

Council Policy



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| Policy Title: | Related Party Disclosure |
| Policy Number: | 1.10 |
| Focus Area: | CS2: Great Support |
| Responsibility: | Finance and Procurement |
| Meeting Adopted: | 20 October 2020 [201020/14] |

OBJECTIVE

The Related Party Disclosure Policy has been developed to provide guidance in complying with the *Local Government Act 1993*, section 413(3), which requires Council to prepare its General Purpose Financial Statements in compliance with Australian Accounting Standards. The relevant standard for the purpose of this policy is *AASB 124 Related Party Disclosures, July 2015* (AASB 124).

POLICY

The Australian Accounting Standards Board (AASB) determined in AASB 124 that from 1 July 2016, related party disclosures will apply to government entities, including local government.

AASB 124 requires Council to report on the material transactions between, on one side, Council's Key Management Personnel (KMP) and their close family members, and the organisations (entities) that these people control, and on the other side, Council and Council subsidiaries.

The KMP are defined as those people who have authority and responsibility for planning, directing and controlling the activities of the Council. There are two groups at Richmond Valley Council that fall into this definition:

- Councillors; and
- Executive Management Team (General Manager, Director of Infrastructure and Environment and the Chief Financial Officer).

Close members of the family of a person are those family members who may be expected to influence, or be influenced by, that person in their dealings with the entity and include:

- that person's children and spouse or domestic partner;
- children of that person's spouse or domestic partner; and
- dependants of that person or that person's spouse or domestic partner.

A related party transaction is the transfer of resources, services or obligations between Council and a related party regardless whether a price is charged. AASB 124 requires Council to report on 'material' transactions between Council and the related party. This includes all employee benefits and remuneration.

The decision on what is material rests with the Chief Financial Officer (CFO). In deciding whether a transaction is material, the CFO will consider what requirements are set out in AASB 124 and the following:

- whether the value of the transaction is over \$50,000;
- whether the transaction was conducted on non-market terms;
- whether the transaction is outside normal day to day operations;
- whether the transaction provides a financial benefit which is not available to the general public; and
- whether it is in the public interest to know about the transaction.

Information in relation to related party disclosures will be subject to audit by Council's external auditors.

Related Party Disclosures

KMP must provide a related party disclosure in the form affixed to this policy, notifying any existing or potential related party transactions between Council and either themselves, their close family members or entities controlled or jointly controlled by them or any of their close family members, to Council's Responsible Accounting Officer by no later than the following periods during a financial year (specified notification period):

- a) 30 days after a KMP commences their term or employment with Council;
- b) 30 November each year; and
- c) 30 June each year.

At least 30 days before a specified notification period, the Responsible Accounting Officer will provide KMP with a Related Party Disclosure Form and Privacy Collection Notice.

Register of Related Party Transactions

The Responsible Accounting Officer is responsible for maintaining and keeping up to date a register of related party transactions that captures and records the information provided by KMP for each existing or potential related party transaction during a financial year.

The contents of the register of related party transactions must detail for each related party transaction:

- a) the description of the related party transaction;
- b) the name of the related party;
- c) the nature of the related party's relationship with Council;
- d) whether the notified related party transaction is existing or potential; and
- e) a description of the transactional documents the subject of the related party transaction.

The Responsible Accounting Officer is responsible for ensuring that the information required is disclosed in Council's Financial Statements to the extent, and in the manner stipulated by AASB 124.

Status under the GIPA Act

Related party disclosures provided by a KMP, together with the register within which they are kept, are not open to or available for inspection by the public.

An application under the *Government Information (Public Access) Act 2009* [GIPA Act] seeking access to either:

- a document or information (including personal information) provided by a KMP in a related party disclosure; or
- personal information contained with a register of related party transaction

will be refused on the grounds that the document or information comprises information for which there is an overriding public interest against disclosure pursuant to section 14 GIPA Act.

REFERENCES

Accounting Standard AASB 124 www.aasb.gov.au
Government Information (Public Access) Act 2009
Local Government Act 1993

REVIEW

This policy will be reviewed by Council at the time of any relevant legislative changes, compliance requirements or at least every four years.

| Version Number | Date | Reason / Comments |
|-----------------------|-------------|-----------------------------------|
| 1 | 27/06/2017 | New policy [Resolution 270617/14] |
| 2 | 20/10/2020 | Review and update to new format |



Related Party Disclosure by Key Management Personnel

[Note: This document is confidential and is not GIPA Act accessible. See Council's Related Party Disclosure Policy]

Name of Key Management Personnel: _____

Position of Key Management Personnel: _____

Please read the Privacy Collection Notice provided with this notification, which explains what is a related party transaction and the purposes for which Council is collecting and will use and disclose, the related party information provided by you in this notification.

Please complete the table below for each related party transaction with Council that you, or a close member of your family, or an entity related to you or a close member of your family:

- (a) has previously entered into and which will continue in the _____ financial year; or
- (b) has entered into, or is reasonably likely to enter into, in the _____ financial year.

| Description of related party transaction | Is transaction existing / potential? | Related party's name (individual's or entity's name) | Related party's relationship / reasons why related | Description of transaction documents or changes to the related party relationship |
|------------------------------------------|--------------------------------------|------------------------------------------------------|----------------------------------------------------|-----------------------------------------------------------------------------------|
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| | | | | |

Notification

I _____, _____ notify
 (Full name) (Position)

Dated _____

that, to the best of my knowledge, information and belief, as at the date of this notification, the above list includes all existing and potential related party transactions with Council involving myself, close members of my family, or entities controlled or jointly controlled by me or close members of my family, relevant to the _____ financial year.

