

Bayside Council

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Related Party Disclosures Policy

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Related Party Disclosures Policy
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1 Introduction

1.1 Objective

All councils in New South Wales must produce annual financial statements that comply with Australian Accounting Standards.

From 1 July 2016, the Australian Accounting Standards Board has determined that AASB 124 Related Party Disclosures will apply to government entities, including local governments¹.

The objective of the accounting standard is to ensure that annual financial statements contain disclosures necessary for stakeholders to draw attention to the possibility that the financial position and financial performance may have been affected by transactions and outstanding balances with related parties.

Council recognises that Related Party transactions can present potential or actual conflict of interests and may raise questions about whether they are in the best interests of the organisation.

It is therefore important that 'key management personnel' act honestly and with reasonable care and diligence whilst avoiding improper use of their position and information. It is equally important that key management personnel of the Council are subject to a high level of accountability, including appropriate disclosure of their transactions with the Council in the annual financial statements.

1.2 Background

Related Party relationships are a normal feature of commerce and business. For example, entities frequently carry on parts of their activities through subsidiaries, joint ventures and associates. In those circumstances, there is the possibility of the entity having the ability to affect the financial and operating policies of Council through the presence of control, joint control or significant influence.

A related Party relationship could influence the normal business operations of Council. In some instances, Council may enter into transactions with a related party that unrelated parties would not. For example, goods are supplied to Council on terms that might not be offered to other customers. Also, transactions between related parties may not be made on the same terms as between unrelated parties.

The normal business operations of Council may be affected by a related party relationship even if related party Transactions do not occur. The mere existence of the relationship may be sufficient to affect the transactions of the Council with other parties. Alternatively, one party may refrain from trading with Council because of the significant influence of another—for example, a local supplier may be instructed by its parent not to engage in supplying goods to Council.

For these reasons, knowledge of Council's transactions and outstanding balances (including commitments and relationships with related parties) may affect assessments of Council's operations by users of financial statements, including assessments of the risks and opportunities facing the Council. AASB 124 provides that Council must disclose all material and significant related party transactions and outstanding balances, including commitments, in its annual

¹ OLG Circular 17-02 dated 7 February 2017 – 2016-17 draft Code of Accounting Practice and Financial Reporting

financial statements. Generally, disclosure will only be made where a transaction has occurred between Council and a related party of Council. In addition, the transaction must be material in nature or size when considered individually or collectively.

To enable Council to comply with AASB 124, Council's key management personnel are required to declare full details of any related party transactions that are not otherwise defined in this policy as a non-material ordinary citizen transaction. Such information will be retained and reported, where necessary, in Council's annual financial statements.

1.3 Definitions

The definitions of certain terms are:

AASB 124 – the Australian Accounting Standards Board, Related Party Disclosures Standard.

Arm's length transaction – a transaction between two related parties that is conducted as if they were unrelated, so that there is no question of conflict of interest. That is, the transaction is consistent with what would result from:

- neither party bearing the other any special duty or obligation;
- the parties being unrelated and uninfluenced by the other; and
- each party having acted in its own interest.

Close members of the family of a person – in relation to a key management person, those family members who may be expected to influence, or be influenced by, that person in their dealings with the Council, including:

- 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.

For the purpose of AASB124, close family members could include extended members of a family (such as, without limitation, parents, siblings, grandparents, uncles / aunts or cousins) if they could be expected to influence, or be influenced by, the key management person in their dealings with Council.

Control – the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities. Control of an entity is present when there is:

- power over the entity;
- exposure or rights to variable returns from involvement with the entity; and
- the ability to use power over the entity to affect the amount of returns received.

Entity – can include a body corporate, a partnership or a trust, incorporated association, or unincorporated group or body.

Entities related to Council – are entities controlled by Council, jointly controlled by Council or over which Council has significant influence are related parties. If an entity holds, directly or indirectly (for example, through subsidiaries), 20% or more of the voting power, it is presumed that the entity has significant influence, unless it can be clearly demonstrated that this is not the case.

The existence of significant influence by Council is usually evidenced in one or more of the following ways:

- representation on the board of directors or equivalent governing body of the investee;
- participation in policy-making processes, including participation in decisions about dividends or other distributions;
- material transactions between the entity and its investee;
- interchange of managerial personnel; or
- provision of essential technical information.

Joint control – the contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of the parties sharing control.

