provision of facilities to, Councillors free of charge, and may obtain a copy, either free of charge or on payment of reasonable copying charges.

Part 1 – Preliminary

1. Citation

This policy is in accordance with the requirements of the Local Government Act 1993 and may be cited as the "Policy - Payment and Re-imburement of Expenses Incurred by, and Provision of Facilities to, The Mayor, Deputy Mayor and Councillors."

2. Policy Objectives

- To provide for the fair and equitable payment and re-imburement of certain expenses not considered to be included in the annual fees payable under Sections 248 – 254A of the Local Government Act, where such expenses are incurred by the Mayor, Deputy Mayor and Councillors in discharging the functions of civic office.
- To provide adequate facilities for use by the Mayor, Deputy Mayor and Councillors to enable them to discharge the functions of civic office.

3. Commencement

This policy was adopted by Council resolution of 21 June 1994 and commenced on 22 June 1994, (Issue No 1).

It was amended on:

- Issue No 2 - 27 February 1996, 5 & 12 March 1996, with effect as from 13 March 1996
- Issue No 3 - 24 February 1998 with effect as from 26 May 1998 (cl 5.8)
- Issue No 4 - 26 October 1999 with effect as from 1 February 2000 (cl 5.7, 5.8, 6.1)
- Issue No 5 - 26 June 2001 (cl 15)

- Issue No 6 - 3 December 2002 (cl 4.1, 10, 11, 5.5)
- Issue No 7 - 17 December 2002 (cl 4.7, 5.2, 5.3(a), 5.6, 5.8 (c))
- Issue No. 8 – 28 February 2006 (Appendix A, Clause 3.1)
- Issue No. 9 – 22 April 2008
- Issue No 10 - 25 November 2008
- Issue No 11 - 10 February 2009 (cl 18.2 and 10.14)
- Issue No 12 - 23 November 2010 (cl 11.12.1, 11.12.2, 12.3, 12.5 and 15)
- Issue No 13 – 22 November 2011 (cl 11.8, 11.12.2 and 23)

4. General Provisions

General Expenses: *General Expenses will not be paid to Councillors. Any expenses payable to Councillors are specifically listed in this policy, together with the procedures for payment/ reimbursement.*

Private Benefit: *The facilities provided to Councillors under this policy are made available to assist them in undertaking their civic duties. Accordingly, and unless otherwise provided for in this policy, Councillors should ensure that there is no more than incidental private use of these facilities.*

Political Purposes: *Council facilities, equipment and services provided under this policy are not to be used to produce election material or for any other political purposes.*

Political Fundraising: *The fundraising activities of political parties, including political fundraising events, are considered to be personal interests. Council will not pay expenses or provide facilities to Councillors under this Policy in relation to supporting and/ or attending such activities and events.*

Approvals: *All requests for, and enquiries in relation to, expenses and facilities under this policy are to be directed in the first instance to Council's Team Leader Governance. Where appropriate the Team Leader Governance will consult with the Director Strategy and Policy regarding application of the policy.*

Dispute Resolution: *Any disputes in relation to expenses and/ or facilities provided under this policy should be referred in the first instance to the General Manager. The General Manager may then refer to the Office of the Internal Ombudsman for independent review.*

Accessibility: *Where a Councillor has specific needs in relation to accessibility to Council facilities and the functions of civic office, additional assistance may be provided under this policy to ensure equity of access.*

5. No Deduction From Section 248 & 249 Fees

Unless otherwise provided, the payment of, or reimbursement of expenses and the facilities which may be provided to the Mayor, Deputy Mayor and Councillors under this policy, shall be provided without reduction of the annual fees payable to the Mayor and Councillors, as determined by the Council, under Section 248-254A inclusive of the Act.

6. Claiming of Expenses

Reimbursement of expenses will be paid monthly in arrears, must be claimed within 3 months of being incurred by the Mayor or a Councillor. Any claim must be submitted on the approved form and must include receipts and tax invoices relating to the claim.

Reconciliation of the reimbursement of expenses under this policy will be undertaken on a monthly basis by appropriate Council staff.

Part 2 – Annual Fees – Mayor, Deputy Mayor and Councillors

7. Fees Payable to Councillors

The Council shall, prior to 30th June each year, set by resolution, the annual fees to be paid, monthly in arrears, to a Councillor for the following year commencing 1st July, provided that such fee shall be within the range for the Council determined annually by the Local Government Remuneration Tribunal. Such payment shall be subject to Section 254A of the Regulations and any specific resolution of the Council under Section 254A.

In accordance with the Australian Taxation Office Interpretive Decision 2007/205 Council may enter into an arrangement with a councillor under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf. Any request by a Councillor must be in writing and cannot be retrospective.

8. Fees Payable to The Mayor

The Council shall, prior to 30th June each year, set by resolution, the annual fee to be paid to the Mayor for the following year commencing 1st July provided that such fee shall be within the range for the Council determined annually by the Local Government Remuneration Tribunal.

