

Policy 6.20 Related Party and Designated Persons Disclosures

Directorate	Business and Governance
Responsible Officer	Director Business and Governance

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1.1 Introduction

1.1.1 Scope

The policy ensures Council comply with disclosure requirements under the *Australian Accounting Standard AASB124 Related Party Disclosures and the Australian implementation guidance for not-for-profit public sector entities (AASB.124)*, the *Privacy and Personal Information Protection Act [PPIP] (1998)*, and the *Government Information Public Access Act [GIPA] (2009)*.

This policy applies to:

- the elected council
- the Chief Executive Officer (CEO)
- Directors
- employees of Council identified as a 'Designated Person' under the *Australian Accounting Standard AASB124 Related Party Disclosures and the Australian implementation guidance for not-for-profit public sector entities (AASB.124)*
- Close family members of elected councillors and employees identified as a 'designated person'
- Entities controlled or jointly controlled by an elected councillors, employee of council identified as a 'Designated Person', and their close family members.

1.1.2 Purpose

The policy will:

- Define what a 'related party relationship' is and give direction on how to manage disclosures that are required to be made about them
- Provide guidelines on how to identify related party relationships between council officials and members of the community
- Identify information about the related party transactions for disclosure
- Establish systems which capture and record the related party transactions and relevant information
- Identify the circumstances in which *disclosure* of the items in points (i) and (ii) is required
- Determine the disclosures to be made in the general purpose financial statements for the purpose of complying with AASB124
- Record pecuniary and non-pecuniary disclosures of interest submitted annually and in relation to specific matters being reported to Council Meetings

The policy outlines the requirement by Councillors and Designated Persons to disclose pecuniary and non-pecuniary interests on an annual basis in relation to matters reported to Council Meetings. It meets the requirements outlined in *Local Government Act 1993 - Section 124 Disclosure of pecuniary interest provisions* and Bega Valley Shire Council's Code of Conduct Part 4 Pecuniary Interest and Part 5 – Non-Pecuniary Conflicts of Interest.

The disclosures of interest within this policy pertain to Councillors, executives and key personnel; their close family members; as well as any entity controlled or jointly controlled by any of them.

1.2 Definitions

Word or Terminology	Description
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 <p>Each party having acted in its own interest</p>
Associate	<p>In relation to any entity (the first entity), an entity over which the first entity has significant influence.</p>
Close family members	<p>Family members who may be expected to influence, or be influenced by, decisions or dealings with Council. This will 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 c. Dependants of that person or that person's spouse or domestic partner. <p>Close family members may also include extended members of family (including siblings, grandparents, uncles/aunts or cousins, and potentially even good friends).</p>
Control	<p>Relates to the "control" of an entity where 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
Joint Control	<p>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.</p>
Joint Venture	<p>An arrangement where 2 or more parties have joint control and have the right to the net assets of the arrangement.</p>
Joint Venturer	<p>A party to a joint venture that has joint control of that joint venture.</p>
Key Management Personnel (KMP)	<p>Person(s) having authority and responsibility for planning, directing and controlling the activities of Council. Key management personnel include (but are not limited to):</p> <ul style="list-style-type: none"> a. The Mayor b. Councillors c. Chief Executive Officer d. Directors e. Any other staff required to complete a Pecuniary Interests Return
Ordinary citizens transactions	<p>Transactions that an ordinary citizen would undertake with Council, which is 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 not material in nature are:</p> <ul style="list-style-type: none"> a. Paying rates and water/sewer charges b. Using Council's public facilities after paying the corresponding fees.

Word or Terminology	Description
Related party	<p>A person or entity that is related to Council pursuant to the definition contained in AASB124, paragraph 9. Examples of related parties of Council are:</p> <ul style="list-style-type: none"> a. Key management personnel b. Close family members of key management personnel c. Entities that are controlled or jointly controlled by key management personnel or their close family members d. Council subsidiaries
Related party transaction	<p>A transfer of resources, services or obligations between the Council and a related party, regardless of whether a price is charged. 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 (example, 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
Related party transactions return (RPT Return)	Council form entitled Related Party Transactions Return provided by Key Management Personnel
Significant Influence	The power to participate in the financial and operating policy decisions of another entity. This is not control or joint control of those entities as determined in accordance with AASB128 Investments in Associates and Joint Ventures, paragraphs 3, 5 and 6.
Joint Venture	An arrangement of which 2 or more parties have joint control and have the right to the net assets of the arrangement.
Joint Venturer	A party to a joint venture that has joint control of that joint venture.
Pecuniary Interest	Of or relating to money.
Non-pecuniary Interest	These interests do not have a financial component but may arise from personal or family relationships or involvement in sporting, social or cultural activities.

1.3 Legislation

- *Local Government Act 1993*
- *Local Government Regulation (2005)*
- *Privacy and Personal Information Protection Act [PPIP] (1998)*
- *Government Information Public Access Act [GIPA] (2009).*
- Australian Accounting Standards

1.4 Implementation

1.4.1 Policy Statement

In order to comply with AASB.124, Council will:

- Identify related party relationships, related party transactions and ordinary citizen transactions
- Identify information about the related party transaction for disclosure
- Capture and record the related party transactions and information about those transactions as specified in Procedure 6.20.02 Related Party Disclosures
- Identify the circumstances in which disclosure regarding related party relationships, related party transactions' and ordinary citizen transactions; as well as information about the related party transaction itself is required; and
- Determine the disclosure(s) to be made about the items in the General Purpose Financial Statements in order to comply with AASB 124.

To comply with the *Local Government Act 1993* - Section 124 Disclosure of pecuniary interest provisions and Bega Valley Shire Council's Code of Conduct Part 4 Pecuniary Interest and Part 5 – Non-Pecuniary Conflicts of Interest Council will

- Compile a list of Councillors and 'Designated Persons' on an annual basis as specified in Procedure 6.20.01 Annual Disclosures by Councillors and Designated Persons.
- Capture and record annual disclosure of interest returns and disclosure made by Councillors and designated staff in relation to matters reported to Council as outlined in Council's Procedure Councillors and Designated Persons Annual Returns.
- Keep a public register of Councillor and Designated person's disclosures.

1.4.2 Responsibilities

1.4.2.1 Elected Council

The elected councillors are responsible for submitting an annual related party and designated person disclosure form by the required date. The Councillors are also responsible for adhering to the Code of Conduct and other procedures relating to the management of conflict of interest

1.4.2.2 Chief Executive Officer (CEO), Leadership Executive Group (LEG)

The CEO is responsible for submitting an annual related party and designated person disclosure form by the required date. The CEO will ensure that all records relating to disclosures are collected, filed, and recorded in accordance with Council's access to information policy and procedures.

1.4.2.3 Directors

The Directors of Council are responsible for submitting an annual related party and designated person disclosure form by the required date. The Directors identify and ensure that other employees who hold a designated position submit the appropriate disclosure forms.

The Director of Business and Governance has the responsibility to make sure council collects, files, and records all disclosures in accordance with the access to information policy and procedures and is responsible for reporting the annual disclosure to Council.

1.4.2.4 Employees

Employees that hold positions identified as a 'Designated Person' are responsible for submitting an annual related party and designated person form by the required date.

The Manager of People and Governance and the Governance and Records Coordinator will make sure all information is collected, filed, and recorded in accordance with Council's access to information and records policies and procedures.

1.5 Supporting documents

1.5.1 BVSC Procedures that relate to this Policy

Procedure No.:	Procedure Name	External or Internal Procedure
6.02.1	Code of Conduct	External
6.02.(a)	Administration of the Code of Conduct	External
6.12.01	Government Information Public Access Act (GIPA) Publication Guide	External
6.20.01	Annual Disclosures by Councillor and Designated Persons	Internal
6.20.02	Related Party Disclosures	Internal

1.5.2 BVSC Policies that Relate to this Policy

Policy No.:	Policy Name
6.02	Behaviour of Councillors and Staff
6.12	Access to Information

Note: Policy details may change from time to time. To ensure you are viewing the most recent version please view Council's adopted Policies and Procedures on Council website: