



**CHIEF EXECUTIVE OFFICER ATTACHMENTS
ORDINARY MEETING OF COUNCIL
WEDNESDAY 20 NOVEMBER 2019**

REPORT NUMBER	REPORT TITLE AND ATTACHMENT DESCRIPTION	PAGE NUMBER(S)
9.4.1	Register of Policies: Amendments <ol style="list-style-type: none"> 1. Register of Policies Timeline 2. Administration Policy 1.4 Service Level Complaints Handling 3. External Complaint Form 4. Administration Policy 1.5 Execution of Documents 5. Exert of Local Government Act 1995, Sec 9.49A(4) 6. DA5 – Signing of Documents 7. Administration Policy 1.10 Recycled Purchasing 8. Administration Policy 2.12 Purchasing - “Sustainable Procurement” 9. Administration Policy 1.12 Security Cameras and CCTV 	1 – 25
9.4.3	Disposal of Property: Lot 14 Wells Glover Road, Bindoon <ol style="list-style-type: none"> 1. Certificate of Title 	26
9.4.4	Disposal of Property: Lot 7 (RN 131) Muchea East Road, Muchea <ol style="list-style-type: none"> 1. Certificate of Title 2. Correspondence to WAPC dated 20 March 2013 3. Correspondence received from WAPC dated 19 December 2015 	27 – 30
9.4.5	Proposed New Administration Policy: Recording (and Access to Recordings) of Council Meetings <ol style="list-style-type: none"> 1. Council Resolution 150618 2. “Draft” Administration Policy ‘Recording (and Access to Recordings) of Council Meetings 	31 – 46
9.4.6	Proposed New Finance Policy: Related Party Disclosures <ol style="list-style-type: none"> 1. Finance Policy ‘Related Party Disclosures’ 2. Moore Stephens ‘Guidance Note 31’ 	47 – 78

Policy Details	Review or New	Presented to Council to workshop	Presented to Council to adopt
Administration Policy 1.4 Complaints Handling	Review	Tuesday, 12 November 2019	Wednesday, 11 December 2019
Administration Policy 1.5 Execution of Documents	Review	Tuesday, 12 November 2019	Wednesday, 11 December 2019
Administration Policy 1.7 Communications	Review	Tuesday, 12 November 2019	Wednesday, 11 December 2019
Administration Policy 1.9 Recycled Purchasing	Review	Tuesday, 12 November 2019	Wednesday, 11 December 2019
Administration Policy 1.11 Security Cameras and CCTV	Review	Tuesday, 12 November 2019	Wednesday, 11 December 2019
Administration Policy 1.16 Community Engagement	Review	Tuesday, 12 November 2019	Wednesday, 11 December 2019
Finance Policy 2.1 Budget Preparation	Review	Tuesday, 4 February 2020	Wednesday, 18 March 2020
Finance Policy 2.7 Significant Accounting Policies	Review	Tuesday, 4 February 2020	Wednesday, 18 March 2020
Finance Policy 2.10 Cheque Signatory / EFT Requirements	Review	Tuesday, 4 February 2020	Wednesday, 18 March 2020
Finance Policy 2.11 Credit Cards	Review	Tuesday, 4 February 2020	Wednesday, 18 March 2020
Staff Policy 3.1 Code of Conduct - Staff, Volunteers and Contractors	Review	Tuesday, 12 May 2020	Wednesday 17 June 2020
Staff Policy 3.7 Staff Housing	Review	Tuesday, 12 May 2020	Wednesday 17 June 2020
Staff Policy 3.18 Use of Council Vehicles	Review	Tuesday, 12 May 2020	Wednesday 17 June 2020
Staff Policy 3.19 Social Media	Review	Tuesday, 12 May 2020	Wednesday 17 June 2020
Elected Members Policy 4.1 Code of Conduct	Review	Tuesday 11 August 2020	Wednesday 16 September 2020
Elected Members Policy 4.2 Petitions to Council	Review	Tuesday 11 August 2020	Wednesday 16 September 2020
Elected Members Policy 4.3 Elected Members' Fees, Allowances, Reimbursements and Benefits	Review	Tuesday 11 August 2020	Wednesday 16 September 2020
Elected Members Policy 4.6 Agenda Forums	Review	Tuesday 11 August 2020	Wednesday 16 September 2020
Community Development Policy 6.1 Australia Day Awards	Review	Tuesday 13 October 2020	Wednesday 18 November 2020
Engineering, Construction and Maintenance Policy 7.5 Road Maintenance	Review	Tuesday 13 October 2020	Wednesday 18 November 2020
Engineering, Construction and Maintenance Policy 7.6 Heavy Vehicle Access	Review	Tuesday 13 October 2020	Wednesday 18 November 2020
Town Planning Policy 9.5 Road Names	Review	Tuesday 13 October 2020	Wednesday 18 November 2020
Environment and Health Policy 10.2 Bushfire Control	Review	Tuesday 9 February 2021	Wednesday 17 March 2021
Environment and Health Policy 10.4 Clearing of Land	Review	Tuesday 9 February 2021	Wednesday 17 March 2021
Environment and Health Policy 10.7 Multiple Dogs	Review	Tuesday 9 February 2021	Wednesday 17 March 2021
Environment and Health Policy 10.8 Smoke-Free Outdoor Areas	Review	Tuesday 9 February 2021	Wednesday 17 March 2021



SHIRE OF CHITTERING Register of Policies

1.4 Service Level Complaints Handling

Policy Owner:	Governance
Person Responsible:	Chief Executive Officer
Date of Approval:	15 April 2009
Amended:	<Date approved by Council Resolution>
Integrated Framework Reference:	Strategic Community Plan
Strategic Framework Reference:	Corporate Business Plan
Applies to:	All Staff and Council

The Shire of Chittering is committed to operating in a transparent manner and responding to dissatisfaction from customers relating to the services provided, customer service received and general operation of the Local Government Authority.

A complaint, by definition, is an 'expression of dissatisfaction made to or about an organization, related to its services, staff or the handling of a complaint, where a response is explicitly or implicitly expected or legally required'.

In the event that a complaint or report of dissatisfaction is received the Shire of Chittering will endeavour to provide a response within a reasonable timeframe.

This policy does not apply to Elected Members and/or staff in regards to misconduct. Complaints regarding Elected Members are covered by "Code of Conduct – Council Members" Policy.

Related Documents

- *Code of Conduct Policy*
- *Code of Conduct – Council Members Policy*
- *Complaints Handling Process*
- *Customer Service Charter*

[illegible]

Complainant Signature _____ Date / /

Acknowledgement required	Yes / No
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Date Received		Officer Signature	
Synergy Record		Date Reviewed	
Complaint Resolved		Officer Signature	
File No		Complainant Notified	

- If a formal complaint is lodged, the shire will determine complaints as quickly as possible and will keep the complainant (and if applicable, the person who is the subject of the complaint) advised of the progress, details of the resolution and reasons.
- At a minimum, the following information is to be supplied in order to effectively process the complaint:
 - Name and address.
 - Contact details.
 - Complaint details.
 - Date/s of occurrence of complaint.
- The relevant officers will investigate and may determine to take the following courses of action:-
 - Take no further action and give the complainant reason/s;
 - Resolve the complaint by use of other appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation;
 - Discontinue the assessment in circumstances where it becomes evident that the matter would be referred to another body or person and advise the complainant accordingly.
- Should the complainant not be satisfied with the result, written application to Council is required within 30 days.
- Where external review options are available, the CEO will advise Complainants of the available options.
- Customer correspondence, telephone conversations or interviews which proceed in an inflammatory manner will not be acted on. Where this occurs, the shire has the right to terminate conversations or interviews after warning the customer of that intention.
- The written complaint is to be recorded in the Synergy Record System.
- The written complaint is to be registered in the Complaint Register.

ANONYMOUS COMPLAINTS

An anonymous customer complaint will only be investigated where reasonable and sufficient information is provided and which, in the opinion of a shire employee, constitutes:

- A breach of statutory provisions;
- A breach of an approval, licence or permit;
- A matter for which the shire is obligated to act, prescribed in the Local Government Act 1995, Corruption Crime & Misconduct Act 2003 or under any other written law (i.e. the Public Interest Disclosure (PID) legislation);
- A matter which if not attended to could reasonably constitute a risk to the public health and safety of persons, animals or the environment; and
- A matter which is deemed to be capable of investigation and resolution without assistance from the complainant.

The following will not be registered as complaints due to the fact that each of the below is covered under a separate process or policy:

- A request for council services;
- A request for documents, information or explanation of policies or procedures;
- A request for the council to exercise a regulatory function;
- The lodging of an appeal or objection in accordance with a statutory process, standard procedure or policy;
- A submission relating to the exercise of a regulatory function; and
- A petition.

This policy does not apply to Elected Members and/or staff in regards to misconduct. Complaints regarding Elected Members are covered by "Code of Conduct – Council Members" Policy.



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1.5 Execution of Documents

Policy Owner: Governance
Person Responsible: Executive Assistant
Date of Approval: 15 April 2009
Amended: August 2019

Objective To provide guidelines and expediency for the use of the Shire Common Seal and attestation of legal documents.

Policy Following a specific Council decision, the Shire President and the Chief Executive Officer, or their deputies as prescribed in the **Local Government Act 1995**, shall sign all documentation of a legal or statutory nature with inclusion of the Common Seal.

*This is stipulated by
Local Govt Act Sec 9.49(a)4
See attached copy of
legislation.*



*This is referenced in DA5
"Signing of Documents"
- Copy attached*



The Executive Assistant is to ensure that the "Common Seal Register" booklet is kept up-to-date and completed correctly for statutory compliance.

Notes:

(1) Only those documents legally requiring the Common Seal, or those documents specifically decided by Council, require the Common Seal to be affixed; and

(2) [Section 70A Notifications, Restrictive Covenants and Easement Registrations](#) are provided on new Titles, in order for a subdivision to be endorsed and finalised. In light of the standard procedure of this planning requirement the Shire President and CEO may affix the common seal and sign these documents without the need for a Council resolution.

*This is referring to the
"Transfer of Land Act 1893"*

*Suggest that this be made
the "5th Condition" of DA5*

Division 3 — Documents

9.49A. Execution of documents

- (1) A document is duly executed by a local government if —
 - (a) the common seal of the local government is affixed to it in accordance with subsections (2) and (3); or
 - (b) it is signed on behalf of the local government by a person or persons authorised under subsection (4) to do so.
- (2) The common seal of a local government is not to be affixed to any document except as authorised by the local government.
- (3) The common seal of the local government is to be affixed to a document in the presence of —
 - (a) the mayor or president; and
 - (b) the chief executive officer or a senior employee authorised by the chief executive officer,

each of whom is to sign the document to attest that the common seal was so affixed.

- (4) A local government may, by resolution, authorise the chief executive officer, another employee or an agent of the local government to sign documents on behalf of the local government, either generally or subject to conditions or restrictions specified in the authorisation.



Delegated Authority Register

DA5 SIGNING OF DOCUMENTS

- Objective of Delegation:** To sign Shire documents on behalf of the Shire of Chittering.
- Extent of Delegation:** The authority to sign documents as a part of the day to day operations of the Shire of Chittering.
- Conditions imposed:** Authority is delegated on the provision that one or more of the following provisions apply:
- 1 The Council has authorised the entering into a formal contract/document.
 - 2 A formal contract is authorised under delegated authority of the Council.
 - 3 A formal contract/document is considered necessary by the Chief Executive Officer as part of the day to day operations of the Council.
 - 4 The Chief Executive Officer is to prepare the necessary documentation taking into account any specific policy requirements of Council and to arrange for signing of the contract/documents without further reference to Council.
 - 5 Section 70A Notifications, Restrictive Covenants and Easement Registrations are provided on new Titles, in order for a subdivision to be endorsed and finalised. In light of the standard procedure of this planning requirement the Shire President and CEO may affix the common seal and sign these documents without the need for a Council resolution.

Delegation by Council to:	Chief Executive Officer
Delegation by Chief Executive Officer to:	Not applicable
Formal Record:	Common Seal Register Recorded in central records system



Delegated Authority Register

Heads of Power:	<ul style="list-style-type: none"> Local Government Act 1995 s9.49 A(a) (4) Shire of Chittering Administration Policy 1.5 Execution of Documents
Last Reviewed:	21 June 2017 29 January 2019
Amended:	

**SHIRE OF CHITTERING**
Register of Policies

1.10 Recycled Purchasing

Policy Owner:	Corporate Services
Person Responsible:	All staff
Date of Approval:	20 May 2009
Amended:	

Objective	To demonstrate a commitment to the philosophy of recycling by supporting the purchase of recycled products and materials where practicable.
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Policy	Council encourages the purchase of recycled goods wherever possible, particularly in the use of paper products within the office environment. Preference will be given to the purchase of Australian made products which contain recycled material, to further promote the viability of recycling generally.
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2.12 Purchasing

Policy Owner:	Corporate Services
Distribution:	All employees
Person Responsible:	Executive Manager Corporate Services
Date of Approval:	19 August 2009
Amended:	28 October 2015; 26 October 2016; 7 August 2018

- Objective**
- To provide compliance with the **Local Government Act 1995** and the **Local Government (Functions and General) Regulations 1996** as amended in September 2015.
 - To deliver best practice approach and procedures to internal purchasing for the Shire of Chittering.
 - To ensure consistency for all purchasing activities within the Shire of Chittering.

Policy

Why do we need a Purchasing Policy?

The local government is committed to setting up efficient, effective, economical and sustainable procedures in all purchasing activities.

This policy:

- Provides the local government with a more effective way of purchasing goods and services.
- Ensures that purchasing transactions are carried out in a fair and equitable manner.
- Strengthens integrity and confidence in the purchasing system.
- Ensures that the local government receives value for money in its purchasing.
- Ensures that the local government considers the environmental impact of the procurement process across the life cycle of goods and services.
- Ensures the local government is compliant with all regulatory obligations.
- Promotes effective governance and definition of roles and responsibilities.
- Uphold respect from the public and industry for the local government's purchasing practices that withstand probity.

**Ethics and Integrity**

All officers and employees of the local government shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the local government.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money.
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the local government policies and Code of Conduct.
- purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently.
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements.
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.
- any information provided to the local government by a supplier shall be treated as commercial-in-confidence and should not be released unless authorised by the supplier or relevant legislation.

Value for Money

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the local government. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing, and service benchmarks.

An assessment of the best value for money outcome for any purchasing should consider:

- all relevant whole-of-life costs and benefits whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with



acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal.

- the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
- financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable.

Where a higher priced conforming offer is recommended, there should be clear and demonstrable benefits over and above the lowest total priced, conforming offer.

Sustainable Procurement

“Sustainable Procurement” is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services.

The Shire of Chittering is committed to sustainable procurement and where appropriate shall endeavour to design quotations and tenders to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations must be balanced against value for money outcomes in accordance with the Shire of Chittering's sustainability objectives.

Practically, sustainable procurement means the Shire of Chittering shall endeavour at all times to identify and procure products and services that:

- have been determined as necessary.
- demonstrate environmental best practice in energy efficiency and/or consumption which can be demonstrated through suitable rating systems and eco-labelling.
- demonstrate environmental best practice in water efficiency.
- are environmentally sound in manufacture, use, and disposal with a specific preference for products made using the minimum amount of raw materials from a sustainable



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resource, that are free of toxic or polluting materials and that consume minimal energy during the production stage.

- where products that can be refurbished, reused, recycled or reclaimed shall be given priority, and those that are designed for ease of recycling, re-manufacture or otherwise to minimise waste.
- for motor vehicles – select vehicles featuring the highest fuel efficiency available, based on vehicle type and within the designated price range.
- for new buildings and refurbishments – where available use renewable energy and technologies.

Supporting local industry

The Shire of Chittering recognises that it has a role in the economic development of the local community and in assisting local industry in accessing opportunities to conduct business with the Shire.

In supporting or encouraging local industry, matters relating to:

- Value for money;
- Environmental performance;
- National Competition Policy; and
- Transparency of decision-making must be addressed.

In order to assist local industry to conduct business with the Shire, the following steps shall be undertaken:

- Procurement shall be undertaken in accordance with the Procurement Management Procedure and within the guidelines for “Purchasing Thresholds” of this policy.
- All tenders and requests for expressions of interest shall be advertised in the **Northern Valleys News** and/or **The Advocate** newspapers, placed on noticeboards in the Shire's libraries and administration centre.
- All tenders and requests for expressions of interest will be available to access and, where applicable, download through the Shire's website.
- A Request for Quotation process shall be investigated that will enable effective communication with the local business community of the Shire's upcoming requests for quotation.