9. Fees Payable to The Deputy Mayor

The Deputy Mayor shall be paid a percentage of the Mayoral Fee calculated under Clause 8, for the periods of time when the Mayor is prevented by absence, illness or otherwise from acting in, or when the Mayor requests the Deputy to act in, the office of Mayor. The amount of the fee so paid to the Deputy Mayor shall be deducted from the Mayor's annual fee and the percentage to be paid will be determined by Council at the election of the Deputy Mayor.

Part 3 – Payment of Expenses for, and Reimbursement of Expenses and Provision of Facilities for Mayor, Deputy Mayor and Councillors

10. Mayor

The Mayor shall be entitled to receive the benefit of the following facilities, and payment of and reimbursement of expenses, without reduction of the fees payable under Section 248 and/or 249 of the Act:

10.1 Transport

- (a)
 - (i) **Mayoral Vehicle** – provision of a suitable and appropriate vehicle, (valued below the current luxury car tax threshold, as determined by the Australian Tax Office), fully maintained, insured and registered by the Council, for use by the Mayor for all official, executive and social duties connected with the Office of Mayor, and private and personal use in accordance with **Appendix A** to this Policy.
 - (ii) **Car Allowance** – where the Mayor elects to provide his/her own vehicle for all functions related to the Office of Mayor for the Mayoral term and not require the provision of a Council vehicle as in (i) above, the Mayor is entitled to claim payment of a car allowance in accordance with Part 4 of this Policy
- (b) Where the Deputy Mayor, at any time, is required to act in the Office of Mayor in accordance with Section 231 of the Act, the provisions of Part 4 of this Policy apply.

- 10.2 **Office** accommodation within the Civic Centre, fully furnished.
- 10.3 **Executive Assistant/Secretarial services** including typing, photocopying, printing, postage, facsimile, computer and telephone facilities.
- 10.4 **Administrative assistance** associated with any Council functions, meetings, publications and the like.
- 10.5 **Office and reception** refreshments.
- 10.6 **Mobile telephone** for use in relation to official functions and duties of the office of Mayor. The Council will meet the costs of maintenance and all charges against the mobile account. A car kit will be installed in the Council provided Mayoral car, or the Mayors own car as provided in clause 8.1 (a) (ii) above.
- 10.7 **Corporate Credit Card**, in the name of the Council, if the Mayor so chooses, to facilitate payment of official council business expenses and expenditures provided for under the annual allocation for "discretionary expenditure" for the Office of Mayor. The Corporate Credit Card, shall be limited to A\$5,000, and is to be used in situations where it is not reasonably possible to go through the Council's normal procedures for the ordering and/or payment for goods or services. On going use of the credit card shall be in accordance with the Council's Policy "Use of Council Credit Card and Cab Charge Facilities". Upon completion of the Mayoral term the credit card shall be returned to the General Manager on the date the term ceases.
- 10.8 **Car Parking** within the Executive area at the Civic Centre exclusively for the use of the Mayor

11. Councillors (Including The Mayor and Deputy Mayor)

To assist the Councillors in carrying out the duties of their civic office and without reduction (unless otherwise stated) of the fees payable under Section 248 of the Act, Councillors are, if they request such, entitled to payment of expenses or re-imbusement of the following expenses, and to receive the benefit of the following facilities:

- 11.1 **Councillors' Office** and **Councillors' Lounge** in the Civic Centre, suitably equipped with telephone, computer terminal, access to Internet and E-mail, facsimile and printer facilities for work directly related to the duties of their office. Councillors will be subject to the requirements of Council's Internet and Email policy where access is through Council's corporate computer system.
- 11.2 **Food and refreshments** on evenings associated with Council and Council Committee meetings, and approved Council functions.
- 11.3 **Stationery Package**, with an annual limit for the Mayor of \$1,000 and an annual limit for Councillors of \$500, such package to comprise business cards, letterheads, envelopes, with compliments slips, Christmas cards (up to 200 for the Mayor and up to 100 for a Councillor), postage stamps and diary.
- 11.4 **Name badge**, and Council approved corporate accessories on election to office or when the design of these items varies, and ***protective clothing and equipment required for civic duty on election to office.***
- 11.5 **Councillor's vehicle** - Access to a suitable vehicle or vehicles (if available) provided by the Council for use on official duties connected with the office of Councillor. If approved by the General Manager, the Councillors may be issued with a cab charge card. Cab charge cards are for use on Council business only, and when a Council vehicle is not reasonably available to provide such transport, or the provision of a vehicle would not be economical in the circumstances. ***Any traffic or parking fine incurred while traveling in private or council vehicles on Council business is the responsibility of the Councillor or the driver incurring the fine.***

11.6 **Furniture and/or equipment** for location or installation at their place of residence, as follows:

11.6.1 – **Bookcase**; standard issue four (4) shelf

11.6.2 – **Filing cabinet**; up to four (4) drawer

11.6.3 – **Printer/Facsimile/Copier/** for use on Council business only, subject to the following conditions:

- (a) The Council shall:
 - (i) Meet the capital cost of acquisition of the equipment.
 - (ii) Meet the initial cost of installation of the equipment in the residence of the Councillor, including one (1) additional extension point for an existing line or one (1) separate point for a dedicated line where a Councillor chooses such under Clause 10.7.
 - (iii) Meet the cost of any maintenance/servicing of the equipment including any service call charge.
 - (iv) Be responsible for the cost of all consumables, including paper, of the equipment.
- (b) The Councillor shall be responsible for the good care and proper use of such equipment and to promptly report any faults, malfunctions or needs for service/repair to the Council.
- (c) The Councillors' telephone and facsimile numbers are to be made available to the public.

11.7. **Domestic Telephone Service.** Where a Councillor elects such the Council will provide for installation of a telephone service, in the name of the Councillor, for use in relation to official functions and duties of Councillor, Mayor and Deputy Mayor, to allow for the connection of equipment provided under Clause 10.6.3.

11.8. A **laptop computer** and modem or an iPad or equivalent tablet, to enable Internet access and emailing and processing of correspondence and access to Council business papers, minutes, policies and other Council records.

11.9 **Internet Services:**

Internet access charges relating to the performance of a Councillor's civic duties will be paid by Council, up to a maximum of \$100 per month, per Councillor. Councillors will be advised in writing about the status of their personal internet charges.

11.10 **All equipment and furniture** provided under Clause 10.6 shall always remain in the possession of the Councillor during his/her term of office, and shall remain the property of the Council returned to the Council in good operational order and condition upon ceasing to be an elected member of the Council(subject to Clause 10.10).

11.11 **Where a Councillor ceases to hold Civic Office**, he/she may purchase the equipment at an amount determined by an independent valuation.

11.12**Telephone Reimbursements:**

Reimbursement of the following telephone accounts, as nominated by the Councillor, on the following basis:

11.12.1 – **Standard Domestic Service**

- (a) *Councillors existing standard domestic service where no separate service is provided under Clause 11.7:* Rental, plus 50% of local call charges and the cost of any mobile and STD call charges related to Council business to a maximum of \$100 per month.
- (b) *Domestic Service provided under Clause 11.7:* Rental, plus 50% of local call charges and the cost of any mobile and STD call charges related to Council business to a maximum of \$100 per month.

11.12.2 – Mobile telephone Service

- (a) *Councillors' own mobile telephone*: Where Councillors already have a mobile telephone and wish to retain it for use in their civic duties, the Council will cover the service fee and reimburse the Councillor for the cost of all charges against that service, associated with their role as a Councillor, to a maximum of \$200 per month; or alternatively
- (b) *Council provided Mobile telephone*: The Council will provide a mobile telephone to any Councillor who requests it. The account will be in the name of the Councillor. The Council will cover the service fee and reimburse the Councillor for the costs of all charges against that service, associated with their role as a Councillor, to a maximum of \$200 per month.

Provided in respect of both clauses 11.12.1 and 11.12.2 that:

- all telephone numbers in respect of which a claim is made are made available to the public, and
- claims for reimbursements shall be made no later than six (6) months after the account is due for payment. Claims made for reimbursement lodged after this date shall not be paid.

11.13 **Parking exemption sticker** for a nominated vehicle owned by the Councillor enabling exemption from parking fees at any car parks within the Warringah Council area where exemption for residents apply.

11.14 **Councillor Parking** – A total of nine (9) parking spaces will be reserved in the executive parking area exclusively for use by the Councillors on the afternoon/evening of Council meeting days. Three (3) parking spaces will be provided during normal business hours on all other days.

11.15 **Glen Street Theatre complimentary tickets** – Each calendar year all Councillors and the Mayor will receive 2 non transferable complimentary tickets to each opening night at Glen Street Theatre subscription season productions

11.16 All office/communication equipment and facilities provided under this policy will be of a standard essential to the conduct of business in a contemporary business environment.

Part 4 – Travel Costs – Use of Mayor's and Councillors' Private Vehicles

12. Mayor & Councillors

12.1 The Mayor, where he or she elects to use his or her private vehicle and Councillors, subject to their private vehicle being currently registered and covered by Compulsory Third Party Insurance, may claim a kilometre allowance for use of private vehicles when used by the most direct route to travel between their place of residence within Warringah local government area, and return, to:

- (a) attend meetings of the Council, Committees, Sub Committees, Working Parties, Taskforce, Forums or the like, as a Councillor or delegate of the Council; to attend any briefing, community consultation, appointments and engagements associated with the business of the Council, and attend to the transaction of Council business at the Civic Centre;
- (b) attend inspections or business within or outside the Council area undertaken in accordance with a resolution of the Council;
- (c) attend public meetings and civic functions convened by the Council or other community meetings where the Councillor has been invited to attend;
- (d) attend any conference as defined in the policy, where use of the private vehicle is authorised by the Mayor.

Provided that the Council shall not meet any claim for travel or costs associated with attendance at fund raising activities or rallies held by registered political parties or groups.

