



SHIRE OF COOLGARDIE

ATTACHMENTS

OF THE

SPECIAL COUNCIL MEETING

10 September 2019

6.00pm

Kambalda

Special Council Meeting 10 September 2019 Attachments

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Legislative Reference: Local Government Act 1995 – PART 6 Financial Management
Local Government (Financial Management) Regulations 1996 – Regulation 5A)

Relates to: Delegation NA, Sub Delegation NA, Authorisation 11.16

Policy Objective:

To define the Shire's approach to Related Parties matters.

Policy Scope:

This policy details the process to follow for Related Party Disclosures.

Policy Statement:

1. Principles

1.1 Objectives

The scope of AASB 124 Related Party Disclosures was extended in March 2015 to include application by not-for-profit entities, including local governments. The operative date for Local Government is 1 July 2016, with the first disclosures to be made in the Financial Statements for year ended 30 June 2017.

This procedure outlines required mechanisms to meet the disclosure requirements of AASB 124.

The objective of the standard is to ensure that an entity's financial statements contain disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and transactions.

The disclosure requirements apply to the existence of relationships regardless of whether a transaction has occurred or not. For each financial year, the Shire must make an informed judgement as to who is a related party and what transactions need to be considered, when determining if disclosure is required.

The purpose of this procedure is to stipulate the information to be requested from related parties to enable an informed judgement to be made.

1.2 Identification of Related Parties

AASB 124 provides that the Shire will be required to disclose in its Annual Financial reports, related party relationships, transactions and outstanding balances.

Related parties include a person who has significant influence over the reporting entity, a member of the key management personnel (KMP) of the entity, or a close family member of that person who may be expected to influence that person.

For the purposes of determining the application of the standard, the Shire has identified the following persons as meeting the definition of Related Party:

- (a) A council member
- (b) Key management personnel are defined as persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly
- (c) Close members of the family of any person listed above, including that person's child, spouse or domestic partner, children of a spouse or domestic partner, dependents of that person or person's spouse or domestic partner.
- (d) Entities that are controlled or jointly controlled by a Council member, KMP or their close family members. (Entities include companies, trusts, joint ventures, partnerships and non-profit associations such as sporting clubs).

The Shire will therefore be required to assess all transactions made with these persons or entities.

2. Identification of Related Part Transactions

A related party transaction is a transfer of resources, services or obligations between the Shire (reporting entity) and the related party, regardless of whether a price is charged.

For the purposes of determining whether a related party transaction has occurred, the following transactions or provision of services have been identified as meeting this criterion:

- a) Paying rates
- b) Fines
- c) Use of Shire owned facilities such as [Coolgardie Community Centre and Sporting Grounds, Coolgardie Community Resource Centre, Library, Coolgardie Fuel Facility, parks, ovals and other public open spaces (whether charged a fee or not)]
- d) Attending Council functions that are open to the public
- e) Employee compensation whether it is for KMP or close family members of KMP
- f) Application fees paid to the Shire for licences, approvals or permits
- g) Lease agreements for housing rental (whether for a Shire owned property or property sub-leased by the Shire through a Real Estate Agent)
- h) Lease agreements for commercial properties
- i) Monetary and non-monetary transactions between the Shire and any business or associated entity owned or controlled by the related party (including family) in exchange for goods and/or services provided by/to the Shire (trading arrangement)
- j) Sale or purchase of any property owned by the Shire, to a person identified above.
- k) Sale or purchase of any property owned by a person identified above, to the Shire

- l) Loan Arrangements
- m) Contracts and agreements for construction, consultancy or services

Some of the transactions listed above, occur on terms and conditions no different to those applying to the general public and have been provided in the course of delivering public service objectives. These transactions are those that an ordinary citizen would undertake with council and are referred to as an Ordinary Citizen Transaction (OCT). Where the Shire can determine that an OCT was provided at arm's length, and in similar terms and conditions to other members of the public and, that the nature of the transaction is immaterial, no disclosure in the annual financial report will be required.

2.1 Disclosure Requirements

For the purposes of determining relevant transactions in point 2 above, elected Council members and key management personnel as identified above, will be required to complete a Related Party Disclosures - Declaration form for submission to financial services.

2.2 Ordinary Citizen Transactions (OCTS)

The following OCT that are provided on terms and conditions no different to those applying to the general public and which have been provided in the course of delivering public service objectives, are unlikely to influence the decisions that users of the Council's financial statements make. As such no disclosure in the yearly Related Party Disclosures - Declaration form will be required.

- a) Paying rates
- b) Fines
- c) Use of Shire owned facilities such as [Coolgardie and Kambalda Recreation Centres and Sporting Grounds, Resource Centres, Libraries, parks, ovals and other public open spaces (whether charged a fee or not)]
- d) Attending council functions that are open to the public

Where these services were not provided at arm's length and under the same terms and conditions applying to the general public, elected Council members and KMP will be required to make a declaration in the Related Party Disclosures - Declaration form about the nature of any discount or special terms received.

2.3 All other Transactions

For all other transactions listed in point 2 above, elected Council members and KMP will be required to make a declaration in the Related Party Disclosures - Declaration form.

2.4 Frequency of Disclosures

Elected Council members and KMP will be required to complete a Related Party Disclosures - Declaration form each year. Disclosures must be made by all elected Council members immediately prior to any ordinary or extraordinary election. Disclosures must be made immediately prior to the termination of employment of/by a KMP.

2.5 Confidentiality

All information contained in a disclosure return, will be treated in confidence. Generally, related party disclosures in the annual financial reports are reported in aggregate and as such, individuals are not specifically identified.

Notwithstanding, management is required to exercise judgement in determining the level of detail to be disclosed based on the nature of a transaction or collective transactions and materiality. Individuals may be specifically identified, if the disclosure requirements of AASB 124 so demands.

2.6 Materiality

Management will apply professional judgement to assess the materiality of transactions disclosed by related parties and their subsequent inclusion in the financial statements. In assessing materiality, management will consider both the size and nature of the transaction, individually and collectively.

Associated Documents

ASB124 Related Party Disclosures

ATTACHMENT 1

RELATED PARTY DISCLOSURES - DECLARATION

As per requirements of AASB 124 Related Party Disclosures, and Business Operating Procedure – Related Party Disclosures. For additional information to assist you in making a declaration, please refer to the Appendices to this form.

Disclosure Period (June to July):	
Person making disclosure:	
Position held by person:	

CLOSE MEMBERS OF THE FAMILY (see definitions Appendix 1)	
Name of Family Member	Relationship to you
If there has been no change since your last declaration, please complete “No Change”	
ENTITIES THAT I, OR A CLOSE FAMILY MEMBER CONTROLS OR JOINTLY CONTROLS (see definitions Appendix 1)	
Name of Entity	Name of person who has control/nature of control
If there has been no change since your last declaration, please complete “No Change”	

ORDINARY CITIZEN TRANSACTIONS – NOT PROVIDED AT ARMS LENGTH			
Did you or any member of your close family use facilities provided at Recreation Centre, attend any event at the Civic Centre, or use any other council provided facility AND you received a discount or special terms that would not otherwise be offered to any other member of the public?			
Name of person using the facility	Service/Facility used	Nature of transaction	Nature of discount or special conditions received.

Note: Recreation Centre membership provided as part of employment has been provided under the same terms as those memberships provided to the public.

LEASING AGREEMENTS - DOMESTIC RESIDENTIAL			
Did you, a close family member or related entity, enter into a lease agreement with the Shire (either as lessee or lessor) for the provision of a domestic rental property (Includes properties owned by the Shire and privately owned properties sub-leased through the Shire from a real estate agent)? Did you receive or provide a discount or special terms that would not otherwise be offered to any other member of the public?			
Name of Person party to the lease	Property Address	Term of Lease & Weekly rent	Detail of any non-arms length conditions

LEASING AGREEMENTS - COMMERCIAL Did you, a close family member or related entity, enter into a commercial leasing agreement with the Shire for the provision of a commercial property? Did you receive a discount or special terms that would not otherwise be offered to any other member of the public?			
Name of person party to the lease	Property Address	Term of Lease & Weekly rent	Detail of any non-arms length conditions

TRADING ARRANGEMENTS Were you or a close family member (as defined above) the owner of any business (or in a position to substantially control the business) that provided goods or services to the Shire? Were those goods or services provided on the same terms and conditions as those available to any other customer? If not, please provide details of the specific terms provided to the Shire.			
Business name	Goods or services provided	Approximate value for the reporting period	Terms & conditions

OTHER AGREEMENTS (Construction, Consultancy, Service Contracts)

Did you, a close family member or related entity, enter into any other agreements/arrangements with the Shire (whether or not a price was charged)?

This may include (but is not limited to): construction contracts, consultancy services, service contracts (such as cleaning, maintenance, security).

For e.g. a company that a close family member controls, was awarded a contract with the Shire for building a new office facility.

Name of person or business/company	Nature of agreement	Value of agreement	Terms & conditions

PURCHASE OF PROPERTY

Did you, a close family member or related entity, purchase any property or other assets from the Shire? (This may include vehicles or other plant items, land or buildings).

Was the purchase made at arm's length (for e.g. at public auction), and on terms and conditions available to any other member of the public? If not, please provide details of the specific terms provided to you.

Name of person or entity name	Property purchased	Value of the purchase	Terms & conditions

SALE OF PROPERTY

Did you, a close family member or related entity, sell any property or other assets to the Shire? (This may include vehicles or other plant items, land or buildings).

Was the sale made at arm's length, and on terms and conditions available to any other member of the public? If not, please provide details of the specific terms provided.

Name of person or entity name	Property Sold	Value of the Sale	Terms & conditions

FEES & CHARGES FOR APPLICATIONS

Did you, a close family member or related entity, make an application to Council for a trading, building, planning or development application, licence or approval, or any other type of permit or licence?

Name of person or entity name	Application type	Application and/or receipt number

SELF SUPPORTING LOANS

Did you, a close family member or related entity, enter into a loan agreement with the Shire For e.g. a club for which you have control (See Appendix 2 for example)

Name of person or entity name	Loan details	Value of the loan	Terms & conditions

OTHER AGREEMENTS			
Please list any other agreement or arrangement you believe is a related party transaction and should be declared.			
Name of person or business/company	Nature of agreement	Value of agreement	Terms & conditions

I declare that all information and details provided in this form are true and correct to the best of my knowledge, and that no known relevant information has been omitted.

I have made this declaration after reading the information supplied by Council which details the meaning of the definitions to which this declaration relates.

Signed: _____

Date: ____ / ____ / ____

Appendix 1

Close Family Members

Close family members include:

- a child, spouse or domestic partner;
- children of your spouse or domestic partner;
- dependents of you or your spouse or domestic partner;
- any other close family member;

who may be expected to influence, or be influenced by, your dealings with the council.

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

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

There may be relationships that a council has which are not identified in this appendix but still meet the definition of a related party.

Example: Cousin of Council member

A Council member for the Shire has lived in the Shire her whole life. In fact her family has been in the area for generations.

The Council member's cousin, owns and operates the local newsagent through a company ABC Pty Ltd, in which she owns 100% of the shares. The Council member and her cousin have always been close and regularly socialise together.

From these facts it would appear that the Council member's cousin is a close family member of the Council member because she would be expected to influence, or be influenced by, that person in her dealings with Council.

Both the cousin and the company she controls, ABC 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.

Control in entities

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.

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.

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

In some cases, it will be obvious that 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 whether you, or a close family member, has control or joint control of an entity then you should contact the Chief Executive Officer for a confidential discussion.

Example: Clubs or other incorporated bodies

(A Shire Council member is the President of a local football club)

A Shire Council member is the President of Coolgardie Football Club 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 the Council member does not control or jointly control the football club so it will not be a related

Other examples

Example 1 (Audit committee member)

Shire of Coolgardie audit committee comprises two Council members and a local retired accountant, Fred. Fred has no other connection with the council.

The audit committee attends to the functions as required under the *Audit Regulations*. It does not make any decisions on behalf of the council but simply provides reports, with recommendations, for the Shire President and council members to consider.

Based on the facts outlined Fred would not be a KMP of council.

Example 2 (Son of CFO employed by council)

Shire of Coolgardie has recently employed Paul's son (George) in the Council's parks and garden's area. Paul is Council's Deputy Chief Executive 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 President - related party commonly known but omitted from declaration)

Shelley, the President of Shire of Coolgardie 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.

Example 4 (Example of control)

Fred is the President of Shire of Coolgardie and owns 100% of the ordinary shares in Coolgardie's 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 (Example of joint control)

Fred is the President of Shire of Coolgardie and owns 50% of the ordinary shares in Coolgardie's 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

ASSOCIATED DOCUMENTS

AASB 124 Related Party Disclosures

Responsible Department: Executive

Responsible Officer: CEO

Delegation link (if any):

Date First Adopted:

Review dates: