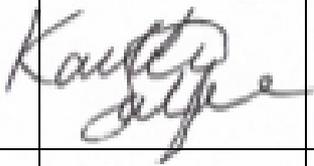




Murrumbidgee
COUNCIL

Related Party Disclosures Policy (Revision 2)

| | Name | Position | Signature | Date |
|---------------------|----------------|-------------------------|--|----------------|
| Responsible Officer | Kaitlin Salzke | Chief Financial Officer |  | 24 August 2022 |
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1. POLICY STATEMENT

The Related Party Disclosures Policy aims to assist Murrumbidgee Council in complying with disclosure requirements concerning related parties, including key management personnel (KMP), their close family members and entities controlled or jointly controlled by any of them stipulated under the *Australian Accounting Standard AASB 124 Related Party Disclosures and the Australian implementation guidance for not-for-profit public sector entities* (AASB 124).

2. SCOPE

This policy is to be applied in:

- (a) identifying related party relationships and transactions;
- (b) identifying outstanding balances, including commitments, between Council and its related parties;
- (c) establishing systems to capture and record the related party transactions and information about those transactions;
- (d) identifying the circumstances in which disclosure of items (a) and (b) are required;
- (e) determining the disclosures to be made about those items in the general purpose financial statements for the purpose of complying with AASB 124.

3. POLICY OBJECTIVES

The objective of the policy is to ensure that the existence of, and appropriate details regarding, related party relationships and related party transactions that are necessary for users to understand the potential effects on the financial statements are properly identified, recorded in Council's systems, and disclosed in Council's general purpose financial statements in compliance with AASB 124.

4. BACKGROUND AND/OR PRINCIPLES

The Local Government Act (1993) and Regulation require Council to prepare its general purpose financial statements in compliance with Australian Accounting Standards. This policy specifically considers the application of AASB 124.

5. AASB 124 DISCLOSURE REQUIREMENTS

- 5.1.** In its General Purpose Financial Statements, Council will disclose management personnel compensation in accordance with AASB 124 paragraph 17 (on an aggregate basis only).
- 5.2.** If there have been transactions between related parties, consideration will first be given to materiality.

The fact that a transaction occurred at arm's length does not, in itself, provide exemption from disclosure. However, a transaction with related parties undertaken in the ordinary course of business under the same terms and conditions of non-KMP will be unlikely to require disclosure, based on the guidance set out in the AASB's *Agenda Decision: Materiality of Key Management Personnel Related Party Transactions of Not-For-Profit Public Sector Entities*.

The determination of materiality for such transactions will be determined by the Responsible Accounting Officer in consultation with the General Manager.

- 5.3. Council will not disclose in its financial statements related party transactions that are ordinary citizen transactions (OCT), so long as the terms and conditions are no different to those available to the general public. If an OCT occurs on terms and conditions that are different to those offered to the general public, the transaction will be captured and, if required, reported in the financial statements.
- 5.4. Related party transactions that are determined to be material will be disclosed in accordance with the requirements set out in AASB 124.
- 5.5. AASB 124 also requires disclosure of related party transactions with Council subsidiaries, entities who are associates of Council or of a Council subsidiary, and joint ventures in which Council or a Council subsidiary is a joint venture.

6. IDENTIFYING RELATED PARTY TRANSACTIONS WITH KEY MANAGEMENT PERSONNEL (KMP) AND THEIR CLOSE FAMILY MEMBERS

6.1. Related Party Declaration

Key management personnel must provide a Related Party Declaration to the Responsible Accounting Officer by no later than the following (the **specified notification date**):

- (a) 60 days after a KMP commences their term or employment with Council; and
- (b) 30 June each year; and
- (c) the date a KMP ceases their term or employment with Council.

The declaration should be in the form set out in Appendix B, detailing related party relationships and any related party transactions of which the KMP is aware.

6.2. RPT Declaration Form

At least 30 days before a specified notification date (or as soon as practicable, for specified date (c)), the Responsible Accounting Officer (or delegate) will provide KMPs with a RPT Declaration Form and a Privacy Collection Notice as set out in Appendix A.

