

NARACOORTE LUCINDALE COUNCIL

COUNCIL POLICY

ELECTED MEMBERS ALLOWANCES AND BENEFITS

No. 38

VERSION 11

RESPONSIBLE OFFICER:	Chief Executive Officer
RELEVANT DELEGATIONS:	Manager Finance & Corporate
LEGISLATION AND REFERENCES:	<ul style="list-style-type: none">• <i>Local Government Act, 1999</i> – Section 76-79• <i>Local Government (Members Allowances and Benefits) Regulations 2010</i> (“the Regulations”)• <i>Income Tax Assessment Act, 1997</i>

PURPOSE OF POLICY

- To specify the types of expenses that will be reimbursed to Elected Members without the need for specific approval of Council every time a claim is made
- To specify the process and procedure for Council Members to obtain reimbursement of such expenses
- To specify the process for payment of Council Member Allowances in accordance with Section 76 of the Local Government Act, 1999 and as determined by the Remuneration Tribunal
- To specify the facilities and support and the basis on which they will be made available for Council Members in performing or discharging official functions and duties
- To ensure the reimbursement of expenses and the provision of facilities and support is accountable and transparent
- To ensure compliance with the Local Government Act, 1999 Chapter 5, Part 5 – Allowances and Benefits
- To ensure compliance with the Local Government (Members Allowances and Benefits) Regulations 2010

BACKGROUND

This policy summarises the provisions of the Act and Regulations in respect to Council Members’ allowances, the provision of facilities and support, reimbursement of the different types of expenses, the circumstances in which those expenses will be or can be reimbursed and what benefits Council Members receive that must be recorded for the purposes of maintaining the Council’s **Register of Allowances and Benefits**.

This Policy is underpinned by the following principles:-

- Council Members should not be out-of-pocket as a result of performing and discharging their Council functions and duties;
- To assist Council Members in performing or discharging their official functions and duties they are entitled to be provided with a range of necessary facilities and support and to be reimbursed for expenses as specified in this Policy;

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- Any reimbursements claimed by Council Members must be for expenses actually and necessarily incurred in performing and discharging their official Council functions and duties, which will be assessed according to the role of a Council Member under the *Local Government Act, 1999*;
- Council encourages continued professional and legal training for Council Members. This is seen as being imperative and necessary in terms of good governance and to the improved performance of their functions and duties;
- The accountability of the Council to its community for the use of public monies

COUNCIL MEMBER ALLOWANCES

Council Members are paid an allowance for performing and discharging their functions and duties on Council.

Section 59 of the Local Government Act provides (in part) that the role of a Council Member, as a member of the governing body of the Council, is:

- (i) to participate in the deliberations and civic activities of the Council;
- (ii) to keep the Council's objectives and policies under review to ensure that they are appropriate and effective; and
- (iii) to keep the Council's resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery, under review.

Council Member allowances are determined by the Remuneration Tribunal on a 4 yearly basis before the designated day in relation to each set of periodic elections held under the *Local Government (Elections) Act 1999* (s.76 of the *Local Government Act 1999*).

An allowance determined by the Remuneration Tribunal will, take effect from the first ordinary meeting of the Council held after the conclusion of the relevant periodic election.

Council Member allowances are to be adjusted on the first, second and third anniversaries of the relevant periodic elections to reflect changes in the Consumer Price Index ("CPI") under a scheme prescribed by the Regulations.

Travel Time Allowance

Pursuant to determination by the Remuneration Tribunal, Council Members (excluding Principal Members) of non-metropolitan Councils are eligible for payment for travel time allowance where the Council Member's:

- a) usual place of residence is within the relevant Council area and is located at least 30km but less than 50km distance from their Council's principal office, via the nearest route; or
- b) usual place of residence is within the relevant Council area and is located at least 50km but less than 75km distance from their Council's principal office, via the nearest route; or
- c) usual place of residence is within the relevant Council area and is located at least 75km but less than 100km distance from their Council's principal office, via the nearest route; or

- d) usual place of residence is within the relevant Council area and is located 100km or more distance from their Council's principal office, via the nearest route;

The travel time allowance will be payable in addition to any entitlement to reimbursement of expenses actually incurred.

In accordance with Regulation 4 of the Regulations, (and for the purposes of s.76 of the Act), an allowance may be paid in instalments up to 3 months in advance or 3 months in arrears of each month in respect of which an instalment is payable.

The allowance paid to the Mayor is paid monthly in advance. All other allowances and travel time payments are paid quarterly in arrears in February, May, August and November.

REIMBURSEMENTS – ATTENDANCE AT “PRESCRIBED MEETINGS”

In addition to the allowance paid under section 76 of the Act, Council members are entitled to receive reimbursement for travelling within the area of Council and child/dependent care expenses associated with attendance at a “Prescribed Meeting”.