I make this notification after reading the Privacy Collection Notice provided by Richmond Valley Council, which details the meaning of the words "related party", "related party transaction", "close members of the family of a person" and, in relation to an entity, "control" or "joint control", and the purposes for which this information will be used and disclosed.

I permit the Responsible Accounting Officer and the other permitted recipients specified in Council's Related Party Disclosure Policy to access the register of interests of me and persons related to me and to use the information for the purposes specified in that policy.

Signed: _____

Date: _____

PRIVACY COLLECTION NOTICE RELATED PARTY DISCLOSURES BY KEY MANAGEMENT PERSONNEL (KMP)

Purpose of collection, use and disclosure

Effective for annual periods beginning on or after 1 July 2016, Council must disclose certain related party relationships and related party transactions together with information associated with those transactions in its general purpose financial statements, in order to comply with *Australian Accounting Standard AASB 124 Related Party Disclosures July 2015 (AASB 124)*.

Related parties include Council's KMP, their close family members, and any entities that they or any of their close family members control or jointly control. A related party transaction is any transaction (whether a transfer of resources, services or obligations) between the reporting local government and any of the related parties, whether monetary or not.

If there is a related party transaction with Council applicable to a reporting financial year, AASB 124 requires Council to disclose in the financial statements the nature of the related party relationship and information about the transaction, including outstanding balances and commitments associated with the transaction. Disclosure in the financial statements may be in the aggregate and/or made separately, depending on the materiality of the transaction. For more information about Council's disclosure requirements under AASB 124, please refer to Council's Related Party Disclosure Policy.

Notifications by KMP

In order to comply with AASB 124, Council has adopted a policy that requires all members of its KMP to periodically provide notifications to Council's Responsible Accounting Officer of any existing or potential related party transactions between Council and any of their related parties during a financial year, and any changes to previously notified related party relationships and transactions relevant to the subject financial year.

To this end, each KMP must provide a Related Party Disclosure, in the approved form, notifying any existing or potential related party transactions between Council and any related parties of the KMP, to Council's Responsible Accounting Officer by no later than the following periods during a financial year:

- 30 days after the commencement of the application of this policy;
- 30 days after a KMP commences their term or employment with Council;
- 30 November (each year); and
- 30 June (each year).

Note, these related party disclosure requirements are in addition to the notifications KMPs are required to make to comply with:

- for councillors, the Code of Conduct; and
- for other KMPs, the Code of Conduct.

This includes disclosures relating to Conflicts of Interest (Pecuniary and Non-Pecuniary) and Gifts and Benefits.

Council's Auditors may audit related party information as part of the annual external audit.

For privacy and right to information status of this information, please refer to Council's Related Party Disclosure Policy.

Who are KMPs?

KMPs are persons having authority and responsibility for planning, directing and controlling the activities of Council, directly or indirectly.

For Council, KMPs include the:

- Councillors
- General Manager
- Senior Managers
- Chief Financial Officer

Who are close family members of a KMP?

Close family members, or close members of the family, of a KMP are family members who may be expected to influence, or be influenced by, that person in their dealings with Council and include:

- (a) that person’s children and spouse or domestic partner;
- (b) children of that person’s spouse or domestic partner; and
- (c) dependants of that person or that person’s spouse or domestic partner.

Under AASB 124, close family members could include extended members of a family (such as, without limitation, a parent, grandparent, siblings, etc) if they could be expected to influence, or be influenced by, the KMP in their dealings with Council.

The following table may assist you in identifying your close family members:

| Definitely a close family member | May be a close family member |
|--------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------|
| Your spouse/domestic partner | Your brothers and sisters, if they could be expected to influence or be influenced by you in their dealings with council |
| Your children | Your aunts, uncles and cousins, if they could be expected to influence or be influenced by you in their dealings with council |
| Your dependants | Your parents and grandparents, if they could be expected to influence or be influenced by you in their dealings with council |
| Children of your spouse/domestic partner | Your nieces and nephews, if they could be expected to influence or be influenced by you in their dealings with council |
| Dependants of your spouse/domestic partner | Any other member of your family if they could be expected to influence or be influenced by you in their dealings with council |

What is an entity that I, or my close family member, control or jointly control?

Entities include companies, trusts, incorporated and unincorporated associations such as clubs and charities, joint ventures and partnerships.

You control an entity if you have

- (a) power over the entity;
- (b) exposure, or rights, to variable returns from involvement with the entity; and
- (c) the ability to use your power over the entity to affect the amount of your returns.

Example of control

Fred is the Mayor of Sunny Shire Council and owns 100% of the ordinary shares in Sunny Development Company Pty Ltd (the company). The ordinary shares are the only shares in the company that have voting rights.

Fred controls the company because he has the power to affect the company's decisions and the return that he will get from the company.

Fred will need to include the company on his related party declaration.

Joint Control

To jointly control an entity there must be contractually agreed sharing of control of the entity, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control.

Example of joint control

Fred is the Mayor of Sunny Shire Council and owns 50% of the ordinary shares in Sunny Development Company Pty Ltd (the company). Fred's brother Stan owns the other 50% of ordinary shares. Fred and Stan are the only Directors of the company and have equal voting rights on the board.

Fred and Stan have joint control of the company because any decisions require the unanimous consent of them both.

Fred will need to include the company on his related party declaration.

In some cases, it will be obvious that you or a family member control of have joint control over an entity. In other cases, it will be less clear.

If you are unsure whether you, or a close family member, has control or joint control of an entity then you should contact Council's Responsible Accounting Officer for a confidential discussion.

[End of Privacy Collection Notice]