

Nillumbik Shire Council

Good Governance Policy

May 2017

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Introduction

In accordance with the *Local Government Act 1989* (the Act), Council's role is to provide governance and leadership for the Nillumbik community through advocacy, decision-making and action.

Adherence to good governance principles will assist Council in achieving this role.

This Good Governance Policy has been developed to meet Council's goal of good governance for the Nillumbik community and provide a framework for Councillors and officers to work in the best interests of the Nillumbik community. It incorporates those principles and practices of good governance to which Council is committing itself.

Council has a separate Code of Conduct in accordance with section 76C of the *Local Government Act 1989* which deals with:

- Conduct obligations
- Functions of the Chief Executive Officer
- Use of Council resources
- Gifts and benefits
- Communication
- Personal dealings with Council
- Prohibited conduct
- Misuse of position
- Improper direction
- Confidential information
- Conflict of interest
- Other legislative requirements
- Dispute resolution

Definitions

When the following terms are used they mean:

| | |
|----------------|---|
| Administration | The paid employees of the Council, headed by the Chief Executive Officer |
| CEO | Chief Executive Officer, the most senior position in the Administration. This position is directly accountable to Council. |
| Councillor | Elected community representative |
| Council | Elected representatives sitting as Council |
| Mayor | The elected leader of the Councillors |
| The Act | <i>Local Government Act 1989</i> , the primary piece of State Government legislation under which local government operates |
| Local Law | Under the Act, local governments have the power (and in some cases the requirement) to develop local legislation to cover certain areas. Nillumbik's Meeting Procedure Local Law covers meeting procedures. |

Key roles

We believe that an understanding and agreement of the different roles within a local government helps us govern better. At Nillumbik, the key roles are as follows.

Council

The *Local Government Act 1989* (section 3D) defines the role of a Council as:

1. A Council is elected to provide leadership for the good governance of the municipal district and the local community.
2. The role of a Council includes:
 - a) Acting as a representative government by taking into account the diverse needs of the local community in decision making
 - b) Providing leadership by establishing strategic objectives and monitoring their achievement
 - c) Maintaining the viability of the Council by ensuring that resources are managed in a responsible and accountable manner
 - d) Advocating the interests of the local community to other communities and governments
 - e) Acting as a responsible partner in government by taking into account the needs of other communities
 - f) Fostering community cohesion and encouraging active participation in civic life.

Mayor

At Nillumbik, we recognise that the Mayor is the leader of Council and the local government as a whole. We also understand that the Mayor does not have any statutory authority over other Councillors and that the leadership roles of the position can only exist if all Councillors accept this role.

Section 73AA of the Act describes the functions of the mayor as including:

- Providing guidance to Councillors about what is expected of a Councillor, including in relation to the role of a Councillor under section 65, and the observation of the Councillor conduct principles and the Councillor Code of Conduct by Councillors under sections 76B, 76BA and 76C.
- Acting as the principal spokesperson for the Council
- Supporting good working relations between Councillors
- Carrying out the civic and ceremonial duties of the office of Mayor.

Councillors

Section 65 of the Act provides that the role of a Councillor is:

- To participate in the decision-making of the Council.
- To represent the local community in that decision-making, and to contribute to the strategic direction of the Council through the development and review of key strategic documents of the Council, including the Council Plan.

In performing the role of Councillor, a Councillor must:

- Consider the diversity of interests and needs of the local community
- Observe principles of good governance and act with integrity
- Provide civic leadership in relation to the exercise of the various functions and responsibilities of the Council under the Act and other Acts
- Participate in the responsible allocation of the resources of Council through the annual budget
- Facilitate effective communication between Council and the community.

The role of Councillor does not include the performance of any functions that are specified as functions of the Chief Executive Officer under section 94A of the Act.

Councillors agree to comply with the requirements of section 65.

Deputy Mayor

The Deputy Mayor's roles are:

- To deputise for the Mayor in his/her absence
- To provide support for the Mayor as agreed between the Mayor and Deputy Mayor and by the Council.

Chief Executive Officer

The Chief Executive Officer is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.

Councillors undertake to respect the functions of the CEO and to comply with the policies, practices and protocols defining appropriate arrangements for interaction between Council staff and Councillors that are put in place by the CEO.

The Act describes the responsibilities of the CEO as:

- establishing and maintaining an appropriate organisational structure for the Council
- ensuring that the decisions of the Council are implemented without undue delay
- the day to day management of the Council's operations in accordance with the Council Plan
- developing, adopting and disseminating a code of conduct for Council staff
- providing timely advice to the Council
- ensuring that the Council receives timely and reliable advice about its legal obligations under this Act and any other Act
- supporting the Mayor in the performance of the Mayor's role as Mayor
- carrying out the Council's responsibilities as a deemed employer with respect to Councillors, as deemed workers, which arise under or with respect to the *Accident Compensation Act 1985* or the *Workplace Injury Rehabilitation and Compensation Act 2013*

- performing any other function or duty of the Chief Executive Officer specified in this Act or any other Act

In addition to these functions, the Act says the CEO:

- may appoint as many members of Council staff as are required to enable the functions of the Council under this Act or any other Act to be carried out and to enable the Chief Executive Officer to carry out her or his functions
- is responsible for appointing, directing, managing and dismissing Council staff and for all other issues that relate to Council staff
- is responsible for managing interactions between Council staff and Councillors including by ensuring that appropriate policies, practices and protocols are in place defining appropriate arrangements for interaction between Council staff and Councillors.

Administration

Key roles of the Administration are:

- Delivery of programs and services (within budgets)
- Through the CEO, providing support, advice and information to Council and Councillors
- Implementing Council decisions
- Ensuring compliance with relevant legislation.

The Administration recognises that its functions should support good governance and will always strive to do so.

Key relationships

At Nillumbik, we believe that good working relationships are a key factor in helping us govern well. All relationships at Nillumbik should be characterised by our values and an understanding of everyone's different roles. The key relationships and their characteristics are as follows.

Mayor/Councillors

A good relationship between the Mayor and Councillors will help us work together to deliver the Council Plan. It will also increase the public credibility of the organisation.

- The Mayor is the leader of the Council and this role should be respected by all Councillors.
- Even though the Mayor does not have statutory authority over other Councillors, at Nillumbik we recognise the Mayor's leadership role and will afford the position the authority to provide that leadership.
- The Mayor is a source of advice and support to Councillors to help them achieve their goals.
- The Mayor is the Mayor of all Councillors and, as such, should be fostering relationships which support inclusive decision-making and involvement in Council activities in general.
- The Mayor should be an early contact point if there are disputes between Councillors and has the responsibility for facilitating resolution of such disputes, as outlined in the Councillor Code of Conduct.

Councillors/Councillors

Councillors need to work with each other to achieve their individual and collective goals. Good relationships between Councillors will assist in achieving a successful Council, a pleasant working environment and a Council with public credibility.

- While they may have different views, Councillors should treat each other with respect and courtesy.
- Disagreements, if they must be aired, should be expressed in a way that causes no detriment to individual Councillors or the Council as a whole.
- Councillors should adhere to the 'no surprises' principle in their relationships with each other.
- Debate and discussions should focus on issues and not on personalities.

Mayor/CEO

This important relationship can assist in the smooth running of the local government through good communication and anticipation of issues. It should be outward looking – that is focused on how the elected representatives and the organisation can be supported to best achieve Nillumbik's goals.

- The Mayor and CEO need to work closely together and must strive for a good working relationship.

- The relationship between the Mayor and CEO needs to be characterised by consistency, openness and good communication. Each has the responsibility to keep the other informed about important and relevant issues. Good communication should ensure that an understanding develops about what is important and relevant.
- The Mayor and the CEO understand that each has different roles and authorities. At Nillumbik, we understand that, while the Mayor is the leader of the local government, this position has no statutory authority (other than to chair meetings of Council) while the CEO has specific authorities. The relationship between the Mayor and the CEO is sensitive to this issue.
- The CEO is conscious of the Mayor's role in assisting Councillors to address their issues and achieve their goals and should always be looking to support this.
- At Nillumbik, the relationship between the Mayor and the CEO aims to facilitate involvement and inclusion amongst the elected representatives and the Administration. It does not seek to concentrate power in the relationship.
- At Nillumbik, the Mayor and the CEO recognise the importance of consistent communication and to support this will have regular meetings.

Councillors/CEO

Good relationships between Councillors and the CEO assist good governance. The CEO is often able to assist Councillors in addressing constituent issues. Councillors can help keep the CEO informed about what is happening in the community. Good relationships between the CEO and Councillors can improve liaison between Councillors and the Administration.

The CEO is also accountable to Councillors when they sit as Council. Councillors sitting as Council are also responsible for performance management of the CEO.

- At Nillumbik, we recognise that performance management of the CEO is important to Nillumbik achieving its goals. We understand that setting the goals for the CEO as leader of the administration and assessing performance against these goals is very important. Councillors commit themselves to spending the necessary time to set the goals as well as assessing their achievement;
- We understand that the relationship between Councillors and the CEO is based on a good understanding of each other's roles
- Councillors understand that the CEO can be a source of advice and support and that good communication between Councillors and the CEO can assist the CEO's role; and
- Councillors and the CEO will make time to meet periodically (usually monthly).