A “Prescribed Meeting” is defined under the Regulations in relation to a member of a Council, being a meeting of the Council or Council committee, or an informal gathering, discussion, workshop, briefing, training course or similar activity which is directly or closely related to the performance or discharge of the roles or duties of the member:

Travel (section 77(1)(a) Local Government Act, 1999)

Reimbursement for travel expenses is restricted to ‘eligible journeys’ (as defined in Regulation 3) by the shortest or most practicable route and to that part of the journey within the Council area ie. any travelling outside the Council area in order to attend Council or Council committee meetings is not reimbursable under section 77(1)(a) of the Act. For reimbursement for travel outside the Council area refer to “Additional Reimbursement, Facilities and Support” below.

Where a Council Member travels by private motor vehicle, the rate of reimbursement is at a rate equal to the appropriate rate per kilometre (determined according to the engine capacity of the vehicle) prescribed for the purposes of calculating deductions for car expenses under section 28.25 of the *Income Tax Assessment Act 1997* of the Commonwealth.

Travelling by taxi, bus or other means of public transport is reimbursed on the basis of expenses ‘actually and necessarily incurred’, but is still limited to ‘eligible journeys’ by the shortest or most practicable route and to the part of the journey that is within the Council area.

Child/Dependent Care

Child/dependent care expenses actually or necessarily incurred by the Council Member as a consequence of the Council Member’s attendance at a Prescribed Meeting will be reimbursed.

Child/dependent care is not reimbursed if a relative of the Council member who ordinarily resides with the Council Member provides the care. A definition of “relative” is contained in section 4 of the Local Government Act

ADDITIONAL REIMBURSEMENT – SECTION 77(1)(b)

Section 77(1)(b) of the Local Government Act provides that the Council (meaning the Council Member body) may approve the reimbursement of additional expenses as set out in the Regulations incurred by Council Members, either on a case-by-case basis or under a policy adopted by Council.

Section 6 of the Regulations sets out the types of additional prescribed expenses that may be reimbursed under section 77(1)(b) of the Local Government Act, 1999, being:

- an expense incurred in the use of a telephone, facsimile or other telecommunications device, or in the use of a form of electronic communication, on the business of the Council;
- travelling expenses incurred by the Member as a consequence of the Member's attendance at a function or activity on the business of the Council (other than for which the member is reimbursed under section 77(1)(a) of the Act);
- travelling expenses incurred by the Member in undertaking an eligible journey to the extent that those expenses are attributable to travel outside the area of the Council;
- expenses for the care of:
 - (i) a child of the Member; or
 - (ii) a dependent of the Member requiring full-time care

incurred by the Member as a consequence of the Member's attendance at a function or activity on the business of the Council (other than for which the member is reimbursed under section 77(1)(a) of the Act); and

- expenses incurred by the Member as a consequence of the Member's attendance at a conference, seminar, training course or other similar activity which is directly or closely related to the performance or discharge of the roles and duties of a Council Member (other than for which the member is reimbursed under section 77(1)(a) of the Local Government Act).

For the purposes of this Policy, and pursuant to s.77(1)(b) of the Local Government Act, the Council approves the reimbursement of additional expenses of Council Members as described below:

Travelling Expenses (in addition to those eligible under section 77(1)(a) Local Government Act, 1999)

In addition to eligible journeys (as defined in Regulation 3), Members are entitled to receive reimbursement for expenses actually and necessarily incurred in travelling to a function or activity on the business of Council, and to the extent that those expenses are attributable to travel outside the area of the Council.

The following conditions apply to these expenses:-

- Travel both within and outside the Council area must be incurred by the Council Member as a consequence of attendance at a function or activity on the business of Council. A 'function or activity on the business of the Council' includes official Council functions:-
 - Mayoral receptions, opening ceremonies, dinners, citizenship ceremonies and official visits etc;

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- Inspection of sites within the Council area which relate to Council or Committee agenda items;
- Meetings of community groups and organisations as a Council appointed representative – but not to attend meetings of community groups or organizations when fulfilling the role of a local representative, and not as a member of the Board of any such community group or organisation

Reimbursement is restricted to the shortest or most practicable route.

Where a Council Member travels by private motor vehicle, the rate of reimbursement is at a rate equal to the appropriate rate per kilometre (determined according to the engine capacity of the vehicle) prescribed for the purposes of calculating deductions for car expenses under section 28.25 of the Income Tax Assessment Act 1997 of the Commonwealth.

Car parking fees will be reimbursed (where they are a consequence of a Council Member attending a function or activity on the business of the Council).