The major considerations in accepting any tender or quotation for provision of goods or service shall be:



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- Capacity to deliver the goods or services according to the Shire's specification and the contract conditions; and
- Value for money.

Any canvassing of the Shire's Elected Members or staff shall disqualify businesses seeking to do business with the Shire.

Purchasing Thresholds

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is expected to be:

Amount of Purchase	Model Policy
Up to \$ 10,000	Direct purchase from suppliers.
\$10,001 - \$30,000	Obtain at least two verbal or written quotations.
\$30,001 - \$50,000	Obtain at least two written quotations.
\$50,001 - \$149,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations).
\$150,000 and above	Conduct a public tender process.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$150,000 threshold (excluding GST). If a decision is made to seek public tenders for contracts of less than \$150,000, a "Request for Tender" process that entails all the procedures for tendering outlined in this policy must be followed in full.

Purchasing value not greater than \$10,000

Where the value of procurement of goods or services does not exceed \$10,000, purchase is subject to budget allocation. However it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value is maintained.

This purchasing method is suitable where the purchase is relatively small and low risk.



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Purchasing value between \$10,001 and \$30,000

This category is for the procurement of goods or services where the value of such procurement ranges between \$10,001 and \$30,000.

At least two verbal or written quotations are required. Where this is not practical, e.g. due to limited suppliers, it must be noted through records relating to the process.

The general principles for obtaining verbal quotations are:

- Ensure that the requirement/specification is clearly understood by the local government employee seeking the verbal quotations.
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote.
- Read back the details to the supplier contact person to confirm their accuracy.
- Written notes detailing each verbal quotation must be recorded.

Record keeping requirements must be maintained in accordance with record keeping policies.

Purchasing value between \$30,001 - \$50,000

For the procurement of goods or services where the value of such procurement ranges between \$30,001 and \$50,000, it is required to obtain at least two written quotes (commonly a sufficient number of quotes would be sought according to the type and nature of purchase).

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements. Record keeping requirements must be maintained in accordance with record keeping policies.

Purchasing value between \$50,001 and \$149,999

For the procurement of goods or services where the value of such procurement ranges between \$50,001 and \$149,999 it is required to obtain at least three written quotations containing price and a sufficient amount of information relating to the specification of goods and services being purchased.



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For this procurement range, the selection should not be based on price alone, and consideration shall be given to qualitative factors such as quality, stock availability, environmental performance, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, organisation's capability, previous relevant experience and any other relevant factors as part of the assessment of the quote.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$150,000 threshold (excluding GST). If a decision is made to seek public tenders for Contracts of less than \$150,000, a Request for Tender process that entails all the procedures for tendering outlined in this policy must be followed in full.

The general principles for verbal and written quotations shall be followed as noted in this Policy.

General principles for obtaining verbal quotations

- Ensure that the requirement / specification is clearly understood by the Shire of Chittering employee seeking the verbal quotations.
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote.
- Read back the details to the Supplier contact person to confirm their accuracy.
- The responsible officer shall demonstrate due diligence when seeking quotes and shall comply with the Shire's record keeping policies and audit requirements.

All documents relating to the quotation process must be saved in the Shire's Electronic Management System (i.e. SYNERGY).

General principles relating to written quotations

- The request for written quotation should include as a minimum: An appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.
- The request for written quotation should include as a minimum:
 - Written Specification
 - Selection Criteria to be applied



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- Price Schedule
- Conditions of responding
- Validity period of offer
- Invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.
- Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- Responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented.
- Respondents should be advised in writing as soon as possible after the final determination is made and approved.

Ordering Thresholds

The following Officers are authorised to sign orders on behalf of Council within the limits stated provided such proposed purchases are contained within the Budget and are within the officer's area of activity:

Position	Amount
Chief Executive Officer	Unlimited
Executive Manager Development Services	\$50,000
Executive Manager Technical Services	\$50,000
Executive Manager Corporate Services	\$50,000
Works Supervisor	\$ 5,000
Building Surveyor	\$ 5,000
Principal Environmental Health Officer	\$ 5,000
Community Emergency Services Manager	\$ 5,000
Economic Development Coordinator	\$ 2,500
Community Development Coordinator	\$ 2,500

Regulatory Compliance

- *Tender Exemption*
In the following instances public tenders or quotation procedures are not required (regardless of the value of expenditure):
 - An emergency situation as defined by the **Local Government Act 1995**.
 - The purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and



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- Finance (permitted Common Use Arrangements), Regional Council, or another local government.
- The purchase is under auction which has been authorised by Council.
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines.
- Any of the other exclusions under Regulation 11 of the ***Local Government (Functions and General) Regulations 1996*** apply.

Sole Source of Supply (Monopoly Suppliers)

The procurement of goods and/or services available from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that there must genuinely be only one source of supply. Every endeavour to find alternative sources must be made. Written confirmation of this must be kept on file for later audit.

Note:

The application of provision "sole source of supply" should only occur in limited cases and procurement experience indicates that generally more than one supplier is able to provide the requirements.

Anti-Avoidance

The Shire of Chittering shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby avoiding the need to publicly tender.

Tender Criteria

The Shire of Chittering shall, before tenders are publicly invited, determine in writing the criteria for deciding which tender should be accepted.

The evaluation panel shall be established prior to the advertising of a tender and include a mix of skills and experience relevant to the nature of the purchase.



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For requests with a total estimated (excluding GST) price of:

- Between \$40,000 and \$149,999, the panel must contain a minimum of two members.
- \$150,000 and above, the panel must contain a minimum of three members.

Advertising Tenders

Tenders are to be advertised in a state-wide publication, e.g. ***The West Australian*** under the "Local Government Tenders" section, with preference on a Wednesday or Saturday.