Councillors/Administration

At Nillumbik an open organisation is encouraged, with good communication and understanding between Councillors and the Administration. Everyone should have a good understanding of overall goals. However, good and open relationships require that the nature of the relationships and communication are well understood and backed by accountability and responsible conduct.

Councillor/Administration relationships should incorporate the following understandings:

- An understanding of the complexity of both the elected representatives and Administration's roles. Every effort should be made to understand where the other is coming from
- Although the CEO and senior management recognise that Councillors will contact staff on routine matters, Councillors need to understand that formal advice to elected representatives and Council should only come from the CEO and/or senior management. This is the only advice against which the Administration can be held accountable
- Communication on important matters will always involve the Mayor and/or Councillors and the CEO and/or General Managers
- Communication should be characterised by straight talking
- It is preferable that, if Councillors are dissatisfied with the outcome of an initial contact, the issue be escalated upwards, either through the organisation, or to the Mayor
- Relationships between Councillors and the Administration should incorporate the 'no surprises' principle
- Councillors do not have the authority to direct staff members
- Communication will be based on respect for each other and will not be used to undermine other Councillors or staff members (refer to the General Councillor conduct principles contained in section 76BA of the *Local Government Act 1989*)
- Any information which is provided to an individual Councillor should be such that it is, or could be, copied to all Councillors
- Staff members should inform their Manager about any contacts with Councillors at which policies or programs were discussed in order to ensure that Councillors are receiving validated information
- A Councillor who wishes to discuss an officer's conduct should speak only with the CEO or the relevant senior manager
- As a principle, officers will discuss all significant conversations with Councillors (including emails) with their Managers beforehand to ensure accountability requirements are met
- Staff approaching Councillors about organisational issues should be referred to their Manager and reminded about Nillumbik's grievance and protected disclosure procedures
- If staff, in dealing with Councillors, feel any discomfort resulting from the nature of the Councillors' enquiries, relative to what might be expected in dealing with a member of the public, then the staff member will refer the Councillor to senior management.

Councillors and the Administration recognise the importance of appropriate and productive relationships and will always strive to support and maintain these relationships.

Councillor Portfolios

Council assigns individual portfolio responsibilities to individual Councillors. The primary point of contact with the Administration on matters relating to each portfolio is with senior management and undertaken in accordance with the relationship set out above between Councillors/Administration.

The portfolio areas are:

- Community Services
- Economic Development and Marketing
- Environment and Sustainability
- Finance and Governance
- Infrastructure
- Social Infrastructure
- Planning

The Future Nillumbik Committee, a special committee established under section 86 of the Act, has responsibilities that include all matters within portfolio areas. The Terms of Reference for the Committee contains detailed portfolio descriptions.

The agenda for the Committee identifies which items of business relate to the respective portfolio. The Chairperson for each particular item shall be the Councillor with the relevant portfolio responsibility. Once the items for each portfolio have been concluded, the meeting will then be chaired by the Councillor with portfolio responsibility for the subsequent items.

This section should be read in conjunction with the Future Nillumbik Committee Terms of Reference.

Decision-making process

Nillumbik recognises that good decisions are more likely to be made if good decision-making processes are used.

The key features of Nillumbik's decision-making process are:

Agenda setting

- Councillors understand that the main way of having issues considered by Council is through the Council Plan and Budget processes together with the development and review of policies and strategies.
- If issues arise during the year which Councillors believe require Council consideration, Councillors can work with each other, the Mayor and the Administration to put them forward for Council's consideration. If Councillors are seeking assistance in getting their issues up for consideration, they should approach senior management, the CEO or the Mayor.
- If Councillors wish to put items onto the Agenda as notices of motion, the procedures of Nillumbik's Meeting Procedure Local Law No 6 are to be followed.
- Opportunities such as Open Policy Forums exist for Councillors to be proactive in putting issues forward for consideration.

Councillors and the Administration will use appropriate channels to raise issues. They will adhere to the 'no surprises' principle and ensure that no attempt is made to 'ambush' anyone.

Information gathering

- Councillors recognise that they will seek and obtain information from various sources including community members, and understand the difference between formal advice from the Administration and community members and other stakeholders and take this into account in assessing the information received.
- Councillors believe that decisions should be based on the best possible data and expect the Administration to provide Council with quality research.
- Councillors understand that the views of those affected by their decisions are an important source of information for elected members and that is why they consult.
- Councillors value the information provided to them by the members of Advisory Committees and use the information gained to help them make decisions.

Councillors recognise the importance of acting on the basis of validated information and will make every attempt to ensure that they do.

Opinion formation

Officer briefings of Councillors

- At Nillumbik briefing sessions are used to help Councillors make up their minds about important issues.
- Briefing sessions offer Councillors the opportunity to ask questions, seek further information and float issues and options which are necessary for them to form their opinions on issues.

- The Administration must ensure that the necessary accurate information is made available to Councillors at briefing sessions.
- Discussion at briefing sessions is in no way a substitute for debate in open Council meetings. In order to fully explore options, issues and information needs, it is necessary for briefing sessions to be closed to the public. Briefing papers are not intended for public distribution. Transparency requirements are met through the way in which issues are openly addressed by Council at its formal meetings.
- Briefing sessions should prevent the necessity for Council to defer issues which are on the Agenda due to Councillors feeling that they do not have enough information to make a decision.
- Appropriate use of briefing sessions should result in no surprises occurring at Council meetings or other public forums.
- Minutes of discussions and matters presented at briefing sessions will be kept by the relevant senior manager or the CEO and filed on the corresponding file.
- Briefing sessions build trust and respect among Councillors and between the administration and can be used as brainstorming opportunities with all views being accepted and worked through, such is the nature of opinion forming. Councillors and staff will therefore participate fully in briefing sessions. It is the responsibility of Councillors to raise all of their information requests and any other matters which are necessary for them to make up their minds.
- Briefings are run according to the Officer Briefings of Councillors Protocol, Attachment 2 to this Policy.

Pre-meeting briefings

- Pre-meetings scheduled prior to the Council and Committee meetings will aim to be completed 15 minutes prior to the scheduled break for a meal. This will allow any final informal discussion amongst Councillors in respect to forming their opinion and if necessary making final amendments to any draft motions that they wish to use for the purpose of debate during the meeting.
- Council officers should clarify information in officer reports and provide relevant background information if required, but should not participate in pre-meet Councillor persuasive discussions about Council motions. These discussions should be held in private by Councillors. When required, input from the CEO or senior managers can assist with the final drafting of Councillor motions.
- Officers when requested will assist Councillors to draft motions. These draft motions are the responsibility of the Councillor to distribute to colleague Councillors should they wish to use them.
- Councillors understand that all briefing sessions are Assemblies of Councillors under the conflict of interest provisions of the *Local Government Act 1989*. The requirements to be observed by an Assembly of Councillors are contained in section 80A of the Act.

Open Policy Forums

- Open Policy Forums are intended to provide Councillors with the opportunity to raise issues with their colleagues and senior management. Councillors can use them to initiate discussion on an issue.
- Forums are run according to the Open Policy Forum Protocol, Attachment 4 to this Policy.

Decision-making

- Councillors understand that their decision-making needs to be transparent. The community needs to understand how they come to the decisions they make. Therefore, while Councillors may have discussed an important issue in a briefing session, they will fully debate these matters when they come before Council at the formal Council meeting.
- Councillors recognise that, at times, different Councillors will interpret the same set of information in different ways. Councillors will respect the differences and will treat each other with courtesy at Council meetings.
- Council decisions should be made in such a way that Councillors are as participative as possible. Chairing and meeting procedures should recognise and encourage participation by all Councillors.
- Councillors will maximise participation of all Councillors in decision-making. In debating, Councillors will focus on the issues rather than on each other.

Implementation

- Once Council has made a decision, it becomes the collective decision of Council. While it is recognised that some Councillors may not have supported the decision, it is highly desirable that Councillors do not seek to undermine or publicly denigrate the decision
- If a Councillor believes that their accountability to constituents requires an expression of dissent this should be done carefully and with respect. Councillors must bear in mind that post-decision dissent weakens the Council in the eyes of the community
- Council decisions should be implemented promptly and professionally by the Administration.

The Administration will implement all Council decisions promptly and professionally. Councillors will not denigrate or undermine Council decisions once made, even if they disagree with them.

Confidential information

- Councillors receive confidential information in accordance with section 77 and section 89(2) of the *Local Government Act 1989*.
- Section 77 directs that a person who is, or has been, a Councillor or a member of a special committee, must not disclose information that the person knows, or should reasonably know, is confidential information.

- Information is confidential information if:
 - The information was provided to the Council or special committee in relation to a matter considered by the Council or special Committee at a meeting closed to members of the public and the Council or special committee has not passed a resolution that the information is not confidential.
 - The information has been designed as confidential information by a resolution of the Council or special committee which specifies the relevant ground or grounds under applying under section 89(2) and the Council or special committee has not passed a resolution that the information is not confidential.
 - The information has been designated in writing as confidential information by the CEO specifying the relevant ground or grounds applying under section 89(2) and the Council has not passed a resolution that the information is not confidential.