6.3. Additional Related Party Declarations

During a financial year, if a KMP becomes aware of any new or potential related party transaction that is required or likely to be required to be disclosed in Council's financial statements; or any change to a previously notified related party transaction (including a change to a related party relationship), the KMP must proactively notify the Responsible Accounting Officer in writing no later than 30 days after the KMP becomes aware of the transaction or change.

6.4. Other Notifications

The notification requirements in this section 6 are in addition to the notifications a KMP must make to comply with:

- (a) Section 449 of the Local Government Act 1993 in relation to the disclosure of interests; and
- (b) The Code of Conduct.

6.5. Exclusions

The notification requirements in this section 6 do not apply to:

- (a) related party transactions that are ordinary citizen transactions (e.g. payment of rates, access to library or Council swimming pool), so long as the terms and conditions are no different to those available to the general public; or
- (b) for Councillors, expenses incurred and facilities provided to a Councillor during the financial year, under Council's Payment of Expenses and Provision of Facilities Policy.

6.6. Digital Extraction

The Responsible Accounting Officer or their delegate will digitally identify and extract information in Council's computerised business systems for the purpose of reviewing related party transactions and, if appropriate, disclosing them in the financial statements.

6.7. Other Sources of Information

To ensure all related party transactions are captured and recorded, the Responsible Accounting Officer or delegate may review other sources of information held by Council including, without limitation:

- (a) a Disclosure of Interests Return (under s449 of the Local Government Act 1993) of a KMP and of persons related to the KMP;
- (b) minutes of Council and committee meetings.

6.8. Manual Investigation and Recording of Information

For notified related party transactions that are not captured by Council's computerised business systems, the Responsible Accounting Officer will manually review the transactional documentation, and record or disclose details as appropriate.

7. INFORMATION PRIVACY

7.1. No Public Inspection

Information (including personal information) provided by a key management person in a Related Party Declaration is classified as confidential, and is not available for inspection by or disclosure to the public, including through a Government Information (Public Access) Act (GIPA) application.

7.2. Government Information (Public Access) [GIPA] Status

A GIPA application seeking access to or release of a document or information (including personal information) provided by a KMP in a Related Party Declaration will be refused on the grounds the document or information comprises information for which there is an overriding public interest against disclosure pursuant to Section 14 of the *Government Information (Public Access) Act*.

A GIPA application seeking access to and release of transactional information and documentation the subject of a related party transaction with Council will be considered, assessed and decided in accordance with Council's usual procedures regarding applications made under the *Government Information (Public Access) Act*.

7.3. When Consent Required

Except as specified in this policy, Council and other permitted recipients will not use or disclose personal information provided in a Related Party Declaration for any other purpose or to any other person except with the prior written consent of the subject KMP.

7.4. Permitted Recipients

The following persons are permitted to access, use and disclose the information (including personal information) provided in a Related Party Declaration for the purposes specified in section 7.5:

- (a) a Councillor;
- (b) the General Manager;
- (c) the Responsible Accounting Officer being responsible for the preparation of financial reports;
- (d) financial officers within Council's finance department responsible for the preparation of financial reports authorised by the Responsible Accounting Officer;
- (e) members of Council's Audit, Risk & Improvement Committee;
- (f) an auditor of Council (including an auditor from the Audit Office of New South Wales).

7.5. Permitted Purposes

A person specified in section 7.4 may access, use and disclose information (including personal information) in a Related Party Declaration or contained in a register of related party transactions for the following purposes:

- (a) to assess and verify a notified related party transaction ;
- (b) to reconcile identified related party transactions against those notified in a Related Party Declaration;
- (c) to comply with the disclosure requirements of the AASB 124;
- (d) to verify compliance with the disclosure requirements of the AASB 124.

An individual may access their personal information provided by a KMP in a Related Party Declaration in accordance with Council's Privacy Management Policy.

8. DEFINITIONS

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| Arm's length terms | <p>Terms between parties that are reasonable in the circumstances of the transaction that would result from:</p> <ul style="list-style-type: none"> (a) neither party bearing the other any special duty or obligation; and (b) the parties being unrelated and uninfluenced by the other; and (c) each party having acted in its own interests |
| Associate | In relation to an entity (the first entity), an entity over which the first entity has significant influence. |
| Close family Members <i>or</i> close members of the family | <p>In relation to a key management person, family members who may be expected to influence, or be influenced by, that key management person in their dealings with Council and include:</p> <ul style="list-style-type: none"> (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 <p>For the purpose of the AASB 124, close family members could include extended members of a family (such as, without limitation, parents, siblings, grandparents, uncles/aunts or cousins) <i>if</i> they could be expected to influence, or be influenced by, the key management person in their dealings with Council.</p> |
| Control | <p>Control of an entity is present when there is:</p> <ul style="list-style-type: none"> (a) power over the entity; and (b) exposure or rights to variable returns from involvement with the entity; and (c) the ability to use power over the entity to affect the amount of returns received; <p>as determined in accordance with AASB 10 <i>Consolidated Financial Statements, paragraphs 5 to 18, and Appendices A (Defined Terms) and B (Application Guidance)</i>.</p> |
| 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. |
| Joint venture | An arrangement of which 2 or more parties have joint control and have rights to the net assets of the arrangement. |
| Joint venturer | A party to a joint venture that has joint control of that joint venture. |
| Key management personnel or key management person or KMP | <p>Person(s) having authority and responsibility for planning, directing and controlling the activities of Council.</p> <p>Specifically, key management personnel of Council are:</p> <ul style="list-style-type: none"> (a) the Mayor (b) Councillors (c) General Manager (d) Directors (e) Chief Financial Officer (f) Managers of each department |

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| <p>Ordinary citizen transaction (OCT)</p> | <p>Transactions that an ordinary citizen would undertake with Council, which are undertaken on arm's length terms and in the ordinary course of carrying out Council's functions and activities.</p> <p>Examples of ordinary citizen transactions assessed to be not material in nature are:</p> <ul style="list-style-type: none"> (a) paying rates and annual charges (b) using Council's public facilities after paying the corresponding fees. |
| <p>related party</p> | <p>A person or entity that is related to Council pursuant to the definition contained in the AASB 124, paragraph 9.</p> <p>Examples of related parties of Council are:</p> <ul style="list-style-type: none"> (a) Council subsidiaries (if applicable) ; (b) key management personnel; (c) close family members of key management personnel; (d) entities that are controlled or jointly controlled by key (e) management personnel or their close family members. |
| <p>related party transaction</p> | <p>A transfer of resources, services or obligations between the Council and a related party, regardless of whether a price is charged.</p> <p>Examples of related party transactions are :</p> <ul style="list-style-type: none"> (a) purchases or sales of goods; (b) purchases or sales of property and other assets; (c) rendering or receiving of services ; (d) rendering or receiving of goods; (e) leases; (f) transfers under licence agreements ; (g) transfers under finance arrangements (e.g. loans); (h) provision of guarantees (given or received); (i) commitments to do something if a particular event occurs or does not occur in the future; (j) settlement of liabilities on behalf of Council or by Council on behalf of that related party. |
| <p>Related Party Declaration</p> | <p>A document entitled <i>Related Party Declaration by Key Management Personnel</i> in the form set out in Appendix B.</p> |
| <p>significant influence</p> | <p>The power to participate in the financial and operating policy decisions of another entity, but without control or joint control of those policies, as determined in accordance with Australian Accounting Standard AASB 128 <i>Investments in Associates and Joint Ventures, paragraphs 3, 5 and 6.</i></p> |

9. LEGISLATIVE REFERENCE

Local Government Act 1993 and Regulation
Accounting Standard AASB 124 Related Party Disclosures
Privacy and Personal Information Protection Act 1998
Privacy and Personal Information Protection Regulation 2014
Government Information (Public Access) Act 2009

10. RELATED POLICIES/PROCEDURES

Codes of Conduct
Privacy Management Policy
Payment of Expenses and Provision of Facilities Policy

11. APPLICATION DATE OF POLICY

This policy applies retrospectively with effect on and from 1 July 2017. Amendments to the policy apply from the date they are adopted by Council.

12. REVIEW

This Policy:

- To be reviewed within the first year of the new Council term;
- May be reviewed and amended at any time at Council's discretion (or if legislative or State Government policy changes occur).



APPENDIX A

PRIVACY COLLECTION NOTICE AND SUPPLEMENTARY INFORMATION FOR RELATED PARTY DECLARATION BY KEY MANAGEMENT PERSONNEL

PURPOSE OF COLLECTION, USE AND DISCLOSURE

Effective for annual periods beginning on or after 1 July 2017, 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.

Related parties include Council's Key Management Personnel, 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 material related party transaction with Council applicable to a reporting financial year, the 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 the AASB 124, please refer to Council's Related Party Disclosure Policy.

RELATED PARTY DECLARATION BY KEY MANAGEMENT PERSONNEL

In order to comply with the AASB 124, Council has adopted a policy that requires all members of its Key Management Personnel (KMPs) to periodically provide declarations to the Responsible Accounting Officer regarding related parties and any transactions between Council and these parties, where known.

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

- a) 60 days after a KMP commences their term or employment with Council;
- b) 30 June (each year); and
- c) The end of term date or final day of employment.

Also, during a financial year, a KMP must proactively notify the Responsible Accounting Officer of any new or potential related party transactions that the person becomes aware of, or any changes to previously notified related party relationships or transactions. This notification must

be made in writing no later than 30 days after the person becomes aware of the transaction or change.

These related party transaction notification requirements are in addition to the Notifications KMPs are required to make to comply with:

- for the Administrator/Councillors/Local Representation Committee members, the conflicts of interest obligations in the Local Government Act 1993 and Code of Conduct; and
- for other KMPs, the Code of Conduct; and
- the return disclosing interests required to be kept under section 449 of the Local Government Act 1993.

The Audit Office of New South Wales 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.

FURTHER QUESTIONS OR CLARIFICATION

In some cases it will be obvious whether a party is considered a related party for the purposes of AASB 124 and this form, or whether you or a family member control or have joint control over an entity. In other cases it will be less clear. If you are unsure, then you should contact the Responsible Accounting Officer for a confidential discussion.



APPENDIX B

RELATED PARTY DECLARATION BY KEY MANAGEMENT PERSONNEL

Name: _____

Position: _____

DETAILS OF RELATED PARTIES

Organisations (including companies, trusts, incorporated and unincorporated associations such as clubs and charities, joint ventures and partnerships) in which you have a controlling interest.

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

| Organisation | % Interest | ABN/ACN |
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Close family members

Close family members include your spouse or domestic partner, and dependents and children of either of you. Any other family members (e.g. siblings, aunts, uncles, cousins, parents, grandparents, nieces, nephews) who could be expected to influence or be influenced by your in their dealings with Council are also considered to be close family members. Note that this definition is broader than the definition of "related" for the purpose of a return disclosing interests under s449 of the Local Government Act.

| Full name | Relationship |
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| Full name | Relationship |
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DECLARATION

I, _____ (*full name*), _____ (*position*), declare that, to the best of my knowledge, 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 information supplied by Council which details the meaning of the words “close family members” and “entities controlled, or jointly controlled, by myself or my close family members.”

I also declare that if any circumstances change throughout the year in relation to the above, that I am to contact Council’s Responsible Accounting Officer in writing within 30 days.

I understand 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 and use the information provided for the purposes specified in that policy.

Declared at _____ (*place*) on _____ (*date*)

_____ (*signature*)

(Note: This document is confidential and is not GIPA-accessible. See Council’s Related Party Disclosure Policy)