Travel by taxi, bus, plane or other means of public transport will be reimbursed on the basis of being expenses where they are incurred as a consequence of the Member's attendance at a function or activity on the business of the Council. Reimbursement will be subject to production of the relevant receipts or other evidence of expenditure, but is still limited to the shortest or most practicable route.

Other Expenses

Pursuant to Section 77(1)(b) of the Act the Council approves reimbursement of:-

- Expenses incurred for the care of a child of the Council Member or a dependent of the Council Member requiring full time care as a consequence of the Council Member's attendance at a function or activity on the business of Council (other than expenses for which the Member is reimbursed under s.77(1)(a) of the Act.
- Expenses incurred by the Council Member as a consequence of the Council Member's attendance at a conference, seminar, training course or other similar activity that is directly or closely related to the performance or discharge of the roles or duties of the Council Member (other than expenses for which the Member is reimbursed under s.77(1)(a) of the Act.

Expenses will only be reimbursed for attendance at conferences, seminars, etc. that have been approved by Council or under delegation/policy, eg under Council's "**Elected Member Training and Development Policy**". Where attendance at the conference, seminar etc. is approved, the following types of expenses are able to be reimbursed - airfares, registration fees, accommodation, meals, taxi fares, carparking, and incidentals up to a daily maximum as specified in Council's General Policy "**Accommodation and Associated Expenses**" as may be applicable at that time.

- Expenses incurred in the use of a telephone, internet, facsimile or other communication device on the business of the Council, e.g. internet access to the Local Government Association of South Australia website. The Council has resolved (Resolution 129/08 of 23 October 2007) that reimbursement of up to \$150 per quarter will be made to the Mayor and Elected Members under this provision for approved internet connection and access.

The reimbursement of any other expenses not covered by this Policy and prescribed in the Regulations must **be approved by resolution of the Council.**

PROVISION OF FACILITIES AND OTHER FORMS OF SUPPORT – SECTION 78

In addition to allowances and the reimbursement of expenses, the Act provides that the Council can provide facilities and other forms of support for use by its Council Members to assist them to perform or discharge their official functions and duties (refer Section 78 Local Government Act).

The Council must consider and specifically approve that the particular facility and other forms of support is necessary or expedient to the performance or discharge of all Council Members' official functions or duties. In approving the provision of facilities and other forms of support, Section 78 requires that any such facilities and other forms of support must be made available to all Council Members on a uniform basis, other than those facilities or other forms of support specifically provided to the Mayor set out below.

Pursuant to Section 78 of the Act, Council has considered and is satisfied that the following facilities and other forms of support are necessary or expedient for all Council Members to assist them in performing or discharging their official functions and duties :-

- *Microsoft Surface Pro*
- *Business cards (generic only)*

The Council has resolved to make available to the Mayor (and to any Acting Mayor appointed during the Mayor's absence) the following additional facilities and other forms of support to assist them in performing and discharging their official functions and duties:-

- *Microsoft Surface Pro or Laptop Computer*
- *Mobile telephone allowance (in lieu of Council providing a mobile phone) of \$60 per month, paid in advance*
- *Business cards (personalised)*
- *Motor vehicle owned and fully maintained by the Council – Council business use only*
- *Office space within Council's Principal Office*

The provision of these facilities and other forms of support are required to be made available to all Council Members (including the Mayor) under the Act on the following basis:-

- *they are necessary or expedient for the Council Member to perform or discharge his / her official functions or duties;*
- *the facilities and other forms of support remain the Council's property regardless of whether they are used off-site or not; and*
- *they are not to be used for a private purpose or any other purpose unrelated to official Council functions and duties, **unless** such usage has been specifically pre-approved by the Council and the Council Member has agreed to reimburse Council for any additional cost or expenses associated with that usage.*

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In addition, although not required by the Act, the Council has determined that the provision of the above facilities and support are made available to all Council Members (including the Mayor) on the following terms:-

- *each Council Member is solely responsible for those facilities or other forms of support released into their care and / or control for the duration of their term of office;*
- *all facilities or other forms of support must be returned to the Council at the end of each term in office, upon the office of a Member of a Council becoming vacant, or earlier at the request of the Chief Executive Officer;*
- *if the facilities or other forms of support provided to the Council Member are damaged or lost the Council Member must lodge a written report with the Council Officer responsible for this Policy*

The use of Council facilities, support and / or services by Council Members for campaign or election purposes is not permitted under any circumstances on the basis it is not necessary or expedient to the performance or discharge of a Council Member's official functions or duties under the Act. The use of such facilities would be a breach of the Council's Caretaker Policy.