- Under section 89(2) information is deemed confidential information if one of the following grounds is applied to it:
 - Personnel matters
 - The personal hardship of any resident or ratepayer
 - Industrial matters
 - Contractual matters
 - Proposed developments
 - Legal advice
 - Matters affecting the security of Council property
 - Any other matter which the Council or special considers would prejudice the Council or any person.

Appendices

Media and Social Media Protocol

Introduction

Nillumbik Shire Council recognises the important role of both traditional media and social media in shaping the community's perception and understanding of Council's decisions, services, events and activities.

Purpose

- To have a professionally planned, coordinated and implemented approach to Council's communication using traditional media and social media.
- To ensure clear and consistent messages are communicated from Council.
- To establish a positive profile for Council as a decisive and responsible governing body.
- To work in partnership with the media to develop an effective, trustworthy and cooperative two-way communication process that ensures and maximises mutual benefit to both parties.
- To ensure the appropriate delegation for Council's media and official social media comment.
- To ensure a centralised system of issues management.

Scope

This policy applies to all Councillors, full-time, part-time and casual employees, volunteers, agents and contractors of Nillumbik Shire Council in their dealings with the media and official Council social media accounts.

Policy Statement

Media and Social Media comment

The Mayor is the most appropriate person to provide official comment to the media and on Council's social media accounts on behalf of Council on matters of public interest, particularly those which are political, controversial or sensitive in nature.

The Mayor may delegate authority to an appropriate Councillor, or the CEO, to make an official comment on behalf of the Council, on a Ward, Advisory Committee or Portfolio specific issue.

The Mayor is the official spokesperson for all policy matters that broadly affect the Nillumbik community including:

- State-wide political issues affecting local government
- Contentious local issues that impact the community that do not relate directly to the business of Council but to the representation of the community
- Issues pertaining to policy and Council decisions
- Issues relating to the strategic direction of Council

Once Council has made a decision, it becomes the collective decision of Council.

While it is recognised that some Councillors may not have supported the decision, it is highly desirable that Councillors do not seek to undermine or publicly denigrate the decision.

If the Mayor does not wish to publicly support the adopted/agreed position of the Council he/she should delegate the media spokesperson role to the Deputy Mayor, another Councillor or to the CEO in that instance.

Personal social media accounts need a clear statement that all views expressed on that account are that of the individual Councillor and not that of the Council. For example:

‘These are my individual comments and opinions and do not represent the view of the elected Council or the organisation’.

If a Councillor believes that their accountability to constituents requires an expression of dissent this should be done carefully, with respect and in accordance with the Code of Conduct. Councillors must bear in mind that post-decision dissent weakens the Council in the eyes of the community.

The CEO and the Communications Coordinator are the appropriate people to comment on all other operational matters pertaining to Nillumbik Shire Council as an organisation, including:

- Staffing and structure of the organisation
- Corporate issues relating to service provision or the day-to-day business of Council

The CEO may delegate authority to a Council officer, if appropriate.

Media releases

All media releases will quote the Mayor or, in the case of Ward, Advisory Committee or Portfolio specific issue, another Councillor where appropriate. The Mayor may choose to delegate comment to another Councillor or the CEO.

Drafts of media releases will be forwarded to Managers for first round approval or amendments.

The Mayor/Councillors will only approve all comments attributed to them. The CEO/Directors will approve the factual content of the release.

All media releases will receive final approval for distribution by the CEO, Director and/or Manager Communications.

Where a specific comment is required from a Council officer, the Mayor or relevant Councillor will also have an opportunity to provide a comment.

Media releases will be issued to the media in line with deadline.

All media releases are available on Council’s website www.nillumbik.vic.gov.au.

Media enquiries

The Communications Coordinator has regular contact with the local media and needs to be familiar with any issues or stories that are running or likely to run. Council officers are to contact the Communications Coordinator on all matters which have the potential to attract media interest.

In all circumstances, media enquiries should be directed to the Communications Coordinator.

If a media representative contacts a Council officer, the officer should take details and inform the caller that all enquiries must be handled by the Communications Coordinator. Details about the issues are then to be provided to the Communications Coordinator.

The Communications Coordinator will provide appropriate advice on a media enquiry and will draft official responses and comment. If these responses are attributed to the Mayor or any Councillor they will have final approval of those words.

Media enquiries from the Communications Unit must be dealt with as a priority, relative to the deadline provided.

The Communications Coordinator is the 24 hour media contact. All media inquiries should be directed to the Coordinator on 9433 3125 or 0438 381 148.

Agents/Contractors/Consultants of Nillumbik Shire Council

An external service provider or consultant should not provide official comment or background comment on any matter pertaining to the service delivered on behalf of Council without first consulting the Communications Coordinator.

Where an issue requires comment to the media, the CEO and/or Director and Communications Coordinator, in consultation with the service provider, will agree on the appropriate spokesperson and the message to be delivered.

External service providers may comment freely and without approval on aspects of their business that are not relevant to the service they are delivering on behalf of Nillumbik Shire Council.

Council's contract managers must ensure agents/contractors/consultants are aware of and abide by the Media and Social Media Protocol. This will include regular discussions at contract management meetings.

Social Media Procedures

Social media is defined in this Protocol as digital spaces where people may comment, contribute, create, forward, post, upload and share content, including, but not limited to:

- Social networking sites (e.g. Facebook, MySpace, Bebo, Friendster, LinkedIn)
- Blogs, including personal and corporate blogs, and media blogs
- Bulletin boards
- Citizen journalism and news sites
- Forums and discussion boards
- Instant messaging facilities
- Microblogging sites (e.g. Twitter)
- Wikis and online collaborations (e.g. Wikipedia)
- Podcasts
- Video and photo sharing sites (e.g. Flickr, YouTube)
- Video podcasts
- Any other websites (including social bookmarking sites) that allows individuals to use simple publishing tools or new technologies emerging from the digital environment.

As it is not possible to expressly list the specific sites or kinds of online and social media outlets, the absence of a reference to a particular site or kind of online media activity does not limit the application of these guidelines.

Individual Councillors' can have online and social media channels included in their Councillor contact details (on Council's corporate website, in Nillumbik News and individual Councillor business cards) if these channels are used only in their role as a Councillor and not for private or business purposes.

The administration can provide training opportunities, general guidance and advice around appropriate use but will not draft or edit Councillors' social media posts. Councillors are free to seek clarification on specific matters via the CEO or Directors.

Use of digital imagery

All official Nillumbik Shire Council images and footage remains the copyright of the Administration, are maintained by the Administration for official use and meets Privacy and Data Protection Act requirements.

Official council images can be made available to Councillors upon request for Council business-related matters or for private records only. Images can be used on social media channels that are specifically established for Councillors in their capacity as an elected representative. Care must be taken during Caretaker period in relation to Council images that have been provided to Councillors.

Images shared online by Councillors in a private capacity must in no way bring Nillumbik Shire Council, its employees, volunteers, contractors or visitors into disrepute.

Media

If a Councillor is contacted by the media on social network sites on matters that relate to Nillumbik Shire Council, Councillors are able to seek advice from the Mayor, CEO or the Communications Coordinator.

Officer Briefings of Councillors Protocol

Purpose

Officer briefings of Councillors are intended to:

- Provide complex information to Councillors.
- Provide Councillors with the opportunity to ask questions and comment on issues.
- Give Councillors the opportunity to discuss complex and controversial issues in an environment which enables a free and frank exchange of views.
- Inform the Administration of Councillor views to assist in the preparation of formal advice to Council.

Process

The process being undertaken at briefings is in the first instance, the CEO or their delegate providing information to Councillors. Councillors then have the opportunity to ask questions, put forward their views and discuss the issue/s.

Agenda

The briefing agenda should be determined by the CEO, in consultation with the Mayor. This includes items, order of presentation and time allocation.

Chairing

Briefings should be chaired by the Mayor or their delegate.

Outcomes

The range of possible outcomes of briefings includes:

- Councillors having greater knowledge and understanding of the issue/s in question.
- Officers being more aware of the range of Councillor views.
- An understanding around further advice or information which is required before a decision can be made.
- A common understanding of the processes to be followed to bring an issue to decision.

They are not intended to provide a means to reach consensus or make a decision on issues. This is more properly done in Committee or Council meetings.

Attendance

Councillors, Directors, Managers and other staff as required. Consultants and any other presenters as invited.

Conduct

- Conduct in all Council forums should be based on the Councillor Code of Conduct and Good Governance Policy and the values they contain. There should be respect all round to the individuals at the briefing.
- The Administration has a responsibility to provide concise, relevant and comprehensive briefing material in a way which provides the maximum opportunity for Councillors to absorb and consider the information. Time should be used efficiently and time limits adhered to.

- Briefing material is provided on behalf of the CEO and the Administration. It is not put to a briefing without at least the endorsement of the relevant Director and CEO. A manager providing a briefing is doing so on behalf of the Administration.
- Councillors should have every opportunity to ask questions and make comments. These are fundamental to the briefing process. However, there should be prior agreement as to whether this occurs during or at the end of a presentation by officers.
- Questions and discussions should be characterised by respect, honesty, thoughtfulness and the desire to achieve the best possible outcomes.
- Non-presenting senior managers can participate in discussions as appropriate.
- It is everyone's responsibility to ensure that there is appropriate conduct and respect in the briefings and to speak up if they believe breaches are occurring.

Planning Application Conferences

As part of the planning application process, Councillors will be invited to Planning Application Conferences (PAC) when these are convened. These meetings involve the permit applicant and objector parties, and are convened at the discretion of the Council planning officer where there is a willingness from the relevant parties to attend such meetings, and where there is a likelihood that some compromise or negotiated outcome will be achieved between the parties.

The purpose of a PAC is to:

- Describe to parties the purpose and factual details of the planning application
- Provide a forum for all parties to clarify their issues or concerns
- Clarify the statutory planning processes involved in the application
- Enable parties to present their views in a non-threatening environment
- Explore avenues for compromise and to encourage resolution of objections, where possible, by mutual agreement.

The meetings are chaired by the Council planning officer, and the role of Councillors in attendance at these meetings is to observe and gain a better understanding of the issues and perspectives of all parties, as well as to assist them in the event that the application is referred to Council or its Special Committee for determination.

Open Policy Forum Protocol

Purpose

Open Policy Forums (OPF) are intended to provide the opportunity for Councillors to raise issues with their colleagues and senior management. Councillors can use them to initiate discussion on an issue. They can do this themselves, in conjunction with colleagues or senior management or through an external person/s.

Process

The process is that Councillors take the lead on presentation of an issue by themselves or an external person, which can then be followed by questions and discussion.

Agenda

The agenda is determined by the Mayor, in consultation with the presenting Councillor, and keeping other Councillors and the CEO informed. This includes items, order of presentation and time allocation.

Draft agendas should be circulated in advance so that all Councillors have an opportunity to input.

Timing

Open Policy Forums are to take place once a month.

Chairing

Open Policy Forums are chaired by the Mayor or their delegate.

Outcomes

Similar to briefings, OPFs are not a forum for decision-making. OPFs can be an opportunity for Councillors to share information with their colleagues and no further action may be required. If further action is to be taken, the issue is to be referred to the relevant senior manager who is then responsible, in liaison with the presenting Councillor, Mayor and CEO if required, to bring the item back into an appropriate forum for taking it further.

Attendance

OPFs are attended by Councillors and senior management. Other officer attendance is to be agreed with presenting Councillor in conjunction with the Mayor and CEO.

Conduct

- Conduct in all Council forums should be based on the Councillor Code of Conduct and Good Governance Policy and the values they contain. There should be respect all round to the individuals at the OPF.
- The format is that the presenting Councillor will do a presentation prior to questions and discussion.
- Questions and discussions should be characterised by respect, honesty, thoughtfulness and the desire to achieve the best possible outcomes.
- The process of referring the item to the relevant senior manager so as to facilitate further consideration should be made explicit and clear.
- All participants at OPFs should be able to participate appropriately.
- It is everyone's responsibility to ensure that there is appropriate conduct and respect in the OPFs and to speak up if they believe breaches are occurring.

Councillors' Receipt of Gifts Policy

Objective

To provide a transparent and accountable process for dealing with gifts or benefits received by Councillors during the performance of their duties as a Councillor.

This policy provides guidance to Councillors on the ethical treatment of any gifts received, whether token or otherwise, to ensure that the potential for any conflicts of interests are not created.

Background

Councillors may from time to time be given gifts, either of a token value or something more substantial, during the course of them acting in their capacity as a Councillor. For example, a thank you gift for accepting the invitation to speak at an event, or a promotional gift supplied to attendees at a function.

Where it is inappropriate to refuse a gift due to the potential insult it may cause, the receipt of gifts by Councillors is to be dealt with in accordance with this policy.

Details

Councillors will not expect, seek or accept (directly or indirectly) any gift, fee reward or benefit for themselves, their family or any other person or body for anything done in pursuit of their role as a Councillor. The exception to this is the receipt of gifts of a token or promotional nature or corporate merchandising, not exceeding a retail value of \$50 and hospitality not exceeding \$20 where there is clearly no suggestion of personal obligation and the gift is for personal use and not intended as a gift to the municipality.

Where a Councillor has been unexpectedly presented with a gift over the value of \$50 and it would be inappropriate or offensive for the Councillor to refuse the gift, the gift must be handed to the CEO who will determine at his/her discretion whether the Councillor may keep the gift by paying for the balance of the gift's value over \$50, or donating the gift to a Council determined charity or community organisation, or the gift should be kept for display at Council's Offices or for use by Council. Where a Councillor pays for the excess value of the gift the monies are to be paid into Council's Community Grants fund.

Regardless of the value, all gifts, fees, rewards or benefits received by Councillors, other than the exceptions listed above, are to be disclosed to the CEO to be recorded in the Register of Gifts. Councillors will also be mindful of their obligations under the disclosure of interests requirements and in particular the legislative requirements relating to the receipt of gifts while being a candidate for Council election.

Recognition and Bereavement Policy

Purpose

This policy outlines the process to be followed:

- To publicly acknowledge and formally recognise the service and contribution of former Councillors of Nillumbik Shire Council
- Upon advice being received of the death of a current or former Nillumbik Shire Councillor (or a councillor of the former Shires of Diamond Valley or Eltham) or a distinguished Nillumbik Shire community member.

Scope

This policy has application when:

- A Councillor retires/resigns from Council
- A Councillor is not returned to Council following a General Election
- A current or former Nillumbik Shire Councillor, or a distinguished member of the Nillumbik community, dies. The community member must have had some direct dealings with Council and a record of distinguished community service in Nillumbik.

Policy Statement and Principles

Recognition of former Councillors

The term of office for each Councillor is generally four years (subject to any changes in legislation) however it is recognised that there may be some Councillors who also have service gained when a term was three years or less due to legislative changes or who were elected as a result of a by-election.

Depending on the years of service, the following will apply:

- All Councillors: Immediate past Councillors of the Shire of Nillumbik are to be formally recognised for their contribution to the Nillumbik community as soon as practicable after a Council election. The names of all former Councillors and their years of service will be added to the Honour Boards on display in the Council Chamber at the Civic Centre.
- A framed Certificate of Service shall be presented at a Special Council Meeting with the name of the Councillor, the years of service given to Council and the term/s served as Mayor if applicable, with a dinner or supper to follow.

Where there is more than one ex-councillor the functions may be combined.

Presentation at Council Meeting

If a former Councillor is unable to attend the Council meeting, the Certificate of Service shall be provided, if appropriate, via registered post or the recipient shall be invited to attend an alternative Council meeting.

Responsibilities

The Certificates of Service and function/s will be organised and managed by the Governance and Executive Support Units. They will liaise with outgoing Councillor/s regarding the guests to any proposed function.

Bereavement

Upon advice being received of the passing of a current Councillor, the following process will be followed:

- All current Councillors will be immediately advised of the death by Executive Services
- Funeral details, once known, will be conveyed to all Councillors by Executive Services
- A death notice will be placed in *The Age* or *Herald Sun* newspapers
- A statement will be prepared for media outlets
- Flowers will be arranged for the funeral on behalf of the Mayor, Councillors and staff or a donation will be made to a charitable organisation in accordance with the wishes of the family
- The Mayor or CEO or their delegates will attend the funeral to officially represent the Council
- Flowers and a sympathy card will be sent to the immediate family
- Individual Councillors may send personal condolences
- The flag at the Civic Centre will be flown at half-mast on the day of the funeral
- At the next available Ordinary Council Meeting one minute's silence will be observed and a formal motion of condolence will be moved

Upon advice being received of the passing of a former Councillor, the following process will be followed:

- All current Councillors will be immediately advised of the death by Executive Services
- Funeral details, once known, will be conveyed to all Councillors by Executive Services
- The Mayor or CEO or their delegates will attend the funeral to officially represent the Council, if available
- A sympathy card will be sent to the immediate family
- Individual Councillors may send personal condolences
- At the next available Ordinary Council Meeting the passing of the former Councillor will be acknowledged

Upon advice being received of the passing of a community member and the CEO in consultation with the Mayor determines that this person has been a distinguished community member, the following process will be followed:

- All current Councillors will be immediately advised of the death by Executive Services
- Funeral details, once known, will be conveyed to all Councillors by Executive Services
- The Mayor or CEO or their delegates will attend the funeral to officially represent the Council, if available
- A sympathy card will be sent to the immediate family

- Individual Councillors may send personal condolences
- At the next available Ordinary Council Meeting the passing of the prominent community member will be acknowledged

Dispute resolution

The CEO will be the final decision maker on any issues arising from these guidelines.

Review

This guideline is to be reviewed in conjunction with the review of the Good Governance Policy.

Protocol for ward meetings and ward communications

Introduction

The following protocol for ward meetings and other ward specific-communications between Councillors and their constituents outlines the role of Councillors and the role of the organisation in coordinating these meetings/communications.

Intent of ward meetings

The general intent of ward meetings is to:

- allow the democratically-elected ward Councillor to engage with the community
- encourage community participation in their local government
- allow ward Councillors to advise their constituents on policy development and strategic issues as well as shire-wide and local initiatives
- allow ward Councillors to discuss issues of local importance
- enable constituents to provide feedback to their ward Councillor on a range of issues that interest them.

Role of the Councillor

Councillors are a primary interface between Council and the community. In the conduct of ward meetings, the ward Councillor acts as:

- chairperson
- presenter
- facilitator
- arbitrator (if required).

It is the ward Councillor's meeting and it will be the Councillor's decision as to the format, date and location. Generally, the organisation is able to support one ward meeting or one ward newsletter per Councillor per year.

Role of the organisation

Support is provided to Councillors for their ward meetings in regard to:

- Booking and setting up the venue and arranging catering, if required
- Promoting the meeting in newspaper advertisements, on Council's website and via direct mail to all households in the ward
- Providing copies of relevant Council publications to be available at the meeting
- Accepting RSVPs, names and contact details of attendees
- Assistance to draft the agenda
- Provision of minutes/actions for follow up.

Senior officers will attend to provide information on relevant projects within the ward after consultation to ascertain their availability.

Ward-specific communications

Nillumbik's Communications Unit assists both the Council and the organisation to communicate its activities, programs, services and achievements, to manage issues effectively and to produce high quality community information.

Council has a wide range of communications tools in which to communicate these messages to residents and the wider community including Nillumbik News, the website, media releases, paid advertisements, suburban newspapers, community newsletters and social media sites.

Each Councillor will be provided with an electronic version of a ward newsletter template, which will be professionally designed and include a photo and contact details of the Councillor.

Council officers will be able to provide information and, in some instances, photographs for ward newsletters, however it is the responsibility of each individual Councillor to write and distribute their own ward newsletters.

Councillors who use social media sites to communicate with their constituents and the broader community must adhere to the Media and Social Media Protocol. Individual Councillors are responsible for the content and maintenance of social media sites that they use to communicate with their constituents.

Election Period Policy

Introduction

The *Local Government Act 1989* (the Act) provides that during the 'election period' certain prohibitions apply to the general functions and powers of Council.

The 'election period' is defined by the Act as starting on the last day for nominations and ending at 6pm on the Election Day. The last day for nominations is 32 days before Election Day.

The election period for the 2016 local government elections will commence at midnight on 20 September 2016 and end at 6pm on 22 October 2016.

This policy replaces and overrides any prior Council policy or document that refers to a Caretaker or Election Period.

Purpose

Section 93B of the Act provides that Council must prepare, adopt and maintain an election period policy in relation to procedures to be applied by Council during the election period for a general election. The policy must be prepared and adopted by 31 March 2016. The policy must include:

- procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election. 'Inappropriate decisions' are defined in section 93B as including:
 - decisions that would affect voting in an election and/or
 - decisions that could reasonably be made after the election
- limits on public consultation and the scheduling of Council events
- procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.

The Policy helps to ensure that the general elections for the Nillumbik Shire on Saturday 22 October 2016, and subsequent elections, are conducted in a manner that is ethical, fair and equitable and are publicly perceived as such.

The Policy will also facilitate the continuation of the ordinary business of local government in the Nillumbik Shire throughout the election period in a responsible and transparent manner, in accordance with statutory requirements and established 'caretaker' conventions.

This Policy commits Council during the election period to:

- avoid making significant new policies or decisions that could unreasonably bind a future Council (section 93A of the Act)
- ensure that public resources, including staff resources, are not used in election campaigning or in a way that may improperly influence the result of an election, or improperly advantage existing Councillors as candidates in the election (section 93B of the Act)
- place limits on public consultations and the scheduling of events (section 93B of the Act)
- limit entrepreneurial activities
- restrict the printing, publishing and distribution of Council documents during the election period (section 55D of the Act)

Definitions

Where terms used in this Policy are defined in the Act, their use in this Policy is consistent with the definitions in the Act. Relevant sections of the Act are included at Attachment 1.

Definitions used in this Policy which are not defined by the Act are:

- Publication - Includes any means of publication including letters and information on the internet and social media.
- Public consultation - Means a process that involves an invitation or invitations to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy, and includes discussion of that matter with the public.
- Significant decision - Means an irrevocable decision that significantly affects the municipality.

Application of Policy

Council will function in accordance with this Policy during the election period commencing at midnight on 20 September 2016 and ending at 6pm on 22 October 2016.

Role of Chief Executive Officer

In addition to the Chief Executive Officer's (CEO) statutory responsibilities, the CEO or his or her delegate will ensure that:

All Councillors are provided with a copy of this Policy as soon as practicable after it is adopted by Council. All Council officers are also to be informed of, and given access to, a copy of the Policy after adoption by Council, again, as soon as practicable after the policy is adopted.

A copy of this Policy is made available for inspection by the public and published on Council's website in accordance with the Act.

Matters of Council business requiring major policy or significant decisions are scheduled to enable a Council resolution prior to the commencement of the election period, or deferred where appropriate, for determination by the incoming Council.

Guidelines to staff on the role and responsibilities of staff in the implementation of this Policy are issued if appropriate.

Decisions by Council

Major policy decisions

Section 93A of the Act provides that Council, a Special Committee of Council or a person acting under a delegation given by Council must not make a major policy decision during the election period.

Definition

A 'major policy decision' is defined in section 93A to mean any decision:

- relating to the employment or remuneration of a CEO, other than a decision to appoint an acting CEO
- to terminate the appointment of a CEO

- to enter into a contract the total value of which exceeds one per cent of Council's revenues from rates and charges levied in the 2015-2016 financial year, currently circa \$600,000
- to exercise any entrepreneurial powers under section 193 of the Act if the sum assessed in respect of the total investment involved and the total risk exposure assessed in respect of the proposal exceeds one per cent of Council's revenues from rates and charges levied in the 2015-2016 financial year, currently circa \$600,000.

Prohibition on Council

Any major policy decision made during the election period is deemed to be invalid under the Act.

Extraordinary circumstances

If Council considers that there are extraordinary circumstances where the Nillumbik Shire's community would be significantly disadvantaged by the Council not making a particular Major Policy Decision, the Council may, by resolution, request an exemption from the Minister for Local Government in accordance with section 93A(2) of the Act.

Significant decisions

During the election period, Council will avoid making decisions that significantly affect the municipality and unreasonably bind the incoming Council.

Public consultation and the scheduling of Council events

Events

Council will not schedule any special events such as official openings or launches during the election period.

Annual, recurring Shire-wide community events that are scheduled to take place during the Election Period will proceed, but there will be no formal role for Councillors at these events.

All other Council events, or events which are conducted under the auspices of Council will be scheduled to take place outside the election period. Any publicity materials related to these events will be subject to the publication constraints outlined in Part 7 of this Policy.

Councillors may continue to attend external events and functions during the election period, however speeches, backgrounders or other Council resources will not be provided by the organisation.

Public consultation and the right to postpone public consultation

Public consultation means a process that involves inviting individuals, groups or organisations or the community generally to comment on an issue or proposed action or proposed policy, and which includes discussion of that matter with the public.

Public consultations should be avoided during the election period.

The requirements of Clause 6.2 of this policy (above) do not apply to public consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 of the *Local Government Act 1989*.

Some public consultation activities may be necessary during the election period to facilitate the day to day business of Council and ensure matters continue to be proactively managed. Any such public consultations will avoid express or implicit links to the election and must receive prior approval from the CEO.

In view of the potential for a matter or issue to become contentious or politically sensitive in the course of the election period, Council reserves the right to postpone a matter if the issue is likely to affect voting at the election.

Where public consultation commences prior to the election period, the results of that consultation will not be reported until after the election period, except where approved by the CEO or his delegate.

Statutory requirements

The requirements of Clause 6.2 do not apply to public consultation required under the *Planning and Environment Act 1987*, or matters subject to section 223 of the *Local Government Act 1989*.

Council publications

Prohibition on publishing material during the election period

Section 55D of the Act prohibits Council from printing, publishing or distributing any advertisement, handbill, pamphlet or notice during an election period unless it has been certified, in writing, by the CEO.

Section 55D provides that the CEO must not intentionally or recklessly certify a publication that contains electoral matter, unless that material is only about the election process.

In light of the major commitment of Council resources that is required during an election period to assess whether or not Council documents contain election material, there will be restrictions placed upon the number of Council documents published during the election period.

Only publications that the CEO considers to be essential to the day-to-day operations of Council during the election period will be assessed for compliance with section 55D and submitted for certification by the CEO during that period. These publications would include information to communicate a change or disruption to a Council service or an emergency which impacts on the health and wellbeing of community members. All other documents must only be published either before, or after, the election period and not during that period.

All Council officers are to be given timely notification of the requirements of Part 7 of this policy and are required to schedule the publication of non-essential documents to a date outside of the election period.

Certification of publications

Publications to be printed, published or distributed during the election period must first be certified by the CEO that they do not contain electoral matter.

The certification by the CEO will be in writing on or affixed to a copy of the publication and be in the following form:

'Certified by the Chief Executive Officer in accordance with section 55D of the *Local Government Act 1989*'.

Copies of all certified documents will be retained on Council records.

Subject to the restrictions outlined in Part 7.1, publications which require certification include:

- Brochures, pamphlets, handbills, flyers, magazines, e-newsletters and books
- Reports (other than agenda papers and minutes in accordance with Section 7.7)
- Advertisements and notices except newspaper notices of meetings
- New website material
- Social media accounts (which includes Facebook and Twitter posts)
- Emails with multiple addresses, used for broad communication with the community
- Mass mail outs or identical letters sent to a large number of people by or on behalf of Council
- Media releases
- Material to publicise a function or event
- Any publication or distribution of Councillors' speeches.

Prohibited material

Electoral matter is defined in the Act and means any matter which is intended or likely to affect voting in an election, but does not include:

- Any electoral material produced by or on behalf of the returning officer for the purposes of conducting an election, or
- An advertisement in a newspaper announcing the holding of a meeting.
- A publication is taken to contain electoral matter if it contains an express or implicit reference to, or comment on:
 - The election or
 - A candidate in the election or
 - An issue submitted to, or otherwise before, the voters in connection with the election.

Electoral matter includes material which:

- Publicises the strengths or weaknesses of a candidate
- Advocates the policies of the Council or of a candidate
- Responds to claims made by a candidate
- Publicises the achievements of the elected Council.

Council publications including Councillor information

Any reference to Councillors standing for re-election in Council publications printed, published or distributed during an election period must not include promotional text.

Website

Material published on Council's website in advance of the election period is not subject to certification, however existing material that is prominently displayed will be reviewed and consideration given to the removal of any such material that may be considered electoral matter, were it to be published during the election period. No new material is to be published on Council's website during the election period unless it is considered to be essential to the operation of Council during that period.

Councillor contact information will remain available on the website during the election period, but Councillors' profiles will be removed. Any new material published on Council's website during the election period must be certified by the CEO.

Social media

Any publication on Council's corporate social media sites including Facebook, Twitter, Flickr, Instagram, blogs and wiki pages and the like during the election period must be certified by the Chief Executive Officer. Consistent with Part 7.1 of this policy, no material is to be posted on any of Council's social media sites during the election period unless it is considered to be essential to the day to day operations of Council during that period.

Staff responsible for administering individual social media sites will monitor their respective sites during the election period and must use moderation features where available to ensure no electoral matter is posted.

The restrictions imposed by this Part do not apply to the personal social media accounts of Councillors provided they do not use Council resources such as photographs taken by the organisation.

Council and Committee agendas and minutes

Council will not schedule any Ordinary Council Meetings, Special Committee Meetings or Advisory Committee Meetings during the election period.

The agenda papers and minutes of any Special Council or Committee meetings which may need to be scheduled during the election period as a matter of urgency do not require certification by the CEO unless they are printed or published for a wider distribution than normal.

Annual Report

Council is required under Part 6 of the Act to produce and put on public display a copy of its Annual Report. The 2015-2016 Annual Report may be published during the election period. The Annual Report will not contain any material that could be regarded as overt electioneering or that inappropriately promotes individual Councillors.

The Annual Report does not require certification by the CEO, however any publication of an extract or summary of the Annual Report will require certification.

Council resources

Application of resources

Council resources, including offices, vehicles, staff, hospitality, services, property, equipment and stationery must be used exclusively for normal Council business during the election period and must not be used in connection with any election campaign or issue.

Role of Executive Assistant to Mayor and Councillors

The Executive Assistant to the Mayor and Councillors, Governance staff, or any other staff member, must not be asked to undertake any tasks connected directly or indirectly with the election campaign of a Councillor standing for re-election.

Use of Council equipment by Councillors

Councillors may continue to use any Council equipment provided to them to facilitate their performance of normal Council duties, subject to existing protocols and terms of use. Councillors standing for re-election must not use Council equipment as a resource to assist with election campaigns. This includes mobile phones, tablets, lap top or other computers and printers.

The allocated Mayoral motor vehicle must only be used for normal Mayoral activities during the election period and not to assist, or give the perception of assisting, an election campaign.

Councillors' entitlement to reimbursement

Reimbursements of Councillors' out-of-pocket expenses during the election period will only apply to costs that have been incurred in the performance of normal Council duties, and not for expenses that support or are connected with a candidate's election campaign.

Council branding

No Council logos, letterheads, or other corporate branding will be used for, or linked in any way to, a candidate's election campaign.

Cessation of ward specific publications and activities

No ward meetings are to be held during the election period. Ward-specific publications, or Councillor profiles and articles in the media, will not be arranged or published by Council during the election period.

Officers' discretion

The Council will ensure that due propriety is observed in the use of all Council resources, and Council staff are required to exercise appropriate discretion in that regard. Where the use of Council resources appears to relate to the election campaign of a Councillor standing for re-election, the matter must be referred to the CEO or his or her delegate.

Media services

Restriction on services

Council's Communications Team undertakes the promotion of Council activities and initiatives.

During the election period this team's services must not be used in any way that might promote a Councillor as an election candidate.

Council publicity during the election period will be restricted to communicating essential information and subject to certification by the CEO.

Media releases/Spokespersons

Media releases will minimise references to specific Councillors and will not identify any Councillor in a manner that could promote a Councillor as an election candidate. Where it is necessary to identify a spokesperson, the CEO or his or her delegate will be consulted.

Media releases will require certification by the CEO.

Councillors

Councillors will not use their position as an elected representative or their access to Council Officers and other Council resources to gain media attention in support of an election campaign.

Council employees

During the election period no Council employee may make any public statement that relates to an election issue unless prior approval has been obtained by the CEO or his or her delegate.

Information

Candidates' access to information

All election candidates have equal rights to information relevant to their election campaigns from the Council administration. While it is important that sitting Councillors continue to receive information that is necessary to fulfil their existing elected roles, neither Councillors nor candidates will receive information or advice from Council officers that may improperly advantage candidates in the elections (which includes any internal Council publications).

There will be complete transparency in the provision of all information and advice during the election period.

Information Request Register

Governance will maintain an Information Request Register during the election period. This Register will be a public document that records all requests relating to electoral matters and non-routine requests for information by Councillors and candidates, and the responses given to those requests.

Improper use of position

Sections 76D and 76E of the Act prohibit Councillors from misusing or inappropriately making use of their position. A breach of section 76D attracts serious penalties, including possible imprisonment.

Assistance to candidates

Role of Returning Officer

All election related enquiries from candidates, whether sitting Councillors or not, will be directed to the Returning Officer or, where the matter is outside the responsibilities of the Returning Officer, to the CEO or his or her delegate.

Candidate information

In conjunction with external organisations such as the Victorian Electoral Commission, the Municipal Association of Victoria and the Victorian Local Governance Association, where appropriate, Council officers will assist with the facilitation of candidate information sessions for election candidates or potential election candidates.

Further to section 62 of the Act, candidates will also be advised of the requirements to complete and submit an 'Election Campaign Return' to the CEO within 40 days after the election day. The return must contain details of any campaign donation or gift valued at, or greater than, more than \$500 which was received during the 'donation period' which is the period between 30 days after the previous general election and 30 days after the current general election.

Election Period Policy Attachment

Relevant sections from the *Local Government Act 1989*

Section 3 definitions

election day means -

- a) in the case of an election, the day of an election determined under section 31 or 38
- b) in the case of a poll of voters', the relevant date specified in the public notice under clause 16 of Schedule 3

election period, in relation to an election, means the period that -

- a) starts on the last day on which nominations for that election can be received and
- b) ends at 6pm on election day

Section 31 General elections

1. Subject to this Division, a general election of Councillors for all Councils must be held on the fourth Saturday in October 2012 and thereafter on the fourth Saturday in October in the fourth year after the last general election of Councillors for all Councils was held.

Section 55D Prohibition on Council

1. A Council must not print, publish or distribute or cause, permit or authorise to be printed, published or distributed, any advertisement, handbill, pamphlet or notice during the election period unless the advertisement, handbill, pamphlet or notice has been certified, in writing, by the Chief Executive Officer.
2. The Chief Executive Officer must not intentionally or recklessly certify an electoral advertisement, handbill, pamphlet or notice during the election period unless it only contains information about the election process.

60 penalty units

3. Despite section 98(2), the Chief Executive Officer must not delegate the power to certify any advertisement, handbill, pamphlet or notice under this section to a member of Council staff.
4. A Councillor or member of Council staff must not intentionally or recklessly print, publish or distribute or cause, permit or authorise to be printed, published or distributed an electoral advertisement, handbill, pamphlet or notice during the election period on behalf of, or in the name of, the Council or on behalf of, or in the name of, a Councillor using Council resources if the electoral advertisement, handbill, pamphlet or notice has not been certified by the Chief Executive Officer under this section.

60 penalty units.

Section 76D Misuse of position

1. A person who is, or has been, a Councillor or member of a special committee must not misuse his or her position-
 - a) to gain or attempt to gain, directly or indirectly, an advantage for themselves or for any other person; or
 - b) to cause, or attempt to cause, detriment to the Council or another person.

600 penalty units or imprisonment for five years or both

2. For the purposes of this section, circumstances involving the misuse of a position by a person who is, or has been, a Councillor or member of a special committee include-
 - a) making improper use of information acquired as a result of the position he or she held or holds; or
 - b) disclosing information that is confidential information within the meaning of section 77(2); or
 - c) directing or improperly influencing, or seeking to direct or improperly influence, a member of Council staff in contravention of section 76E; or
 - d) exercising or performing, or purporting to exercise or perform, a power, duty or function that he or she is not authorised to exercise or perform; or
 - e) using public funds or resources in a manner that is improper or unauthorised; or
 - f) failing to disclose a conflict of interest as required under this Division.

Section 93A Conduct of Council during election period

1. Subject to this section, a Council, a special Committee or a person acting under a delegation given by the Council must not make a major policy decision during the election period for a general election.
2. If a Council considers that there are extraordinary circumstances which require the making of a major policy decision during the election period, the Council may apply in writing to the Minister for an exemption from the application of this section to the major policy decision specified in the application.
3. If the Minister is satisfied that there are extraordinary circumstances, the Minister may grant an exemption from the application of this section to the major policy decision specified in the application subject to any conditions or limitations that the Minister considers appropriate.
4. A major policy decision made in contravention of this section is invalid.
5. Any person who suffers any loss or damage as a result of acting in good faith on a major policy decision made in contravention of this section is entitled to compensation from the Council for that loss or damage.
6. In this section, a major policy decision means any decision:
 - a) relating to the employment or remuneration of a Chief Executive Officer under section 94, other than a decision to appoint an acting Chief Executive Officer
 - b) to terminate the appointment of a Chief Executive Officer under section 94
 - c) to enter into a contract the total value of which exceeds whichever is the greater of:
 - i) \$100 000 or such higher amount as may be fixed by Order in Council under section 186(1) or
 - ii) one per cent of the Council's revenue from rates and charges levied under section 158 in the preceding financial year
 - d) to exercise any power under section 193 if the sum assessed under section 193(5A) in respect of the proposal exceeds whichever is the greater of \$100

000 or one per cent of the Council's revenue from rates and charges levied under section 158 in the preceding financial year.

Section 93B Council to adopt an election period policy

1. A Council must prepare, adopt and maintain an election period policy in relation to procedures to be applied by Council during the election period for a general election.
2. A Council must prepare and adopt an election period policy as required by subsection (1) -
 - a) by 31 March 2016; and
 - b) following the general election on 22 October 2016, continue to maintain the election period policy by reviewing and, if required, amending the policy not later than 12 months before the commencement of each subsequent general election period.
3. An election period policy must include the following -
 - a) procedures intended to prevent the Council from making inappropriate decisions or using resources inappropriately during the election period before a general election
 - b) limits on public consultation and the scheduling of Council events
 - c) procedures to ensure that access to information held by Council is made equally available and accessible to candidates during the election.
4. A copy of the election period policy must:
 - a) be given to each Councillor as soon as practicable after it is adopted; and
 - b) be available for inspection by the public at the Council office and any district offices; and
 - c) be published on the Council's Internet website maintained under section 82A.
5. In this section:

inappropriate decisions made by a Council during an election period includes any of the following -

 - a) decisions that would affect voting in an election
 - b) decisions that could reasonably be made after the election.

Resources and Expenses Policy

Objectives of this Policy

To define the entitlements of Councillors to be reimbursed for appropriate costs incurred in performing their duties as a Councillor.

Context

The *Local Government Act 1989* establishes laws relevant to Councillors' expenses and resources.

Expenses

Section 75 of the Act states:

- (1) A Council must reimburse a Councillor for expenses if the Councillor
- (a) applies in writing to the Council for reimbursement of expenses; and
 - (b) establishes in the application to Council that the expenses were reasonable bona fide Councillor out-of-pocket expenses incurred while performing duties as a Councillor.
- (2) In this section, **duties as a Councillor** means duties performed by a Councillor that are necessary or appropriate for the purposes of achieving the objectives of a Council having regard to any relevant Act, regulations, Ministerial guidelines or Council policies.

The basic test that will be applied to determine whether an expense will be reimbursed is whether the expenditure is 'necessary or appropriate' for the exercise of Councillor's duties. Where this criterion is satisfied a Councillor will be reimbursed by Council according to this policy.

Resources and equipment

Section 75C of the *Local Government Act 1989* states:

A Council must make available for the Mayor and the Councillors the minimum resources and facilities prescribed for the purposes of this section.

Local Government Victoria has issued an *Information Guide on Mayor and Councillor Entitlements* which prescribes the minimum level of resources that must be provided by all Councils. It also identifies relevant considerations including the need for transparency and accountability, and the need for policies to support participation, access and equity for Councillors.

The Local Government Act also requires Council to indemnify Councillors in respect of actions arising from their duties as a Councillor (section 76). Additionally, Council maintains liability insurance coverage for Councillors, which is subject to specific terms and conditions.

This policy has been prepared in the context of the provisions of the Act, the Information Guide, and also Nillumbik's Good Governance Policy Code and Councillor Code of Conduct.

Expenses eligible for reimbursement

Travel expenses

Travel expenses will be reimbursed to Councillors under the following circumstances:

- To attend Ordinary and Special Council meetings and meetings of Special or Advisory Committees of Council.
- To attend formal briefing sessions and other meetings relevant to Council business as arranged by Council or the Mayor.
- To attend civic or ceremonial functions convened by the Council or the Mayor.
- To attend a meeting, deputation, function or other official role attended as a representative of the Council or the Mayor.
- To attend meetings of community groups, organisations and statutory authorities to which the Councillor has been appointed Council delegate or is authorised by Council (however the reimbursement by Council is to be reduced accordingly if the relevant organisation pays any of the costs).
- To attend to inspect a street, property or area, or to discuss with any person any matter relevant to Council, and/or to attend to carry out activities in the capacity of a Councillor.
- To meet with Council Officers on any matter relating to the Shire.

Costs for public transport, parking, taxis and tolls will be reimbursed upon production of a receipt. Any costs for driving or parking fines are the personal responsibility of the driver, and will not be reimbursed.

Travel must be undertaken in the most direct and cost effective manner. Claims will only be paid on the basis of the actual form of transport used. Taxis should only be used for travel to an airport, or if private car use is not the most cost-effective form of transport.

Any time occupied in activity other than authorised Council business is not to be included in the calculation of any expenses to be paid.

If Councillors are travelling interstate, the mode of transport is to be determined on the advice of the Chief Executive Officer based on the most cost effective form of transport.

The rate for reimbursement for motor vehicle expenses shall be based on the Australian Taxation Office rates, as determined for the relevant financial year.

Carer expenses

Council will reimburse costs incurred by Councillors for paid care of their immediate family dependents (children, elder dependents or dependents with a disability) for the following activities:

- Up to eight hours of paid care per week to enable Council duties such as meeting preparation, reading, emails, correspondence and phone calls.
- Attendance at meetings or other activities for Council purposes (refer list of eligible travel reimbursement activities).

Reimbursement is subject to the following conditions

- Each care expense claimed shall be substantiated by a receipt from the caregiver showing the dates and times care was provided, and the Councillor shall show why the care was needed on each occasion.
- Care costs are not eligible for reimbursement if paid to a person who normally or regularly lives with the Councillor.

Conferences, seminars and training

Council encourages Councillors' participation in conferences, seminars and training that can assist their development of skills and knowledge relevant to local government and their duties as a Councillor. Councillors may also attend relevant functions and networking events, and hold membership of relevant professional organisations.

Conferences and seminars

Councillors must obtain approval from the Chief Executive Officer for costs involved with their attendance at conferences and seminars held in Victoria or interstate.

Councillors must obtain formal approval by Council resolution for costs involved with their attendance at any conferences or seminars held overseas.

Councillors who attend approved conferences or seminars shall have all reasonable expenses for transport, accommodation and registration fees relating to the conference or seminar paid for them by Council.

Councillors who wish to make their own arrangements for flights or accommodation shall be reimbursed up to the equivalent cost of an economy-class airfare and the value of the standard room rate at a convenient hotel/motel, or the cost of these alternative arrangements paid by Council, as determined by the Chief Executive Officer.

Expenses for meals, refreshments, telephone calls, parking and taxi fares incurred whilst attending such events, shall be reimbursed by Council following the conference or seminar upon completion of a claim form with the receipts.

Functions and events

Council recognises that participation in local and regional civic and community functions and events helps Councillors to engage with the community and advocate on behalf of Nillumbik.

Council will meet the cost of attending such functions and events on the following basis:

- In relation to local Nillumbik functions, only the Mayor, the Councillor appointed as delegate to the host organisation, and the respective Ward Councillor are eligible.
- In relation to functions external to Nillumbik, only the Mayor and the Councillor appointed as delegate to the host organisation are eligible.

In both local and external function situations, Council will reimburse reasonable costs associated with the formal duty of representing Council for the Mayor and Councillors and their respective partners.

Formal training

Councillors who wish to enrol in formal accredited training courses, and obtain Council reimbursement for course costs, must seek prior approval from the Chief Executive Officer. Approval will be subject to consideration of the relevance of the training course to the duties of the Councillor, and the cost of the course relative to the available budget.

Councillors are encouraged to complete the Australian Institute of Company Directors (AICD) course. Councillors do not require Council approval for enrolment within this course. Enrolment in AICD will be coordinated by the CEO in consultation with the Mayor to stage enrolments over the Council term to assist in managing the budget.

