

YARRABAH ABORIGINAL SHIRE COUNCIL



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1	26/04/2017	05:26/04/2017			New Policy
2	22/06/2018	26:22/06/2018	<i>J. Menzies</i>	June 2019	Updated Related Parties

INTENT

The intent of this policy is to:

- a) record Council’s commitment to complying with all related party transaction requirements under *AASB 124 Related Party Disclosures*; and
- b) establish a system for identifying and recording related parties and related party relationships; and
- c) identify ordinary citizen transactions that will not be disclosed by Council.

SCOPE

This policy applies to all related parties of the Yarrabah Aboriginal Shire Council.

REFERENCES

AASB 124 Related Party Disclosures
AASB 2015-6 Amendments to Australian Accounting Standards – Extending Related Party Disclosures to Not-for-Profit Public Sector
AASB 10 Consolidated Financial Statements, AASB 11 Joint Arrangements & AASB 128 Investments in Associates and Joint Ventures
AASB 11 Joint Arrangements
AASB 128 Investments in Associates and Joint Ventures
Local Government Act 2009
Local Government Regulation 2012

DEFINITIONS

A **related party** is a person or entity that is related to Council. The following persons are considered related parties of Council:

- a) a member of the KMP and close family members of the KMP
- b) entities controlled or jointly controlled by a member of the KMP or their close family members
- c) any person who has significant influence over the reporting entity.

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

Close family members of KMP are those family members who may be expected to influence, or be influenced by, that individual in their dealings with Council.

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

Joint control is the contractually agreed sharing of control over an economic activity.

Key management personnel (KMP) are those persons having authority and responsibility for planning, directing and controlling the activities of Council, both directly and indirectly. For the purpose of this policy, KMP will be limited to the Mayor, Councillors and those employees directly reporting to the CEO (including Council officers acting in these positions for extended periods of time).

An **ordinary citizen transaction means** a transaction that an ordinary citizen of the community would undertake in the ordinary course of business with Council that do not need to be captured or disclosed, provided the transaction occurs under the same terms as those offered to the general public.

Significant influence is the power to participate in the financial and operating policy decisions of another entity but is not control or joint control of those policies.

INTRODUCTION

This document sets out Council's policy regarding the identification and monitoring of related party transactions and applies to all Councillors and Key Management Personal.

Related parties are likely to include the Mayor, Councillors, Chief Executive Officer, senior executives, their close family members and any entities that they control or jointly control. Any transactions between council and these parties, whether monetary or not, may need to be identified and disclosed.

Transactions with related parties will be audited as part of the annual external audit by the Queensland Audit Office.

POLICY FRAMEWORK**1. Legislative requirement**

Under the provisions of the Act and Regulation Council 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 will apply to government entities, including local governments.

2. Identifying related parties

Related parties include government-related entities, key management personnel (KMP), their close family members and any entities that they control or jointly control. In accordance with paragraph 14 of AASB 124, to enable users of financial statements to form a view about the effects of related party relationships on an entity it is appropriate to disclose the related party relationship when control exists, irrespective of whether there have been transactions between the related parties. Any transactions with these parties, whether monetary or not, need to be identified for inclusion in Council's annual financial statements.

3. Government Related Entities

In accordance with AASB 10, AASB11 and AASB 128, Council will need to determine if there are any entities that are controlled by Council, jointly controlled by Council or over which Council has significant influence. Any transactions with these parties, whether monetary or not, need to be identified for inclusion in Council's annual financial statements.

Under paragraph 25 of AASB 124 Council is exempt from the disclosure requirements in relation to related party transactions and outstanding balances, including commitments, with government entities that have control, joint control or significant influence over Council.

4. Key Management Personnel (KMP)

Council has determined in accordance with AASB 124, that the following positions meet the definition of KMP:

- a) Mayor
- b) Councillors
- c) Chief Executive Officer
- d) Executive Manager of Corporate Services
- e) Executive Manager of Building & Construction Services
- f) Executive Manager of Works & Infrastructure
- g) Executive Manager of Community Services
- h) Any Council officer acting in the above positions for extended periods of time.

KMP are to provide an annual declaration identifying:

- a) their close family members; and
- b) entities that they control or jointly control; and
- c) entities that their close family members control or jointly control.

A related Party Declaration is to be completed for related parties not already identified on the Register of Interest.

5. Close Family Members of KMP

The following will be considered as close family members of KMP:

- a) Children and dependents of the Mayor, Councillors and the CEO
- b) Spouse/domestic partner of the Mayor, Councillors and the CEO
- c) Children and dependents of a spouse/domestic partner of the Mayor, Councillors and the CEO
- d) Children and dependents of a senior staff member that is a KMP
- e) Spouse/domestic partner of a senior staff member that is a KMP
- f) Children and dependents of a spouse/domestic partner of a senior staff member that is a KMP
- g) Other Family Members that may be expected to influence, or be influenced by, the KMP in their dealings with Council.