- 12.2 Kilometre rates for such travel will be paid at the rate set by the Local Government (State) Award, as at the date of travel. Such rate shall be deemed to cover and include any claims for accidental damage or repairs to the Mayor or Councillor's own vehicle, and any loss of no claim bonus and any excess not covered by any insurance.
- 12.3 Payment is subject to a formal monthly claim on the prescribed claim form being lodged by the Mayor or Councillor, and such claim must be made no later than six (6) months after the travel occurred. Claims lodged for travel occurring more than six (6) months after the claim is lodged shall not be paid.
- 12.4 Where the Mayor provides his/her own form of transport under clause 8.1(a) (ii) the General Manager may approve of the payment of the minimum car allowance in accordance with the Local Government (State) Award in lieu of a kilometre allowance.
- 12.5 Where the Mayor and Councillors elect to use public transport or travel by bicycle for Council business, reimbursement of costs may be claimed.

The full cost of fares for public transport associated with Council business (as specified in 12.1) will be reimbursed subject to lodgement of a formal monthly claim. The claim must be made within six (6) months of the travel having occurred. Claims lodged after six (6) months shall not be paid.

Costs associated with bicycle travel for Council business (as specified in clause 12.1) will be reimbursed on a per kilometre basis, subject to lodgement of a formal monthly claim. The claim must be made within six (6) months of the travel having occurred. Claims after three months shall not be paid.

Part 5 – Conferences Held in Australia

In this part Conference means any conference, seminar, congress, forum, workshop, course, meeting, forum, workshop, deputation, information and training session, or event, related to the industry of local government and held within Australia.

13. Who May Attend Conferences

- 13.1 The Mayor and Councillors may be nominated and authorised to attend conferences by:
 - (a) The Council, through resolution duly passed at a Council Meeting;
 - (b) The Mayor, acting within any delegated authority during Council recess;
 - (c) The Mayor and the General Manager jointly, where such conference is for one day or less or does not involve an overnight stay (or, where the applicant is the Mayor, the Deputy Mayor/ one other Councillor and the General Manager jointly).
- 13.2 By the adoption of this Policy, authority is hereby delegated to the Mayor and the General Manager jointly to nominate and authorise a substitute Councillor to attend any conference in lieu of the Mayor or a nominated and authorised Councillor.
- 13.3 The application for approval shall include full details of the travel, including itinerary, costs and reasons for the travel.

14. What Conferences May Be Attended

The conferences to which this policy applies shall generally be confined to:

- Local Government Association of NSW (LGA), Local Government Womens Association (LGWA), and Australian Local Government Association (ALGA) Conferences.
- Special “one-off” conferences called or sponsored by, or for, the LGA, LGWA, LGMA, and ALGA on important issues.
- Annual conferences of the Local Government Managers Association (LGMA) and the major Professions in Local Government.
- Australian Sister Cities Conference.
- Regional Organisation of Councils Conferences.
- Conferences, which further training and development efforts of the Council and of Councillors, or which relate to or impact upon the Council's functions.
- Meetings or Conferences of Organisations or Bodies to which a Councillor of the Council has been elected, or appointed as a delegate or member of the Council, or the LGA, LGWA, or ALGA.
- After returning from an approved conference, Councillors shall submit a written report to a full meeting of the Council on the aspects of the conference relevant to Council business and/or the local community.

15. Conference Costs

The following shall apply to the Mayor and Councillors who are authorised and/or appointed as delegates under this policy to attend Conferences:

15.1 Registration

The Council will pay all normal registration costs for the Mayor or Councillors/delegates which are charged by organisers, including those relating to official luncheons, dinners and tours/inspections which are relevant to the interests of the Council.

15.2 Accommodation

The Council will pay reasonable single accommodation costs for the Mayor or Councillors including the night before and/or after the conference where this is necessary because of travel and/or conference timetables.

15.3 Travel

- (a) The Council will meet all reasonable travel costs for the Mayor, or authorised Councillors or delegates, to and from the conference location and venue. Where appropriate, travel will be provided by air (economy class). Depending upon the location or circumstances, it may be more appropriate for travel to be undertaken by car or train.
- (b) Where trains are used the Council will provide first class travel, including sleeping berths where available.
- (c) Where travel is by motor vehicle it should be undertaken by Council vehicle where available, or by private vehicle subject to prior approval of the Mayor.
- (d) Where the Mayor or a Councillor uses their private vehicle under (c) above, they may claim the “kilometre” allowance at the date of travel as per Clause 6.2, subject to such cost not exceeding economy class air fares to and from the particular destination, and subject further to;
 - (i) the travel is to be undertaken with all due expedition, by the shortest most practical route, to and from the conference
 - (ii) the claim, on the prescribed claim form, must be made not later than ~~three (3)~~ six (6) months after the conclusion of the Conference.

- (e) Where hire cars, taxi fares and parking costs are reasonably required and incurred in attending conferences, the cost of such will be reimbursed by the Council to the Councillor upon presentation of a claim and receipt.

15.4 Out-of-Pocket Expenses

Out-of-pocket expenses incurred by the Mayor or a Councillor and associated with attendance at a conference shall be reimbursed to the Mayor or Councillor upon presentation of a claim and receipts for the following:

- (a) any hotel/motel conference related charges associated with the Conference, other than accommodation
- (b) all telephone, internet or facsimile calls related to Council business
- (c) reasonable lunches, dinners and other meals incurred whilst travelling to or from the Conference and other lunches, dinners or meals occurring during the Conference but not included in the conference registration fee
- (d) incidental expenses, e.g. bridge tolls
- (e) any optional activity in a conference program, but excluding any pre or post conference activities.

Where requested by a Councillor, consideration will be given to the provision of an advance payment of up to \$200 to cover anticipated out-of-pocket expenses. Following attendance at a conference (and no more than 3 months after the conference concludes) the advance payment must be fully reconciled with receipts for costs associated with (a) – (e) above.

15.5 Frequent Flyer and Loyalty Points

The Mayor and Councillors shall not be entitled to claim frequent flyer or other loyalty points relating to air travel or other expenses incurred by them under this policy. In circumstances where the Mayor or a Councillor has no option but to incur any expenditure for which loyalty points accrue to his/her personal account, the Mayor or Councillor must surrender the points to the airline or service provider before reimbursement of the expense by the Council.

16. Conference Costs - Payment In Advance

- 16.1 The Council will normally pay registration fees, accommodation costs and airline/train tickets direct to conference organisers/travel agent in advance.

17. Conference Costs – Mayor’s And Councillors’/Delegates’ Accompanying Person

- 17.1 Where the Mayor or Councillor is accompanied at a conference all costs for, or incurred by, the accompanying person, including travel, any additional accommodation costs, breakfast, meals, registration and/or participation in any conference programs, are to be borne by the Mayor/Councillor/accompanying person and not by the Council. Council may by resolution, and in exceptional circumstances, pay the expenses of a spouse/partner/carer while travelling on Council business. Exceptional circumstances would only be where the Councillor is prevented by health reasons from travelling alone.
- 17.2 Accompanying person’s registration, or accompanying person’s program fees, are to be paid to the conference organiser, etc. and paid at time of registration. The Council is prepared to receive such registration and payments and to forward them on to the conference organiser, etc. with any Council delegates’ registration.
- 17.3 Where the Council meets, on account, any expenditure or cost on behalf of an accompanying person attending a conference, such expenditure must be repaid to the Council by the Councillor/accompanying person within seven (7) days of being invoiced for such expenditure following the conclusion of the conference.

Part 6 – Conferences Overseas

18. Attendance At Overseas Conferences

- 18.1 Attendance by the Mayor or a Councillor at any conference, seminar, congress, forum, workshop, course, meeting, deputation, information or training sessions, events, etc. related to the industry of local government which are held overseas, must be authorised prior to departure by specific resolution of the Council and such resolution shall specify and detail the conditions of attendance.
- 18.2 Attendance will only be approved where direct and tangible benefits can be established for the Council and the local community.
- 18.3 Requests for attendance for overseas travel must be submitted by a report to Council, included on the Council agenda (not by mayoral minute) and shall include the names of Councillors nominated to attend, purpose, expected benefits, duration, itinerary and approximate total costs.
- 18.4 After returning from overseas, Councillors attending shall submit to a full meeting of Council a detailed written report on the aspects of the trip relevant to Council business and/or the local community.
- 18.5 Details of overseas travel must be included in Council's annual report, including any details of trips for sister city relationships.

Part 7 – Legal Assistance for Mayor and Councillors

19. Legal and Representation Costs - Enquiries, Investigations, Hearings, etc.

In the event of:

- (1) any enquiry, investigation or hearing by any of:
- the Independent Commission Against Corruption,
 - the Office of the NSW Ombudsman,
 - the Division of Local Government, Department of Premier and Cabinet
 - the NSW Police Force,
 - the Director of Public Prosecutions,
 - the Local Government Pecuniary Interest and Disciplinary Tribunal, or
 - Council's Conduct Review Committee/Reviewer

into the conduct of the Mayor or a Councillor in discharging their civic office duties; or

- (2) legal proceedings being taken against the Mayor or a Councillor, arising out of or in connection with the performance of his or her civic duties or exercise of his or her functions as a Mayor or Councillor

the Council may resolve to reimburse the Mayor or such Councillor for all legal expenses properly and reasonably incurred, given the nature of the enquiry, investigation, hearing or proceeding, on a solicitor/client basis,

Provided that:

- (a) the subject of the inquiry, investigation or hearing arises from the performance in good faith of a Councillor's functions under the Act, and the matter before the investigative or review body has proceeded past any investigative phase to a formal investigation or review;
- (b) In the case of a conduct complaint made against a councillor, legal costs may only be made available where the matter has been referred by the General Manager to the Conduct Review Committee/Conduct Reviewer to make formal inquiries into the matter;

- (c) in the case of pecuniary interest or misbehaviour matters, legal costs may only be made available where a formal investigation has been commenced by the Division of Local Government;
- (d) the amount of any reimbursement of legal expenses shall be reduced by the amount of any moneys that may be or are recouped by the Mayor or Councillor on any basis;
- (e) that the enquiry investigation, hearing or proceeding results in a finding substantially favourable to the Mayor or Councillor.
- (f) where an outcome of an action or investigation against the Mayor or Councillor is substantially unfavourable to that Councillor any legal expenses must be reimbursed by the Councillor.

This policy specifically excludes the payment of legal expenses for the Mayor or Councillors where:

- (a) the Mayor or Councillor initiates a legal action;
- (b) the outcome of an action or investigation against the Mayor or Councillor is substantially unfavourable to that Councillor;
- (c) the Mayor or Councillor seeks advice in respect of possible defamation, or is seeking non-litigious remedy for possible defamation.

Part 8 – Insurances and Health Maintenance and Assessment Programs

20. Insurance – Mayor and Councillors

The Council will insure, or will provide for the insurance of the Mayor and Councillors for:

20.1 Personal Accident

Personal injury whilst ever engaged in or on any Council activity, worldwide covering bodily injury caused by accidental, violent, external and visible means up to a sub-limit for death determined by the Council and also covering permanent disablement, temporary total disability and temporary partial disability. The cover does not include medical expenses as medical expenses cannot be included due to the provisions set down in the Health Act. The Council shall determine the distribution of any benefits arising from such insurance to the Mayor or Councillor or his/her beneficiaries.

20.2 Professional Indemnity/Public Liability

(a) General Liability

To indemnify the insured for all sums they shall become legally liable to pay arising out of:

- (i) death, personal injury or illness or disease to persons;
- (ii) loss or damage to property arising out of the insured's business as a Council.

(b) Professional Indemnity

To indemnify the insured for all sums they shall be legally liable for arising out of any negligent act, error or omissions in the conduct of their activities as Mayor or Councillors and arising out of the insured's business as a Council.

BUT subject to any limitations or conditions set out in the policy of insurance which is, at the direction of the Council, taken out.

20.3 To indemnify each insured person(s) (Mayor/Councillors) for all costs, charges, expenses and defence costs but excluding fines and penalties incurred in relation to any prosecution (criminal or otherwise) of any insured person(s), attendance by any insured person(s) at any official investigation, examination, inquiry or other proceedings ordered or commissioned during the period of insurance by any official body or institution that is empowered to investigate the affairs of the Council by reason of any wrongful act wherever or whenever committed or allegedly committed by the insured person(s) in their capacity as insured

person(s), BUT subject to any limitations or conditions set out in the policy of insurance which is, at the direction of the Council.

21. Health and Wellbeing Services

The Mayor and a Councillor, if they requests such, is entitled to be included in a suitable program which provides a range of services designed to promote, maintain or support physical, social and mental well being. Such programs may provide for periodic health assessments, testing and screening and also for regular structured health or fitness programs and regimes.

Under Council's Wellness Program, Council will reimburse up to 50% of fees for club memberships, sports event entry as a competitor, or other specified wellness initiatives (or a combination), to a maximum of \$200 per councillor, per financial year.

22. Care and other related expenses

22.1 Reimbursement of the cost of carer arrangements, including childcare expenses and the care of the elderly, disabled and/or sick immediate family expenses and the care of the elderly, disabled and/or sick immediate family members of councillors, to allow councillors to undertake their council business obligations. Reimbursement, less any government subsidy will be subject to the production of receipts, attached to the approved form and will be at a maximum of \$2000 per annum.

22.2 Reimbursement of the cost of carer arrangements will require evidence that the carer nominated is accredited by the appropriate government department and any claim must be submitted on the approved form and must include receipts and tax invoices relating to the claim.

23. Training and Conference Budget Including Travel and Accommodation

Council will provide training and education for Councillors as is appropriate for effective discharge of the function of civic office, functions and responsibilities.

Such training will be at Council's expense and will be provided in-house or by outside providers as appropriate.

Council will provide up to \$5,000 per Councillor per annum for training, education and conference costs, including any incidental costs associated with Councillor attendance.

An individual Councillor may carry over their unspent funds from the previous financial year only.

24. Reporting

Council shall report separately, on an annual basis, on

- The total cost of expenses and the provision of facilities for the mayor and all councillors, as well as:
- The cost of phone calls including mobiles, home located landlines, facsimile and internet services
- Spouse/partner/accompanying person expenses
- Conference and seminar expenses
- Training and skill development expenses
- Interstate travel expenses
- Overseas travel expenses
- Care and other related expenses
- The cost of the provision, including rental, of dedicated office equipment allocated to councilors on a personal basis such as ;laptops, mobile phones, telephones and

facsimile machines and internet installed in the councillors homes. This item does not include the costs of using this equipment, such as calls.

- The provision of facilities and equipment where such provision is above what would normally be required for the day to day running of the council.
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APPENDIX A

Provision & Use of a Mayoral Vehicle

1. Introduction

The Council's adopted Code for the Payment of Expenses & Provision of Facilities for the Mayor and Councillors stipulates that the Council will provide a suitable and appropriate vehicle for use by the Mayor for all official, executive and social duties connected with the office of Mayor and for occasional or full private or personal use.