Budget allocations for conferences, seminars, functions, events and training

The budget will provide an annual allocation for Councillors' participation in conferences, seminars, functions, events and training. This will be based on an amount equal to a fixed percentage of the Mayoral and Councillor allowances set for each mayoral year (as determined by the State Government each year).

Each Councillor (other than the Mayor) will be allocated an amount equal to 20 per cent of the Councillor allowance. The Mayor will be allocated an amount equal to 10 per cent of the Mayoral allowance. Allocations will be based on the Mayoral year (i.e. November to October).

Any Councillor wishing to spend more than their allocation will require approval via a Council resolution.

AICD course fees will be additional to the annual professional development allocation for Councillors.

Councillors' annual membership of the AICD or other relevant organisations will be paid by Council and will count towards that Councillor's annual allocation.

Legal advice

Council will be responsible for obtaining and meeting the costs of any legal advice needed by the organisation as a whole.

Councillors will be responsible for the costs of any legal advice that they seek as individual Councillors, unless Council resolves otherwise.

Councillors may be entitled to claim their individual legal expenses against the Councillors' liability insurance policy held by Council however this will depend upon the circumstances.

Other expenditure

Any expenditure not specified above for which a Councillor seeks reimbursement or payment by Council shall be the responsibility of the Councillor, except if Council resolves otherwise. Such requests must be submitted in writing to the Chief Executive Officer who will then arrange for the matter to be reported to Council.

Reimbursement Procedure

Claims should be submitted on a quarterly basis to ensure timely reimbursement (by the end of September, December, March and June in each financial year).

Councillors should submit any claims for reimbursement within six months of incurring the expenses.

At the end of a Councillor's period of service, any outstanding expense claims must be lodged within one week of the election date.

Reimbursement of expenses will be made upon presentation of suitable documentation to substantiate the expenditure. Wherever possible, Councillors are to provide receipts for expenses incurred. Expenses will not be paid in advance unless authorised by the Chief Executive Officer.

Details of expenses and receipts should be listed on the appropriate Councillors Expense Claim form for reimbursement. Such expense claims are to be forwarded to the Manager Finance.

These forms are attached to this policy:

- Travel Expenses claim form
- Carer Expenses claim form
- Councillor General Expenses claim form.

Reporting

The Finance Unit will maintain a register of all reimbursements that have been paid.

Resources and equipment

Office and administration support

Council will provide an office for the Mayor at the Civic Centre for the purpose of conducting Mayoral duties.

Office facilities will also be available in the Councillors' Lounge for all Councillors to access computer and printing equipment, and for reading and meeting preparation.

The Executive Services unit will provide administration support for the Mayor and Councillors in terms of assistance with correspondence, faxes, scheduling of meetings and other Council-related tasks (see Councillor Mail Protocol).

Stationery

Council purchases stationery and office equipment through group purchasing and tendering arrangements which ensure that Council receives competitive pricing. Resources required by Councillors to undertake their duties will be supplied according to these arrangements.

Council will provide all Councillors with standard stationery supplies including paper, pens, diaries, writing pads, data memory sticks, envelopes, etc.

Individualised Councillor letter-head paper and business cards will be provided by Council.

Requests for stationery should be made to the Executive Assistant in Executive Services.

Councillors may occasionally need additional stationery at short notice. If this is purchased by the Councillor, then the cost will be reimbursed provided that a receipt is provided, and that the cost, amount and type of stationery purchased is consistent with normal Council practice.

Apparel

The Council shall, upon request, provide Councillors with any protective clothing (e.g. safety vests) required to assist in carrying out the duties of office. This clothing is to be returned promptly upon the completion of the activity.

Security passes

Councillors will be provided with security passes that enable access to the Council Chamber, meeting rooms and Councillors lounge at the Civic Centre. Councillors are responsible for the safe custody of these cards.

Council vehicle use

The Mayor will be provided with a Council car (Mayoral car) for use during their term of office as Mayor. The car will be a passenger vehicle that is included on the same list of vehicles approved for use by Council staff. The Mayor will be entitled to use this car for all Council business, and reasonable private use. Council will maintain the car and meet all operating costs. A newly elected Mayor will use the existing Mayoral car. When the Mayoral car is due to be replaced in accordance with Council's fleet vehicle policy (i.e. three years or 100,000 kms.) then the Mayor will be consulted regarding the choice of replacement vehicle.

Other Councillors will not be provided with access to a Council vehicle. Councillors can claim reimbursement for their own transport costs where this relates to Council business.

Computer and Communication equipment

Each Councillor will be provided with a standard suite of computer and communications equipment and services to help them to perform their role as a Councillor.

Councillors are required to sign a statement confirming that they have been supplied with the equipment, and acknowledging their understanding of this policy in regard to the use of computer and communications equipment and services.

All use of this equipment is to be in accordance with the Nillumbik Governance Code (incorporating the Councillors' Code of Conduct), and the Acceptable Use Guidelines for Computer and Communications Equipment (as included in this policy).

Standard equipment

Council will meet the purchase, rental, installation, maintenance and consumable costs for standard hardware, and Council Information Technology staff will provide technical support. This suite of equipment will include:

- a mobile phone with email access (iPhone)
- a Bluetooth wireless facility for the mobile phone in the Councillor's private car (if not already installed)
- a tablet/ laptop device
- a MFD (a multi-functional device, an integrated printer/scanner/copier) is available on request.

In addition to the standard suite of equipment, the following will be available for individual Councillors upon request: a separate monitor, docking unit, wireless keyboard and wireless mouse.

Software provided with the tablet/ laptop device will include Microsoft Operating System, Microsoft Office applications, Internet Explorer, and anti-virus and printing software. Applications for the computer will be installed by Council where these relate to Council business.

Each Councillor will be provided with an individual email address (name@nillumbik.vic.gov.au) for use for Council business.

Should a MFD be requested, one set of toner cartridges will be provided per annum per Councillor. This will produce 1,500 pages a year. Any large quantities of printing should be arranged via Executive Services, as these can be done more efficiently using large printer machines at the Civic Centre.

Standard services

Each Councillor will be provided with standard computer and communications services, for which Council Information Technology staff will provide technical support. This will include:

- a broadband connection (for the tablet/ laptop device and mobile phone)
- a mobile phone service.

Costs

For reasons of convenience, Councillors are entitled to use their Council mobile phone for limited personal usage (up to \$20 per month). Council will supply each Councillor with a copy of the monthly invoice for the mobile phone. It is each Councillor's responsibility to check this invoice and confirm whether any personal usage exceeds \$20 for the month. If so, then the Councillor is to reimburse Council with a cheque for the excess amount payable to Nillumbik Shire Council within one month of receiving the invoice.

Download limits and data allowances for broadband and mobile connections will be per current contractual arrangements with Council's telecommunications provider.

Excess usage will attract additional costs to Council. The allowable limits are considered to be ample for the purposes of Council business, and therefore any costs for excess usage will be charged to the Councillor.

Non-standard equipment and services

If a Councillor prefers to purchase or use their own equipment then this will be at their expense. Costs will not be reimbursed by Council and the Councillor will be solely responsible for any technical or software support required.

Use when overseas

If Councillors are travelling overseas and need to be able to be contacted via their Council mobile phone during this time, then special arrangements need to be made with the IT unit at least two weeks prior to their departure. This is due to the fact that data services for mobile phones can be very expensive for overseas usage, and these services need to be temporarily closed, or a suitable replacement phone allocated on a temporary basis.

Lost or damaged equipment

If any computer or communications equipment is lost or damaged while allocated to a Councillor, then this should be reported to the Executive Assistant who will arrange for Council's IT staff to replace or repair the equipment. It is important that Councillors take care of the equipment to avoid loss or damage. The costs of replacement or repair will be included in the register of Councillor's expense claims. This will not apply if the replacement or repair is caused by a technical fault with the equipment.

End of Councillor's service

At the end of a Council term all Councillors who resign or are not re-elected must return all Council computer and communications equipment within one week of the resignation or election date. Council's IT staff can assist with collection of equipment if necessary.

Former Councillors will have the opportunity to purchase Council-owned hardware at the end of their term of office, subject to the equipment not being required for future use by Council, and fair market value being paid.

The valuation will be determined by the Manager Information and Technology, based on the average from a survey of three random prices from on-line auction sites or published catalogues.

All services that are registered with service providers under the name of Nillumbik Shire Council will be disconnected one week after the election or resignation date. Software provided by Council will be deleted from computers as this is subject to user licence conditions.

Former Councillors are entitled to retain electronic and paper records from their period of service. However it must be noted that any confidential information must continue to be kept confidential pursuant to the *Local Government Act 1989*.

The individual email address provided to each former Councillor will be cancelled within one week of the election or resignation date.

A former Councillor who wishes to keep the Council mobile telephone number for their future personal use can have this number transferred to a personal mobile phone account. As this process involves considerable staff time, an administration fee of \$80 will be charged.

Receipts will be issued to former Councillors for any payments made for equipment purchases and mobile phone number transfers, and equipment will then be removed from Council's asset register.