EXPENSES AND SUPPORT REQUIRING COUNCIL APPROVAL

Any expenses, additional reimbursements and facilities and other forms of support not detailed in this Policy will require the specific approval by Council prior to any expense being incurred, additional reimbursements being paid, benefits being received and / or support being provided.

CLAIMS FOR REIMBURSEMENT

To receive reimbursement for expenses each Council Member is required to submit a claim to Council.

Council Members are required to provide details of kilometres travelled, the type of motor vehicle used (including engine capacity), and/or evidence of expenses incurred to support all reimbursements claimed.

Reimbursement of expenses will only be paid to a Council Member upon presentation of adequate evidence supporting the claims made.

For the purposes of administrative efficiency Council Members are requested to submit a claim on a quarterly basis in arrears.

The Council's standard reimbursement form will include a section to be completed by the Council Members detailing their activities (including attendances at seminars and conferences) performed in that quarter. This will provide a means by which the Council administration can cross-reference what "benefits" have been paid for, provided or received by each of the Council Members for the purposes of recording in the **Register of Allowances and Benefits**.

OTHER BENEFITS RECEIVED

There is no express interpretation in the Local Government Act of the term "benefits" received or provided to Council Members. However, it is common for the Council to incur costs or pay for expenses (or provide a non-monetary benefit) for the "benefit" of Council Members in the course of, or related to the performance of the Council Member's role, functions or duties, as opposed to reimbursing them. Where the Council pays up-front for expenses that would otherwise be reimbursable, or provides Council

Members with facilities or services that can be quantified for each Council Member, these are provided to Members for their “benefit”.

For example if a Council Member attends the ALGA conference in Canberra in any year, and the Council meets all or any of the costs associated with that attendance upfront, that is a “benefit” provided to the Council Member. Another example of a “benefit” is where the Council provides, at its own cost, all Council Members with business cards for their use in performing their official functions and duties.

The cost of “benefits” needs to be quantified for each Council Member (to the extent they can be) on a quarterly basis and recorded in the Register of Allowances and Benefits pursuant to section 79(1) of the Act as a “benefit” provided to that Council Member.

REGISTER OF ALLOWANCES AND BENEFITS

Pursuant to section 79 (1) and (2) of the Act, the Chief Executive Officer must ensure that a Register is maintained which contains the following information in respect of each Member.

- The annual allowance payable to each Member
- Details of any expenses reimbursed by the Council under section 77(1)(b) of the Local Government Act; and
- Details of any other benefits paid or payable to, or paid for the benefit of, the member of Council.

Those reimbursements paid under section 77(1)(a) of the Local Government Act are not required to be recorded in the Register.

The Register will be updated each quarter and therefore each Council Member is required to provide his or her claim for reimbursement to the Director, Corporate Services on the last business day of each quarter

DELEGATIONS

The Chief Executive Officer and Manager Finance & Corporate are delegated authority, subject to the conditions of this Policy, to approve claims for reimbursements from Council Members.

OTHER RELEVANT POLICIES / PROCEDURES

Other Council Policies and Procedures which may be relevant and require consideration when applying this policy include –

No. 1 Accommodation & Associated Expenses

No. 13 Caretaker Policy

Council Delegations and Sub-Delegations

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POLICY REVIEW

This entire Policy will lapse at the next general election at which time the newly elected Council will be required to adopt a new policy dealing with Council Member's allowances, additional reimbursements and benefits for their term in office (s.77(2) Act).

AVAILABILITY OF POLICY

The public may inspect a copy of this policy, without charge, at the Council's Naracoorte and Lucindale offices during office hours, and may obtain a copy for a fee fixed by Council.

The Policy is also available on Council's website www.naracoortelucindale.sa.gov.au

The **Register of Allowances and Benefits** is available for inspection by members of the public, free of charge, at the Council's Naracoorte Office during ordinary business hours.

Copies or extracts of the *Register* are available for purchase upon payment the fee prescribed in Council's "**Fees and Charges Guide**" as amended from time to time.

ADOPTION AND AMENDMENT HISTORY

Date	Authorised by	Minute Reference
December 2022	Council	124/23
December 2018	Council	Resolution 107/19
9 December 2014	Council	154/15 – New Policy
23 April 2013	Council	Resolution 379/13 – Major Review
13 December 2011	Council	Resolution 299/12 - ANNUAL REVIEW
23 November 2010	Council	Resolution 210 / 11 - ANNUAL REVIEW
24 November 2009	Council	Resolution 221 / 10 - ANNUAL REVIEW
28 July 2009	Council	Resolution 34/10 - (REVIEWED AND RE-FORMATTED)
16 December 2008	Council	236/09
27 November 2007	Council	188/08
28 November 2006	Council	228/07