The Council cannot make a motor vehicle, owned or leased by the Council, available for the exclusive or primary use or disposition of a particular Councillor other than a Mayor.

2. Policy statement

2.1 The Council will:

- provide servicing, maintenance, registration and insurance of a suitable vehicle,
- provide all fuel, which may be charged against fuel card, whilst the vehicle is used for Council business

2.2 The vehicle will be registered and comprehensively insured by Warringah Council.

2.3 A car telephone and special accessories where required, shall be provided, fitted, installed and removed at Council's cost.

2.4 The vehicle shall be available for the exclusive use of the Mayor, subject to the conditions of this Policy.

3. Principles

3.1 Use of Vehicle

A vehicle is made available for use by the Mayor:

- To attend any function, activity or engagement whether associated with local government or not, both within and outside the Warringah Council area, at any time and on any day, in the official capacity of Mayor.
- At any time or day to attend any meetings, inspections, sites or appointments within Warringah as Mayor, with residents, ratepayers or people associated with Council business.
- For occasional or full personal or private use. Where private or personal use is on an occasional basis, the Mayoral Allowance will be reduced on a per kilometre basis, by the rate set by the Local Government (State) Award, and in accordance with a log submitted by the Mayor on a monthly basis. Where full private or personal use is chosen, the Mayoral Allowance will be reduced, in accordance with the Light Vehicle Allocation and Private Use Car Scheme Management Policy, MGT – PL 105 (Clause 2.1 – Contract Staff – TPR Calculation).
- For travel within Warringah for any Council related purpose or function.

3.2 Restrictions on Use of Vehicle

The following restriction shall apply to the use of the Mayoral vehicle:

(a) The vehicle shall only be driven by a properly licensed person, being:

- The Mayor, or
- Council employee, or
- a Councillor of Warringah, with the Mayor's consent

- a member of the Mayor's immediate family, e.g. mother/father/son/daughter/brother /sister, partner/spouse, or
 - a nominated person, so long as the Mayor is a passenger in the car.
- (b) The Mayor shall not use, or allow the vehicle to be used, to compete in any car rally or competition.
- (c) The vehicle is not to be used for any trading undertaking or for any activity where remuneration is received which is not directly related to Council business or activities of the office of Mayor.

3.3 Conditions of Use of Mayoral Vehicle

- (a) The Mayor, if he/she intends to drive the vehicle, must show evidence of a current New South Wales driver's licence of an appropriate class, or equivalent, and be the holder of a licence for the duration of their use of the vehicle. If the Mayor loses his/her licence or is suspended from driving, they must immediately:
- forfeit use of or access to the Mayoral vehicle, or
 - provide evidence of a properly licensed person who will be the driver of the vehicle whenever used by the Mayor during such period.
- (b) Whenever the Mayor has the control of the vehicle, the Mayor must ensure that it is driven only by a responsible properly licensed person as above.
- (c) If the Mayor drives, or allows another person to drive the vehicle without a current driver's licence, or whilst disqualified for any reason, the Council may withdraw the vehicle from access by the Mayor.
- (d) All traffic fines and penalties incurred by the Mayoral vehicle will be paid by the driver. The Mayor must keep a record of any drivers of the vehicle, other than the Mayor, whom the Mayor permits to drive the vehicle.
- (e) If the Mayor or a properly licensed person, by their action, negates any motor vehicle insurance, that person will be responsible for the payment of costs as a consequence thereof.
- (f) The Mayor always remains responsible for ensuring proper and adequate care and usage of the vehicle at all times including:
- day to day routine maintenance e.g. fuel, oil, battery, radiator, tyre pressures etc. is carried out at regular intervals,
 - garaging, i.e. if available off-street and under cover,
 - the vehicle is kept in a clean condition, by making it available to Council staff weekly for this purpose,
 - all maintenance/repair issues are reported to Fleet Management without delay,
 - that any accident or damage to the vehicle is immediately reported using the appropriate Accident Report Form
 - If the Mayor or a properly licensed person, whilst driving the vehicle, is convicted of drink-driving or an offence leading to licence suspension or loss in association with an accident involving the Mayoral vehicle, the Mayor will be required to pay the cost of associated repairs in the event that Council's insurers disclaim responsibilities on the grounds of such conviction, suspension or loss.

4. Definitions

"Nominated person" means the holder of a current NSW driver's licence who is nominated by the Mayor, in writing to the General Manager, as a person who may regularly drive the Mayoral Vehicle whilst the Mayor is a passenger in the vehicle.

APPENDIX B

1.1 Provisions under the Local Government Act 1993

1.1.1 General policy-making requirements

Section 252 of the Local Government Act requires councils to adopt or amend a policy annually for the payment of expenses and the provision of facilities to mayors, deputy mayors and other councillors. Mayors and councillors can only be reimbursed for expenses and provided with facilities in accordance with this policy.

Section 252 also makes provision for a council to reduce the amount payable to mayors and councillors (under sections 248-251 of the Act) by the amount representing any private benefit of a facility provided by the council to them. It also requires that the policy be made under the provisions of this Act, the Regulation and any relevant guidelines issued under section 23A of the Act (these guidelines).

Section 252 (Payment of expenses and provision of facilities) states:

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

1.1.2 Policy development, review and submission requirements

Section 253 of the Act specifies actions that council must undertake before a policy concerning expenses and facilities can be adopted or amended. It requires councils to make and submit their expenses and provision of facilities policies annually to the Division of Local Government.

Section 253 (Public notice of proposed policy or amendments concerning expenses and facilities) states:

- (1) *A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) *Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*
- (3) *Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) *Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:*

- (a) *a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and*
 - (b) *a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and*
 - (c) *a copy of the notice given under subsection (1).*
- (5) *A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.*

Section 254 of the Act requires that a part of a council or committee meeting which considers the adopting or amending of such a policy must not be closed to the public.

1.1.3 The role of a councillor

Section 232 of the Local Government Act defines the role of a councillor. It provides that councillors have two distinct roles; as a member of the governing body of the council; and as an elected person. Councils as members of the governing body should work as part of a team to make decisions and policies that guide the activities of the council. The role as an elected person requires councillors to represent the interests of the community and provide leadership. Councillor expenses and facilities policies should facilitate and assist councillors to carry out their role.

Section 232 (What is the role of a councillor?) states:

- (1) *The role of a councillor is, as a member of the governing body of the council:*
- *to direct and control the affairs of the council in accordance with this Act*
 - *to participate in the optimum allocation of the council's resources for the benefit of the area*
 - *to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions*
 - *to review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.*
- (2) *The role of a councillor is, as an elected person:*
- *to represent the interests of the residents and ratepayers*
 - *to provide leadership and guidance to the community*
 - *to facilitate communication between the community and the council.*

1.1.4 Other requirements

Section 12 provides that the public is able to inspect during office hours at the council, and at no charge, the current version and the immediately preceding version of the council's expenses and facilities policy. The public are also entitled to a copy of the policy either free of charge or on payment of a reasonable copying charge.

Section 23A makes provision for the Director General of the former Department of Local Government to prepare, adopt or vary guidelines that relate to the exercise by a council of any of its functions. It also requires that a council must take the relevant guidelines into consideration before exercising any of its functions.

1.2 Provisions under the Local Government (General) Regulation 2005

Clause 271 of the Regulation requires councils to include detailed information in their annual reports about the payment of expenses and facilities to councillors.

Clause 217 (Additional information for inclusion in annual reports) states in part:

(1) *For the purposes of section 428 (2) (r) of the Act, an annual report of a council is to include the following information:*

details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),

(a1) *details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:*

(i) *the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),*

(ii) *telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,*

(iii) *the attendance of councillors at conferences and seminars,*

(iv) *the training of councillors and the provision of skill development for councillors,*

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

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

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

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

Clause 403 disallows the payment of a general expense allowance and for a vehicle to be made available for the exclusive use of a councillor other than the mayor.

Clause 403 (*Payment of expenses and provision of facilities*) states:

A policy under section 252 of the Local Government Act 1993 must not include any provision enabling a council:

(a) *to pay any councillor an allowance in the nature of a general expense allowance, or*

(b) *to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.*

1.3 Other NSW Government policy provisions

1.3.1 Division of Local Government Guidelines

As noted above under section 252(5) of the *Local Government Act 1993* the council expenses policy must comply with these guidelines issued under section 23A of the Act.

1.3.2 Circulars to Councils

The policy must take into account the following Circulars.

Circular 08/24 *Misuse of council resources.*

Circular 08/37 *Council decision making prior to ordinary elections*

As previously stated, these guidelines replace any previous versions of these Guidelines and Circular 04/60 *Policy on payment of facilities to the mayor, deputy mayor and other councillors.*

1.3.3 The Model Code of Conduct for Local Councils in NSW (DLG)

The policy should be consistent with the *Model Code of Conduct for Local Councils in NSW, Department of Local Government – June 2008*. The following parts of the code are particularly relevant to s252 policies:

Use of council resources (pp 23-24)

10.12 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.

10.14 You must be scrupulous in your use of council property, including intellectual property, official services and facilities and should not permit their misuse by any other person or body.

10.15 You must avoid any action or situation, which could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

10.16 The interests of a councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, council crests and other information that could give the impression it is official council material must not be used for these purposes.

10.17 You must not convert any property of the council to your own use unless properly authorised.

1.3.4 Councillor Induction and Professional Development Guide (DLG)

The policy provisions on training and development should integrate with any training and development policy, plan or program developed by the council. The Division has produced a *Councillor Induction and Professional Development Guide* (September 2008) to assist councils to develop these programs.

1.3.5 No Excuse for Misuse, preventing the misuse of council resources (ICAC)

Councils should also be aware of and take account of the Independent Commission Against Corruption (ICAC) publication *No Excuse for Misuse, preventing the misuse of council resources (Guidelines 2)* November 2002. This publication is available on the ICAC website in at www.icac.nsw.gov.au.