Key management personnel – those persons having authority and responsibility for planning, directing and controlling the activities of Council, either directly or indirectly. Specifically, key management personnel of Council are:

- Councillors (including the Mayor and Deputy Mayor);
- General Manager;
- Directors;
- Public Officer;
- Manager Procurement; and
- Manager Finance (Responsible Accounting Officer).

And includes any staff acting in the above positions from time to time.

Key management personnel compensation – all forms of consideration paid, payable, or provided in exchange for services provided, and including:

- short-term employee benefits, such as wages, salaries and social security contributions, paid annual leave and paid sick leave, profit sharing and bonuses (if payable within twelve months of the end of the period) and non-monetary benefits (such as medical care, housing, cars and free and subsidised goods or services) for current employees;
- post-employment benefits such as pensions, other retirement benefits, postemployment life insurance and post-employment medical care;
- other long-term employee benefits, including long-service leave or sabbatical leave, jubilee or other long-service benefits, long-term disability benefits and, if they are not payable wholly within twelve months after the end of the period, profit sharing, bonuses and deferred compensation; and
- termination benefits.

Material (materiality) – means the assessment of whether omitting or misstating the transaction, either individually or in aggregate with other transactions, could influence decisions that users make on the basis of Council's financial statements. Materiality depends on the size and nature of the omission or misstatement judged in the surrounding circumstances. The size or nature of the item, or a combination of both, could be the determining factor.

Ordinary citizen transaction – a transaction that an ordinary citizen would undertake with Council, and is undertaken on an arm's length basis and in the ordinary course of carrying out Council's functions and activities. For the purpose of this policy, any ordinary citizen transaction where the aggregate amount involved will be expected to exceed \$10,000 in any financial year is considered to be material and will be disclosed in the annual financial statements.

With regard to key management personnel and their close family members, examples of ordinary citizen transactions assessed as unlikely to be material in nature (unless the aggregate amount exceeds \$10,000 in a financial year) include:

- paying rates and utility charges;
- parking fees at rates available to the general public;
- paying fines on normal terms and conditions;
- pet registration fees; and
- using Council's public facilities after paying the corresponding fees or where those facilities are available to members of the public for free.

Transactions which are not to be considered ordinary citizen transactions include:

- infrastructure charges;
- lease agreements;
- awarding of contracts; and
- the purchase of goods, regardless of conditions.

Related party – For the purpose of this policy, related parties of Council are:

- entities related to Council;
- key management personnel of Council;
- close family members of key management personnel; and
- entities or persons that are controlled or jointly controlled by key management personnel, or their close family members.

Also, a person or entity is a related party of Council if any of the following apply:

- they are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others);
- they are an associate or belong to a joint venture of which Council is part of;
- they and Council are joint ventures of the same third party;
- they are part of a joint venture of a third party and council is an associate of the third party;
- they are a post-employment benefit plan for the benefit of employees of either Council or an entity related to Council;
- they are controlled or jointly controlled by close members of the family of a person;
- they are identified as a close member of the family of a person with significant influence over Council or a close member of the family of a person who is a key management person of Council; or
- they or any member of a group of which they are a part, provide key management personnel services to Council.

Related party transaction – a transfer of resources, services or obligations between a Council and a related party, regardless of whether a price is charged. For the purpose of AASB 124, transactions with related parties of Council which are non-material ordinary citizen transactions will not be captured or reported on.

1.4 Purpose

The purpose of this policy is to define the parameters for related party transactions and the level of disclosure and reporting required for Council to achieve compliance with the Australian Accounting Standard AASB 124 - Related Party Disclosures.

1.5 Policy statement

Council is committed to responsible corporate governance, including compliance with laws and regulations governing related party transactions.

1.6 Scope of policy

This policy applies to key management personnel, related parties of Council and related party transactions with Council, as defined within this policy.

Nothing in this policy removes the requirement for Councillors to declare any pecuniary interest they may have at the commencement of a Council (Committee) meeting as required under the Local Government Act or Council's Conflict of Interests Policy.

Councillors and Designated Officers are also required to submit their annual returns as required by section 449 of the Act.