Close family members will be identified in the Related Party Declaration made by a KMP.

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

Entities include companies, trusts, joint ventures, partnerships and non-profit associations.

7. Process of Review

A review of all related parties (KMP, close family members and related entities) will be conducted annually, or in the event of one or more of the following triggers:

- a) Change of Councillor/s or CEO;
- b) Change in Senior Executive Employees;
- c) Corporate restructure;
- d) Change in family structure of KMP.

8. Identifying ordinary citizen transactions (OCTs)

Council has determined that the following transactions constitute an OCT and are therefore not material for disclosure. All other transactions above Council’s external audit materiality limit will be disclosed.

- a) Paying Council fees or charges
- b) Paying rent for social housing
- c) Attending Council functions that are open to the public
- d) Payment for goods and services from Council at rates published in Council’s Register of Fees and Charges
- e) Utilising the pool and library with the same conditions as the public.

In the event that the transaction was to occur on terms and conditions that are different to those offered to the general public, then the transaction will not be considered an OCT and may become material.

9. Giving Notice of a Suspected Related Party Transaction

If any Councillor believes that a transaction may constitute a related party transaction they must immediately notify the CEO who will report it to the Executive Manager of Corporate Services for review.

If any employee believes that a transaction may constitute a related party transaction they must notify their supervisor or manager who will report it to the Executive Manager of Corporate Services for review.

10. Related Party Register

Related Party Transactions will be collated in a Related Party Register for audit and reporting purposes.

11. Disclosing Related Party Transactions

Council will disclose KMP compensation in accordance with the requirements of paragraph 17 of AASB 124.

In accordance with paragraph 18 of AASB 124 Council is also required to disclose information about transactions that have occurred between Council and its related parties, including transactions between Council and its KMPs that is necessary for users to understand the potential effect of the relationship on the financial statements.

PRIVACY

KMP declarations and personal information contained in registers of related party transactions are confidential and are not available for inspection by or disclosure to the public, including through a Right to Information (RTI) application on the grounds the document or information comprises information the disclosure of which would, on balance, be contrary to the public interest under sections 48 and 49 of the *Right to Information Act*, item 8 of schedule 3 and items 2, 3 and 16 of part 3, schedule 4.

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

The following persons are permitted to access, use and disclose the information (including personal information) provided in a KMP declaration or contained in a register of related party transactions for the purposes specified below:

- a Councillor;
- Chief Executive Officer;
- Executive Manager of Corporate Services
- Financial officers responsible for the preparation of financial statements as authorised by the Executive Manager of Corporate Services.
- Members of Council's Audit Committee;
- An auditor of Council (including an auditor from Queensland Audit Office).

A person specified above may access, use and disclose information (including personal information) in a KMP declaration or contained in a register of related party transactions for the following purposes:

- To assess and verify a notified related party transaction;
- To reconcile identified related party transactions against those notified in a KMP declaration or contained in a register of related party transactions;
- To comply with the disclosure requirements of the AASB 124;
- To verify compliance with the disclosure requirements of the AASB 124;

A RTI 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 *Right to Information Act*.

APPENDIX ONE

**Related Party Declaration Form for Key Management Personnel
(KMP)**

To be read in conjunction with Register of Interests

YARRABAH ABORIGINAL SHIRE COUNCIL



RELATED PARTY DECLARATION FORM FOR KEY MANAGEMENT PERSONNEL

Name of Key Management Person: _____
(Insert name)

Position of Key Management Person: _____
(Insert position)

Please list here any related party that is not already identified on your Register of Interests.

List details of:

1. Children and dependents of the KMP

2. Spouse / Domestic partner

3. Children and dependents of the Spouse / Domestic partner

4. Other Family Members that may be expected to influence, or be influenced by, the KMP in their dealings with Council.

- 5. Entities that are controlled or jointly controlled by KMP or their close family members (people listed above)

Name of Entity	Relationship
Name of Entity	Relationship

DECLARARTION

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, **which I have not already declared on my register of interests.**

I make this declaration fully understanding by obligations after reading the Related Parties Disclosure Policy 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 understand that if I believe that a transaction may constitute a related party transaction that I must immediately notify the CEO (if the CEO, then report to the Executive Manager of Corporate Services) for review.

If I become aware of any change in circumstances that may materially impact on the declaration above I understand that I am obliged to contact relevant Council personnel (Finance Manager or CEO) to have those changes reflected in the Declaration.

Declared at _____ on the _____
 (Insert place) (Insert date)

Signature of KMP: _____

Name of KMP: _____

Date: _____