2 Disclosure requirements

AASB 124 provides that Council must disclose all material and significant related party transactions in its annual financial statements by aggregate or general description and include the following detail:

- the nature of the related party relationship; and
- relevant information about the transactions including:
 - the amount of the transaction;
 - the amount of outstanding balances, including commitments, and
 - their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in the settlement; and
 - details of any guarantee given or received;
 - provision for doubtful debts related to the amount of outstanding balances; and
 - the expense recognised during the period in respect of bad or doubtful debts due from related parties.

When assessing whether such transactions are significant, the closeness of the related party relationship shall be considered as will other factors relevant in establishing the level of significance of the transaction such as whether it is:

- significant in terms of size;
- carried out on non-market terms;
- outside normal day-to-day Council operations;
- disclosed to regulatory or supervisory authorities;
- reported to senior management;
- subject to Council approval.

Regard must also be given for transactions that are collectively, but not individually significant.

Disclosures that related party transactions were made on terms equivalent to those that prevail in arm's length transactions can only be made if such terms can be substantiated.

Prior to preparing the disclosure in the council's annual financial statements all related party transactions should be assessed for materiality. Transactions that are not considered material will not need to be disclosed.

3 Key management personnel

3.1 Related party transactions notification

All key management personnel are responsible for self-assessing their own related parties on at least an annual basis. Key management personnel are responsible for informing the General Manager when any changes to those related parties occur outside of reporting times. The self-assessment will be recorded on the prescribed Related Party Declaration (RPD).

The completed RPD must be provided to the General Manager by no later than the following periods during a financial year (the specified notification period):

- 30 days after the commencement of the application of this policy;
- 30 days after a key management person commences their term of employment with Council;
- 30 days after there is a change to the close family members and associated entities of key management personnel;
- 30 June.

If it is brought to Council's attention that any related party of a key management person has not been declared, an immediate review will be triggered, and the effected key management person will be required to review their existing declaration.

Key management personnel must also complete a Related Party Transactions Notification (RPT Notification) using the prescribed form, notifying any 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. This notification requirement does not apply to ordinary citizen transactions which are not material, or to key management personnel compensation which will be captured separately by Finance staff.

The completed RPT Notification must be provided to the General Manager by no later than 30 June, for related party transactions during that financial year.

At least 30 days before a specified notification period, the Manager Governance & Risk will provide key management personnel with a RPD Form and/or RPT Notification, as applicable.

3.2 Identification of related parties

A related party is a person or entity that is related to the entity that is preparing its financial statements. (refer definitions for full description)

3.3 Related Party Transactions Disclosures

All transactions between Council and related parties, whether monetary or not, are required to be identified. Such transactions may include:

- Purchase or sale of goods and materials (finished or unfinished);
- Purchase or sale of property and other assets;
- Rendering or receiving services or goods;
- Leases;
- Grants and subsidy payments made to associated entities of Council (including non-monetary transactions);
- Fees and charges charged to related parties;
- Infrastructure contributions and application fees from related parties;
- transfers of research and development;
- transfers under licence agreements;
- transfers under finance arrangements (including loans and equity contributions in cash or in kind);
- provision of guarantees or collateral;
- commitments to do something if a particular event occurs or does not occur in the future, including executory contracts (recognised and unrecognised);
- Quotations and/or tenders;
- Employee expenses for close family members of key management personnel (excluding normal salary or wages);
- Commitments; and
- Settlements of liabilities on behalf of Council or by Council on behalf of the related party.

Related party transactions excluded from disclosure requirements on the basis of Ordinary Citizen Transactions are:

- Any valid discounts and fee waivers that are available to the party as an ordinary citizen and is available to any ordinary citizen in the same circumstance; and
- Any service or benefit occurring within normal employee (including compensation/redundancy payments), customer or supplier relationships and at arm's length; and
- are not material or significant.

A further exclusion are expenses incurred and facilities provided to the mayor and councillors during the financial year under Council's *Expenses and Facilities Policy*, the particulars of which are contained in Council's Annual Report pursuant to the *Local Government (General) Regulation 2005*, clause 217.

Council must disclose all material and significant related party transactions in its annual financial statements and include the following detail:

- i The nature of the related party relationship; and
- ii Relevant information about the transactions including:
 - a the amount of the transaction;
 - b the amount of outstanding balances, including commitments;
 - c provision for doubtful debts related to the amount of outstanding balances; and

- d the expense recognised during the period in respect of bad or doubtful debts due from related parties.

Materiality thresholds are reviewed annually as part of the audit process and reported related party disclosures will be in compliance with the framework of the Australian Accounting Standard AASB124 and other relevant standards, as required. At the present time (March 2017) any transaction where the aggregate amounts exceeds \$10,000 in any financial year are reportable.

The following matters must be considered in determining the materiality and significance of any related party transactions:

- i Significance of transaction in terms of size;
- ii Whether the transaction was carried out on non-market terms;
- iii Whether the transaction is outside normal day-to-day business operations, such as the purchase and sale of assets;
- iv Whether the transaction is disclosed to regulatory or supervisory authorities;
- v Whether the transaction has been reported to senior management; and
- vi Whether the transaction was subject to Council approval.

3.4 Privacy

Information provided by key management personnel and other related parties shall be held by Council for the purpose of compliance with Council's legal obligations under AASB 124 and shall be otherwise disclosed only where required by the *Government Information (Public Access) Act 2009* and *Privacy and Personal Information Protection Act 1998*.

Affected parties are entitled to access their personal information held by Council. They can also request that Council amends their personal information to ensure that it is accurate and, with regard to the purpose for which the information was collected, is relevant, up-to-date, complete and not misleading.

3.5 Review of Related Party Disclosures Policy

A review of key management personnel and their related parties will be completed on adoption of this policy and then at intervals not exceeding twelve months from date of last review or 12 months from a general election. (refer 6.1 for other review periods)

3.6 Training and Communication

Council is committed to informing key management personnel of the policy and procedures.

4 Register of Related Parties and Related Party Transactions

Council will maintain a register of key management personnel related party declarations.

Council will also maintain a register of related party transactions that captures and records the specified information 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:

- the description of the related party transaction;
- the name of the related party;
- the nature of the related party's relationship with Council;
- whether the notified related party transaction is existing or potential;
- a description of the transactional documents the subject of the related party transaction; and
- the information specified in this policy under the heading *Disclosure Requirements*.

5 Policy implementation

5.1 Policy responsibilities

Responsibilities for implementing this policy are shared between Councillors, Executive and relevant staff as follows:

Key management personnel

- Comply with this policy by identifying and self-reporting details of related parties and related party transactions to the Manager Finance.

Manager Governance & Risk

- Provide advice and assistance to key management personnel in relation to this policy.
- Maintain a register for each of related party declarations and related party transactions.

Manager Finance

- Disclose all material and significant related party transactions in Council's annual financial statements as stipulated by AASB 124.

5.2 Procedures

Procedures that support this policy, may be approved by the General Manager from time to time and address such issues as:

- The method for identifying the close family members and associated entities of key management personnel will be by key management personnel self-assessment. Key management personnel have an ongoing responsibility to advise Council immediately of any related party transactions.
- The preferred method of reporting is for key management personnel to provide details of related parties and related party transactions to the Manager Governance & Risk.
- Information provided will be reviewed in accordance with the Council's operational requirements and held on a centralised register.

Should a key management personnel have any uncertainty as to whether a transaction may constitute a related party transaction they should contact the Manager Governance & Risk or Manager Finance for clarification.

5.3 Breaches

Describes the consequences of a breach of the policy. Consequences may include business and organisational reputation implications as well as punitive provisions.

6 Document control

6.1 Review

The General Manager may approve non-significant and/or minor editorial amendments that do not change the policy substance. The General Manager may also approve amendments to the relevant forms to reflect any legislative requirements, design and formatting issues.

This policy will also be reviewed when any of the following occur:

- a change of Councillors, Chief Executive Officer (General Manager) or other key management personnel;
- corporate restructure;
- the related legislation/documents are amended or replaced; and
- other circumstances as determined from time to time by a resolution of Council.

6.2 Related documents

- Australian Accounting Standard AASB124 related party disclosures (AASB124)
- Australian Accounting Standard AASB10 consolidated financial statements (AASB10)
- Local Government Act 1993
- Local Government (General) Regulation 2005
- Council Code of Conduct
- Council Conflict of Interests Policy
- Council Expenses & Facilities Policy
- Privacy and Personal Information Protection Act 1998 [PPIPA]
- Government Information (Public Access) Act 2009 [GIPAA].
- Privacy Management Plan

6.3 Version history

Version	Release Date	Author	Reason for Change
1.0	14/06/2017	Warren Park	New document

Appendix 1 – Attachments

- Attachment A.1 - KMP – Certificate of Declaration - 1 July ____ to 30 June ____
- Attachment A.2 - KMP – Certificate of Assessment - 1 July ____ to 30 June ____
- Attachment A.3 - Transaction/s Certificate - 1 July ____ to 30 June ____
- Attachment A.4 - Close Family Members - Consent Form
- Attachment A.5 - Related Party Disclosures - Information Sheet for Key Management Personnel
- Attachment A.6 - Decision Tree for Ordinary Citizen Transactions

Attachment A.1

KMP – Certificate of Declaration – 1 July ____ to 30 June ____

1 Close Family Members

Please provide details of all your close family members. For names of minors use a hierarchical numbering system ie minor (1), minor (2) etc.

Please refer to Attachment A.5 (clause 1.3) for definition of ‘close family member’.

Insert additional rows where applicable.

First Name	Last Name	Relationship to You

2 Entities controlled/jointly controlled by yourself and/or your close family members

Please provide details of all entities controlled /jointly controlled by either yourself or your close family members. If you do not have any please submit a ‘nil’ return.

Please refer to Attachment A.5 (clause 1.4) for definition of ‘entity controlled or jointly controlled’.

Insert additional rows where applicable.

Entity Name	ABN	ACN (if applicable)	Nature of Interest

I (insert full name), (insert position) declare that the above list includes all my close family members and the entities controlled, or jointly controlled, by myself or my close family members. I make this declaration after reading the Council’s Related Party Disclosures Policy which details the meaning of the words ‘close family members’ and ‘entities controlled, or jointly controlled, by myself or my close family members’.

Sign Name: _____

Date: _____

Attachment A.2

KMP – Certificate of Assessment – 1 July ____ to 30 June ____

Please complete the following table to the best of your knowledge. If you are unsure whether a close family member or a controlled/ jointly controlled entity had transactions with Bayside Council, *it is strongly recommend you include their details for completeness and transparency sake.*

	Question	Question Response		Guidance
		Yes	No	
	During the stated period			
1	Were any of your close family members employed in a senior position?			If you have answered 'yes', please complete Attachment A.3. Please refer to Attachment A.5 for definition of 'close family member' and 'senior position'.
2	Did you/ a close family member/ any entity controlled/jointly controlled by you and/or a close family member have any transaction or arrangement on terms or conditions that were more favourable than those entered into at an arm's length?			If you have answered 'yes', please complete Attachment A.3. Please refer to Attachment A.5 for definition of 'entity controlled or jointly controlled'.
3	Did you/ a close family member/ an entity controlled or jointly controlled by you and/or a close family member receive any grants, subsidies, ex-gratia payments or loans?			If you have answered 'yes', please complete Attachment A.3.
4	Did you/ a close family member/ an entity controlled or jointly controlled by you and/or a close family member have any debts forgiven or partially forgiven?			If you have answered 'yes', please complete Attachment A.3.
5	Did you/ a close family member/ an entity controlled or jointly controlled by you and/or a close family member provide or receive any collateral, guarantee, indemnity or commitment (including executory contract)?			If you have answered 'yes', please complete Attachment A.3. Please refer to Attachment A.5 for definition of 'guarantee' and 'executory contract'.
6	Did you/ a close family member/ an entity controlled or jointly controlled by you and/or a close family member enter into any contractual arrangements to purchase, sell, lease or transfer assets and licenses; or to provide, purchase or transfer goods and services with a total contract value greater than \$100,000 (excl. GST)?			If you have answered 'yes', please complete Attachment A.3.
7	Are there any outstanding balances above \$100,000 (excl. GST) brought forward from a transaction or arrangement entered into prior to 1 July, between you/ a close family member/ any entity controlled/jointly controlled by Bayside Council			If you have answered 'yes', please complete Attachment A.3.

KMP SIGN-OFF AND DECLARATION: I have made inquiries of my close family members and to the best of my knowledge; the information provided in this Certificate is complete and accurate for the period 1 July ____ to 30 June _____. I understand this information is collected for the purpose of preparing note disclosures for inclusion in the financial statements of Bayside Council.

Print Name:

Sign Name:

Position:

Date:

Attachment A.3

Transaction/s Certificate – 1 July ____ to 30 June ____

Please complete the table below for each individual transaction that has, or may have, occurred during the stated period; and outstanding balances brought forward from previous period (i.e. prior to 1 July and still outstanding). If you are unsure of a transaction *we strongly recommend* that you include them in the table for completeness and transparency. Where you are unsure please state that you are unsure. If additional space is required, please insert additional pages.

	Transaction 1	Transaction 2	Transaction 3
Type of transaction <i>Please provide details and nature of the transaction. Example of types of transactions</i> - Employment - Provision of goods (finished or unfinished) or services - Purchase, sale or transfer of property, other assets or licenses - Leasing arrangement - Provision of guarantee or collateral - Settlement of liabilities - Outstanding balance brought forward from prior financial period relating to transactions in a prior financial period	e.g. Provision of cleaning services	e.g. Received personal loan in August 20XX.	e.g. Employment.
Is the transaction/outstanding balance directly between <u>you</u> and Bayside Council? Yes/No	e.g. No	e.g. Yes	e.g. No
If not, please provide details of the related party, their relationship with you, and Bayside Council involved <i>Please provide details of: person's name, entity name and ABN/ACN (if applicable), relationship with person and/or entity.</i>	e.g. • John Smith – spouse, • ABC Ltd – cleaning company owned by my spouse • ABN: 12 345 345 345	e.g. N/A	e.g. My spouse is a General Manager, Operations.
Transaction Amount (relating to the stated period) excl. GST	e.g. \$100,000	e.g. Received \$20,000 loan. Paid \$1,000 of interest repayments.	e.g. General Manager salary with standard employment benefits.
Total Agreed/Contracted Amount (if it extends beyond stated period) excl. GST	e.g. \$500,000 - over 5 years.	e.g. \$20,000 one-off loan – repayable over 5 years.	e.g. Unsure.
Terms and Conditions of the Transaction <i>Please provide details of the significant terms and conditions including whether it is secured, and the nature of the consideration to be provided in settlement.</i>	e.g. • Won through open tender • Standard terms • Unsecured • Settlement by bank transfer	e.g. • Application assessed against loan eligibility criteria (standard terms) • Variable interest rate & unsecured • Settlement by bank transfers • Option to refinance	e.g. Recurring contract with CPI and performance-based adjustments each year.

I (insert full name), (insert position) declare that the above list includes all existing and potential related party transactions with Council involving myself, my close family members and the entities controlled, or jointly controlled, by myself or my close family members for the period 1 July ____ to 30 June ____ which I have not previously notified. I make this declaration after reading Council's Related Party Disclosures Policy which details the meaning of the words 'related party transactions', 'ordinary citizen transactions', 'close family members' and 'entities controlled, or jointly controlled, by myself or my close family members'.

Sign Name: _____

Date: _____

Attachment A.4

Close Family Members - Consent Form

[To be completed by each adult family member whose information is disclosed in certificate of declaration (A1) and or transaction/s certificate (A3). If additional copies of the form are required, please make copies for each close family member].

I authorise[insert KMP's name] to provide personal information about me in respect of transactions between me, or entities controlled/ jointly controlled by me, and Bayside Council.

For the purposes of s26(2) of the *Privacy and Personal Information Protection Act 1998*, I hereby consent to Bayside Council collecting, using and disclosing my personal information for the purposes of meeting its financial reporting obligations.

Full Name (print):

Signature:

Date:

For your information:

If you wish to access the information provided in the certificate of declaration or other forms, or make changes to it, please contact the Manager Governance & Risk at Bayside Council.

A full copy of the *Privacy and Personal Information Protection Act 1998* or the *Government Information (Public Access) Act 2009* can be accessed at the NSW Legislation website: <http://legislation.nsw.gov.au/>

Attachment A.5

Related Party Disclosures - Information Sheet for Key Management Personnel

Introduction

From 1 July 2016 councils must disclose related party relationships, transactions and outstanding balances, including commitments, in the annual financial statements. This information will be audited as part of the annual external audit by the NSW Auditor-General.

In order to meet this requirement Council has adopted the Related Party Disclosures Policy (the policy). This Information Sheet provides additional guidance for the Key Management Personnel of Council, to assist them in complying with the policy.

1 Who and What are Related Parties of Council?

The related parties of a council are:

- 1 Entities related to council
- 2 Key Management Personnel (KMP) of council
- 3 Close family members of KMP; and
- 4 Entities that are controlled or jointly controlled by KMP or their close family members.

Any transactions with these parties, whether monetary or not, will need to be identified and may need to be disclosed. Disclosure will only be made if a transaction has occurred and the disclosure may be in aggregate.

1.1 Entities related to Council

Entities controlled by council, jointly controlled by council or over which council has significant influence are related parties of council. Council will need to identify transactions with these entities and may need to make extra disclosure about them in council's financial statements.

Example 1 (Company that is a related party of council)

Sunny Regional Council (SRC) owns 90% of the shares in Sunny Regional Development Pty Ltd (the company).

SRC has assessed that it has control over the company. The company is therefore a related party of SRC because SRC controls it.

SRC produces consolidated financial statements which include both a parent entity column and consolidated entity column. In these statements all individually significant transactions between SRC and the company will need to be disclosed. For other transactions that are collectively, but not individually, significant SRC will need to disclose a qualitative and quantitative indication of their extent.

SRC must also disclose the nature of its relationship with the company.

1.2 Key Management Personnel

Key management personnel (KMP), close family members of each KMP and entities that are related to KMP or their close family members are also related parties.

KMP are defined as:

- persons having authority and responsibility for planning, directing and controlling the activities of Council, either directly or indirectly

At Bayside Council, the Councillors (including the Mayor and Deputy Mayor), General Manager, Directors, Public Officer, Manager Procurement and the Manager Finance are considered to be KMP.

The policy requires all KMP to provide a Related Party Declaration Form and a Related Party Transactions Notification at specified periods. This is discussed further below.

1.3 Close family members of KMP

Close family members are defined as:

- family members who may be expected to influence, or be influenced by, that person in their dealings with the entity 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.

Example 2 (Son of CFO employed by council)

Sunny Shire Council has recently employed Paul's son (George) in the Council's parks and garden's area. Paul is Council's Chief Financial Officer but was not involved in hiring George. This process was managed by the Director of Parks and Gardens and included an independent assessment process. Paul did not have any influence in George securing the job.

Paul has been identified as a KMP of council, which makes him a related party.

George will also be a related party of Council because he is a close family member of Paul. The recruitment process that was undertaken for George's position is irrelevant when assessing whether George is a related party.

Example 3 (Cousin of Mayor)

The Mayor of Happy Shire Council (Shelley) has lived in the Shire her whole life. In fact her family has been in the area for over five generations.

Shelley's cousin Mavis, owns and operates the local newsagent through a company Happy News Pty Ltd, in which she owns 100% of the shares. Shelley and Mavis have always been close and regularly socialise together.

Shelley has been identified as a KMP of Council. From these facts it would appear that Mavis is a close family member of Shelley because she would be expected to influence, or be influenced by, that person in her dealings with Council.

Both Mavis and the company she controls, Happy News Pty Ltd would therefore be related parties of Council. Any transactions that the Council makes with the newsagent would need to be separately identified and may need to be disclosed.

1.4 Entities that are controlled or jointly controlled by KMP or their close family members

Entities can include a body corporate, a partnership or a trust, incorporated association, or unincorporated group or body. When assessing whether you or a close member of your family controls, or jointly controls, an entity, regard must be had to the following definitions:

- Control – the power to govern the financial and operating policies of an entity so as to obtain benefits from its activities. Control of an entity is present when there is:
 - Power over the entity;
 - Exposure or rights to variable returns from involvement with the entity; and
 - The ability to use power over the entity to affect the amount of returns received.
- Joint control – the contractually agreed sharing of control of an arrangement, which exists only when decision about the relevant activities require the unanimous consent of the parties sharing control.

Example 4 (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.

Example 5 (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.

Example 6 (Mayor is the President of a local football club)

The Mayor of Sunny Shire Council is the President of League Heroes Inc., the local football club. This club is overseen by a committee which comprises the President and four other committee members. Each member has a single vote when making decisions at meetings. The committee members are not related and do not have agreements to vote with one another. The club has over 100 members that each have a vote in electing the committee members at the club's annual general meeting.

From these facts it would appear that the Mayor does not control or jointly control the football club so it will not be a related party of Council just because the Mayor is the president of the club.

2 What Related Party Disclosures are required of Key Management Personnel?

2.1 Declaring related parties

The method for identifying your close family members and associated entities is by self-assessment using the Related Party Declaration form (declaration form) at Attachment 2. The policy establishes the specified notification periods for providing this form to the General Manager.

At least 30 days before the completed declaration form is required, a copy will be provided to you by the Director City Performance. During the year it will be your responsibility to inform the General Manager when any changes to those related parties occur.

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

With regard to your associated entities, in some cases it will be obvious that you or a close family member control or 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 the Director City Performance for a confidential discussion.

Although the declaration form provides a system for identifying the related parties of KMP, it is not relied upon in isolation, as illustrated in example 5.

Example 7 (Cousin of Mayor – related party but omitted from declaration)

Shelley, the Mayor of Sunny Shire Council (from example 3) forgets to include her cousin Mavis, and Mavis' company, when she completes her KMP declaration.

It is commonly known in the community that Shelley and Mavis are close and that Shelley would be expected to influence, or be influenced by, Mavis in her dealings with Council and vice versa.

Mavis and her company are related parties of Council, even though Shelley omitted them from her declaration.

2.2 Notifying related party transactions

A related party transaction is defined as:

- a transfer of resources, services or obligations between a Council and a related party, regardless of whether a price is charged.

In addition to submitting a Related Party Declaration form, you are required to complete a Related Party Transactions Notification form (notification form) and provide this to the General Manager by the specified notification period detailed in the policy. As with the declaration form, a copy of this will be provided to you by the Director City Performance at least 30 days before you need to submit it. A copy is also included at Attachment 3.

You do not need to notify employee benefits, such as wages, as these will be recorded by Finance staff.

It is important to note that the notification form is supplementary to the identification of related party transactions by Council staff, which will occur on an ongoing basis throughout the year for all identified related parties of Council. The purpose of the additional KMP notification is to ensure that all related party transactions are captured and considered for disclosure in the annual financial statements.

The policy makes clear that there are some transactions with related parties that do not need to be captured and reported. These are ordinary citizen transactions, undertaken on an arms-length basis and in the ordinary course of carrying out Council's functions and activities.

For example, if you were to walk your dog in a council owned park that would be a related party transaction. However, it is unlikely that users of the financial statements would be interested in this transaction, and so the policy establishes that only material ordinary citizen transactions need to be disclosed.

A material ordinary citizen transaction is one where the aggregate amount involved exceeds \$10,000 in a financial year.

With regard to you and your close family members, examples of ordinary citizen transactions assessed as unlikely to be material in nature (unless the aggregate amount exceeds \$10,000 in a financial year) include:

- paying rates and utility charges;
- parking fees at rates available to the general public;
- paying fines on normal terms and conditions;
- pet registration fees; and
- using Council's public facilities after paying the corresponding fees or where those facilities are available to members of the public for free.

Examples of transactions that are NOT ordinary citizen transactions are:

- infrastructure charges;
- lease agreements;
- awarding of contracts; and
- purchase of goods, regardless of conditions.

A decision tree has been provided at Attachment 4 to assist you in determining whether an ordinary citizen transaction is material and therefore needs to be disclosed.

Example 8 (Ordinary citizen transactions)

Councillor P is a member of the key management personnel of a Council. The Council's functions include raising revenue to fund its functions and activities, and planning for and providing services and facilities (including infrastructure) for the local community. In carrying out its functions, the Council undertakes a wide range of activities including the imposition of rates and charges upon constituents, and the provision without charge of services such as parks and roads.

Councillor P is a ratepayer residing within the Council's constituency. As such, Councillor P takes advantage of the availability of free public access to local parks and libraries. Councillor P also used the swimming pool at the Council's Recreation Centre twice during the financial year, paying the casual entry fee applicable to the general public each time. The recreation centre has approximately 20,000 visitors each financial year.

All of the transactions described above between the Council and Councillor P are related party transactions of the Council; however, they are not considered to be material in size or nature and therefore do not need to be disclosed.

Sources

- AASB 124 Related Party Transactions (Australian Accounting Standards Board)
- Bulletin 02/16 Disclosure of related party transactions (State of Queensland)
- Office of Local Government Circular 17-02 – 2016/17 draft Code of Accounting Practice and Financial Reporting (update 25) and Supplement
- Related Party Disclosures Policy (Bayside Council)
- Webinar – Understanding and implementing AASB 124 Related Party Transactions (NSW Office of Local Government)

Attachment A.6

Decision Tree for Ordinary Citizen Transactions