The tender must remain open for at least {14} days after the date the tender is advertised. Care must be taken to ensure that {14} **full** days are provided as a minimum.

The notice must include:

- a brief description of the goods or services required
- information as to where and how tenders may be submitted
- the date and time after which tenders cannot be submitted
- particulars identifying a person from who more detailed information as to tendering may be obtained
- detailed information shall include:
 - such information as the local government decides should be disclosed to those interested in submitting a tender
 - detailed specifications of the goods or services required
 - the criteria for deciding which tender should be accepted
 - whether or not the local government has decided to submit a tender
 - whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tenders may so be submitted.
- Canvassing of Elected Members and Shire officers will disqualify your tender

**Issuing Tender Documentation**

Tenders will not be made available (counter, mail, internet, referral, or other means) without a robust process to ensure the recording of details of all parties who acquire the documentation.

This is essential as if clarifications, addenda or further communication is required prior to the close of tenders, all potential tenderers must have equal access to this information in order for the Shire of Chittering not to compromise its Duty to be Fair.

Tender Deadline

A tender that is not received in full in the required format by the advertised tender deadline shall be rejected.

Opening of Tenders

No tenders are to be removed from the tender box, or opened (read or evaluated) prior to the tender deadline.

Tenders are to be opened in the presence of the Chief Executive Officer's or one Executive Manager and preferably at least one other Council officer. The details of all tenders received and opened shall be recorded in the 'Tenders Register'.

Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as "commercial-in-confidence" to the local government. Members of the public are entitled to be present.

The tenderer's offer form, price schedule and other appropriate pages from each tender shall be date stamped and initialled by at least two local government officer's present at the opening of tenders.

**No Tenders Received**

Where the Shire of Chittering has invited tenders, however no compliant submissions have been received, direct purchases can be arranged on the basis of the following:

- a sufficient number of quotations are obtained
- the process follows the guidelines for seeking quotations between \$40,000 and \$149,999 (listed above)
- the specification for goods and/or services remains unchanged
- purchasing is arranged within 6 months of the closing date of the lapsed tender.

Tender Evaluation

Tenders that have not been rejected shall be assessed by the Shire of Chittering by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender that has not been rejected to determine which tender is most advantageous.

Tender Acceptance

That the Chief Executive Officer be authorised to accept tenders/purchases up to \$99,999.99; and that all tenders/purchases above \$100,000 are to be referred to Council (including all WALGA preferred suppliers).

Addendum to Tender

If, after the tender has been publicly advertised, any changes, variations or adjustments to the tender document and/or the conditions of tender are required, the Shire of Chittering may vary the initial information by taking reasonable steps to give each person who has sought copies of the tender documents notice of the variation.

Minor Variation

If after the tender has been publicly advertised and a successful tenderer has been chosen but before the Shire of Chittering and tenderer have entered into a contract, a minor variation may be made by the Shire.



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A minor variation will not alter the nature of the goods and/or services procured, nor will it materially alter the specification or structure provided for by the initial tender.

Notification of Outcome

Each tenderer shall be notified of the outcome of the tender following Council resolution. Notification shall include:

- The name of the successful tenderer
- The total value of consideration of the winning offer

The details and total value of consideration for the winning offer must also be entered into the Tenders Register at the conclusion of the tender process.

Records Management

All records associated with the tender process or a direct purchase process must be recorded and retained. For a tender process this includes:

- Tender documentation
- Internal documentation
- Evaluation documentation
- Enquiry and response documentation
- Notification and award documentation.

For a direct purchasing process this includes:

- Quotation documentation
- Internal documentation
- Order forms and requisitions.

Record retention shall be in accordance with the minimum requirements of the ***State Records Act 2000***, and the Shire of Chittering's internal records management policy.

Purchasing from WA Disability Enterprises

Pursuant to State Government policy, Local Governments are encouraged to consider the option of purchasing goods and services from registered WA Disability Enterprises. This is contingent on the provision of fair value and quality.



SHIRE OF CHITTERING Register of Policies

Local Governments are encouraged to invite relevant WA Disability Enterprises to respond to a Request for Quotation or Tender for goods or services. Determining the purchasing process to be followed is based on the actual or expected value of each purchase by the Local Government as outlined above in Section 5 (Purchasing Thresholds and Processes) of this Policy. There are seven Disability Enterprises registered in Western Australia.

A complete list of approved organisations is available from the following website: www.wade.org.au.



SHIRE OF CHITTERING Register of Policies

1.12 Security Cameras and CCTV

Policy Owner:	Governance
Person Responsible:	Executive Manager Technical Services
Date of Approval:	20 May 2009
Amended:	7 August 2018

Definitions “**Authorised personnel**” to view the security recordings are the Chief Executive Officer, Executive Manager of Technical Services, the Building Coordinator, Technical Support Officer and the Shire Rangers.

Recording Control

- a) The Chief Executive Officer may authorise the copying of original recordings where an incident is the subject of legal proceedings.
- b) Copying of original recordings is to be made only by an officer authorised by the Chief Executive Officer for this purpose.
- c) Any copy is to be marked ‘copy’ and certified as such.
- d) Certified copies of recordings may only be released to the WA Police, lawyers acting on behalf of individuals engaged in legal proceedings related to a recorded incident, or individuals acting as their own legal counsel in relation to a recorded incident.
- e) Certified copies will only be released to the parties named above when permission has been received from the Chief Executive Officer.
- f) At no time shall the security camera be used to provide surveillance of individuals or groups engaging in rallies, protests or other political behaviour unless there is a well-founded belief that an offence against statute law is likely to or is taking place.
- g) All recordings shall be kept in secured storage under the control of the Shire of Chittering.
- h) All original recordings shall be erased after thirty days after the date of the recording unless a request is made in writing for it to be held.
- i) All written requests for access to original recordings shall be addressed to the Chief Executive Officer.



SHIRE OF CHITTERING Register of Policies

Viewing of Recordings

Requests to view a recording shall be responded within three (3) working days.

Release of original recordings or still photographs

- a) Original recordings and still photographs shall not be released to any person or organisation unless requested under the WA Criminal Code, by court summons or by other legal instrument.
- b) At no time shall original or copied recordings or still photographs be released to any media organisations, journalist or other individual or group without the written approval of the Chief Executive Officer of the Shire of Chittering.

WESTERN



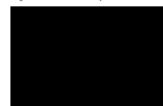
AUSTRALIA

REGISTER NUMBER 14/D29116	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

RECORD OF CERTIFICATE OF TITLE UNDER THE TRANSFER OF LAND ACT 1893

VOLUME
9FOLIO
160A

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 14 ON DIAGRAM 29116

REGISTERED PROPRIETOR: (FIRST SCHEDULE)

SHIRE OF CHITTERING OF BINDOON

(T 81494/1966) REGISTERED 18/11/1966

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS: (SECOND SCHEDULE)

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.
* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.
Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: 9-160A (14/D29116)
PREVIOUS TITLE: 1314-144
PROPERTY STREET ADDRESS: NO STREET ADDRESS INFORMATION AVAILABLE.
LOCAL GOVERNMENT AUTHORITY: SHIRE OF CHITTERING

REGISTER NUMBER 7/DP65064	
DUPLICATE EDITION N/A	DATE DUPLICATE ISSUED N/A

WESTERN  AUSTRALIA

RECORD OF CERTIFICATE OF TITLE
UNDER THE TRANSFER OF LAND ACT 1893

VOLUME **2741** FOLIO **729**

The person described in the first schedule is the registered proprietor of an estate in fee simple in the land described below subject to the reservations, conditions and depth limit contained in the original grant (if a grant issued) and to the limitations, interests, encumbrances and notifications shown in the second schedule.



REGISTRAR OF TITLES

LAND DESCRIPTION:

LOT 7 ON DEPOSITED PLAN 65064

REGISTERED PROPRIETOR:
(FIRST SCHEDULE)

CHITTERING ROAD BOARD OF CHITTERING

(AF L321276) REGISTERED 20 MAY 2010

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS:
(SECOND SCHEDULE)

1. SAVE AND EXCEPT ALL THE RIGHT TITLE ESTATE AND INTEREST IN AND TO ALL THE MINERALS ON OR BELOW THE SURFACE OF THE SAID LAND WHICH SAID MINERALS HAVE BECOME THE PROPERTY OF THE CROWN PURSUANT TO THE PROVISIONS OF THE GOVERNMENT RAILWAYS ACT 54 OF 1965

Warning: A current search of the sketch of the land should be obtained where detail of position, dimensions or area of the lot is required.

* Any entries preceded by an asterisk may not appear on the current edition of the duplicate certificate of title.

Lot as described in the land description may be a lot or location.

-----END OF CERTIFICATE OF TITLE-----

STATEMENTS:

The statements set out below are not intended to be nor should they be relied on as substitutes for inspection of the land and the relevant documents or for local government, legal, surveying or other professional advice.

SKETCH OF LAND: DP65064 [SHEET 1].
PREVIOUS TITLE: 883-9.
PROPERTY STREET ADDRESS: LOT 7 MUCHEA EAST RD, MUCHEA.
LOCAL GOVERNMENT AREA: SHIRE OF CHITTERING.

NOTE 1: L321276 THIS LOT/TITLE CREATED AFTER PORTION OF THE LAND TAKEN FROM THE FORMER LOT WITHOUT PRODUCTION OF THE DUPLICATE TITLE BY TAKING ORDER L321276. CURRENT DUPLICATE FOR THE WITHIN LAND IS STILL VOL.883 FOL.9

OUR REF: PLANOFF1 18/02/19 SA48

Enquiries to: Planning Officer Scott Penfold

20 March 2013

West Australian Planning Commission
Locked Bag 2506
PERTH WA 6000

Dear Sir/Madam

SCHEME AMENDMENT NO.48 – LOT M1496 MUCHEA EAST ROAD, MUCHEA

With reference to your letter dated 31 December 2013, this matter was presented to Council at its 20 February 2013 Ordinary Council Meeting for consideration, whereby Council resolved as follows: -

“That Council:

- 1. in pursuance of Part 5, Division 3 and 4 of the Planning and Development Act 2005 and Regulations 17(2)(a) and 25 of the Town Planning Regulations 1967 resolves to adopt Scheme Amendment No.48 without modifications;***
- 2. authorises the Chief Executive Officer and Shire President to sign and affix the Common Seal to three (3) copies of the amendment documents in accordance with the Town Planning Regulations 1967.***
- 3. forwards the documents executed in Point 2 above to the Western Australian Planning Commission for final approval by the Minister of Planning.”***

These are Council's Unconfirmed Minutes 'Without Prejudice'; Minutes are provided on the strict understanding that all terms whether deemed expressed or implied do not purport to record the proceedings of Council until confirmed by resolution of Council. To view a copy of our Council Minutes please refer to our council website http://www.chittering.wa.gov.au/our_council/minutes/2012minutes/.

In accordance with Point 3 above, three (3) executed copies of Amendment No.48 to Shire of Chittering Town Planning Scheme No.6 are enclosed for the consideration of the Western Australian Planning Commission and the Minister for Planning. In accordance with the requirements of the Western Australian Planning Commission, the following additional information is enclosed:

- Council Minutes from Ordinary Council Meeting held 20 February 2013;
- Amendment Advertising Checklist;
- Schedule of Submissions presented to Council;
- Copies of submissions received during advertising period;
- Planning of Notified Landowners; and

- Environmental Protection Authority Advice

Please note, the submission made by the Department of Environment and Conservation was late and was unable to be included for Council's consideration of the Amendment. However, in accordance with the requirements outlined in the letter, the Shire of Chittering has liaised with the Department of Sustainability, Environment, Water, Population and Communities (SEWPAC). SEWPAC has advised that until an 'action', as defined by the *EPBC Act 1999*, is proposed to occur i.e. clearing or construction and not rezoning, that the proposal cannot be referred. Please find attached a copy of the email correspondence from SEWPAC with this letter.

If you require further information please contact Planning Officer Scott Penfold by email on chatter@chittering.wa.gov.au or telephone 08 9576 4600.

Yours faithfully

Azhar Awang
EXECUTIVE MANAGER DEVELOPMENT SERVICES



Your ref: PLANOFF1 18/02/19 SA48
 Our ref: TPS/1023
 Enquiries: Ryan Shaw (6551 9769)

Chief Executive Officer
 Shire of Chittering
 PO Box 70
 BINDOON WA 6502

Dear Sir

**TOWN PLANNING SCHEME No. 6
 AMENDMENT No. 48**

**MINISTERIAL DECISION FOR LOCAL PLANNING SCHEME AMENDMENT -
 REFUSE TO APPROVE**

Pursuant to clause 87(2) of the *Planning and Development Act 2005* (the Act), the Minister for Planning refuses to grant final approval to rezone Lot 7 Muchea East Road from 'Local Reserve - Parks and Recreation' to 'Light Industrial' for the following reasons:

- (a) the proposal would compromise the orderly and proper planning of the area in regard to the road network, servicing arrangements and established planning framework for the Muchea Employment Node;
- (b) the proposal would compromise the ability to extract regionally significant basic raw materials on the site which is inconsistent with Draft State Planning Policy 2.5 - Rural Planning Policy;
- (c) the proposed absence of reticulated water and wastewater services represents an unacceptable risk to environmental and groundwater resources, and has the potential to create an undesirable precedent for development of the Muchea Employment Node.

Attached are two sets of the amending documents. This office has retained one set of documents for record keeping purposes.

Yours sincerely



Kerrine Blenkinsop
 Secretary
 Western Australian Planning Commission
 18 December 2015

**SHIRE OF CHITTERING
 RECEIVED**

20 DEC 2015

Officer: EMDS & Planners
 File: 18/02/19
 Ref: I1566836





9.4.4 Recording of Ordinary Council Meetings for Record Taking Purposes*

Report date	20 June 2018
Applicant	Shire of Chittering
File ref	13/02/36
Prepared by	Chief Executive Officer
Disclosure of interest	Nil
Voting requirements	Simple Majority
Attachments	<ol style="list-style-type: none"> 1. Information Session Presentation dated 17 February 2017 2. McLeods update paper titled <i>"Proposed recording and live streaming of local government council and committee meetings"</i>

Executive Summary

Council is requested to consider the matter of recording Ordinary Council Meetings and whether this is, on the basis of the research provided in this report, a direction which Council wishes to pursue.

Background

The matter of recording Ordinary Council Meetings has been raised by Councillors on various occasions in the recent past. The matter was last discussed at a Council Information Session on 17 February 2017. The discussion at that session was focussed on Agenda Forums however the discussion also addressed the recording of Council Meetings. An extract from the session presentation from 17 February 2017 is attached (**Attachment 1**).

While a number of metropolitan Councils do record Council Meetings, a snapshot of neighbouring Council's (i.e. Gingin, Toodyay, Northam and Swan) indicated that none of those Council's currently record Council Meetings.

At that workshop, the Chief Executive Officer recommended that Council not proceed with electronic recording of Council meetings for the following reasons:

- i. Proper sound recording equipment would be required
- ii. Additional administrative effort / cost would be incurred
- iii. Other Council's in our region do not do it
- iv. The perceived benefit does not warrant the cost

As a result of these discussions, Council proceeded with making the Agenda Forum's open to the public, but did not proceed with the recording of Council Meetings.

Legal Advice / Commentary

In a Local Government Update Paper prepared by McLeods Solicitors in November 2015, various legal aspects associated with the recording of Council Meetings is discussed. In summary, the paper suggests that *"any recording of Council and committee meetings should be used for the purpose of confirming the correctness of the Minutes of meetings, but should not be otherwise published. The Minutes should then remain available as the public record of the meetings"*. However, even recording for record taking purposes has other implications, as discussed further in the following section of this report.



The paper highlights some of the issues which Councillors need to be aware of regarding personal liability, including:

- *Members of the public, at Council meetings are able to speak in question time and on deputations or representations on issues arising at Council meetings. The Council has no control over their comments, but the recording of the proceedings could result in the local government being liable in defamation for the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.*
- *To expect a local government to edit the recordings of meetings to guard against defamatory or otherwise hurtful comments, and to identify speakers, would place an unreasonable burden on the local government administration. There would be a further burden of work and expense in obtaining legal advice on possible defamation.*
- *A Council acts as a collegiate body. The views of individual Council members are for practical purposes irrelevant. The only view that counts is that expressed in a resolution of the Council. To record the comments of individual Council members during debate has the potential to deflect attention away from the most important statement on the topic, which is the resolution passed by the Council and any reasons it identifies for its decision.*
- *The threat of Court action for defamation can be a very disturbing prospect for a Council member whose personal and family assets may be at risk. A wealthy/powerful or vexatious complainant may press even a bad action through lengthy and expensive litigation processes, and the fact that the action may ultimately fail is little consolation to a Council member whose life for months or years may be dominated by the presence and risks of the action.*
- *Any member of the public interested in an issue to be considered at a Council meeting can and generally will attend the meeting. Many of those who press for recording and live streaming of the proceedings online may be more interested in targeting Council members whose views they wish to criticise, than to inform themselves on the issues.*
- *Those concerned about the standard of debate at Council meetings are presumably intelligent and sensitive persons. They are the very people who should offer themselves for election to that important public service. That should improve the standard of debate far more effectively than recording and live streaming of meeting proceedings, and will be of more benefit to the public.*

Advice received from WALGA

Advice from WALGA regarding this matter is as follows:

- The Local Government Act and Regulations do not provide any guidance in regard to the audio or visual recording of council meetings and therefore it is discretionary for each Local Government to determine.
- The McLeods Update detailing risks arising from recording meetings to be appropriate considerations for the Council
- If the Council does wish to adopt a protocol for the recording of council meetings, then it will require governance controls to be established:
 - A Council Policy, which outlines the principles for why recordings are captured, protocols for how records will be turned on / off, when dealing with confidential matters and public access to recordings. This ensures that Councillors and public are aware of how recording will be administered.
 - Recording are a Local Government record in accordance with the State Records Act. The Shire would therefore need to ensure appropriate record keeping standards are applied to the creation, retention and disposal of the meeting recordings. The State Records Office, [General Disposal Authority for Local Government Records](#) prescribes that recordings of meetings must be retained for one year after minutes have been confirmed and then destroyed (see item 25.1.2).
 - Once the recording is created, it is a Local Government record and is therefore subject to the Freedom of Information Act. This means that any person that has a right to access the record, must be provided with access. Council should therefore give consideration to the risks that



- may arise from creating recordings of Council meetings, as well as if the recordings will be made publicly available or only provided on request.
- Copies of the recordings should be subject to a suitable fee adopted as part of the Schedule of Fees and Charges.
 - It will be important for Elected Members to understand that the record of their participation in a meeting will include the recording. This record can be called as evidence in an investigation by a regulator (DLG or CCC). Therefore, it is important that Elected Members fully understand and fulfil their obligations when participating in meetings.
 - Implications for recording of public question would also need to be considered.

Consultation/Communication Implications

The matter was previously discussed with Council at its workshop on 17 February 2017. As a result of those discussions, Council did not proceed with the recording of Council Minutes.

The purpose of this report is to provide further information to Council regarding this matter and for Council to decide, on the basis of the information provided, how it wishes to proceed.

Legislative Implications

State

The *Local Government Act 1995* and subsidiary Regulations do not provide any guidance in regard to the audio or visual recording of council meetings and therefore it is discretionary for each Local Government to determine.

Local

- Local Government (Council Meetings) Local Law 2014

The Shire's Meetings Local Law clause 6.15 prohibiting recording of meetings states:

- (1) *A person is not to use any electronic, visual or audio recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member.*
- (2) *If the Presiding Member gives permission under subclause (1), the Presiding Member is to advise the meeting, immediately before the recording is commenced, that such permission has been given and the nature and extent of that permission.*

Policy Implications

Local Governments with similar Local Law requirements, implement a further statement in the agenda and as an announcement by the Presiding Member at each meeting, that permission has been provided for the Shire's administration to undertake recording of the meeting however, no other member of the public or Council member may record proceedings. This fulfils the obligation to advise those attending that a recording is occurring.

Financial Implications

There is a cost associated with the purchase and installation of microphones and sound recording equipment. A cost of around \$10,000 was obtained previously for a suitable system, although there may be more cost effective alternatives.

There would be administrative costs associated with the recording of Council Minutes. These have yet to be assessed and would, in part, be dependent upon the adoption of a suitable Council Policy regarding the recording of public meetings.



Strategic Implications

- Strategic Community Plan 2017-2027
 Focus area: Strong leadership
 Objective: S5.3 Accountable governance
 Strategy: S5.3.1 Good governance which supports efficient and effective service delivery

Site Inspection

Not Applicable

Triple Bottom Line Assessment

Economic implications

Direct cost associated with installation of appropriate recording equipment and administration overheads associated with the process.

Social implications

There are no known significant social implications associated with this proposal.

Environmental implications

There are no known significant environmental implications associated with this proposal.

Officer Comment/Details

Council is requested to consider the matter of recording Ordinary Council Meetings and whether this is, on the basis of the research provided in this report, a direction which Council wishes to pursue.

OFFICER RECOMMENDATION

Moved Cr King / Seconded Cr Gibson

That Council:

1. Notes the report and the commentary as highlighted above and in the attachments to this report.
2. Provides direction to the Chief Executive Officer with regard to the recording of Council Minutes.

**9.4.4 ALTERNATIVE MOTION / COUNCIL RESOLUTION 150618****Moved Cr King / Seconded Cr Gibson****That Council:**

- 1. Affirms Council's commitment to being an accessible and transparent local government.**
- 2. Requests the Chief Executive Officer collaborate with Council to develop a draft "Council Meeting Recording" policy to be tabled at an Ordinary Council meeting before the end of 2018, with the objective ensuring a true and accurate record of the debate and decisions at meetings is available and accessible.**
- 3. Requests the Chief Executive Officer investigate the most economical options for audio and provide a report back to an Ordinary Council meeting before the end of 2018, for Council's consideration.**
- 4. Allocate \$15,000 for consideration on the draft 2018/19 budget deliberations for the purpose of installing appropriate equipment for the audio recording of Council Meetings.**

**THE ALTERNATIVE MOTION WAS PUT AND DECLARED CARRIED 7/0
CRS HOUSTON, OSBORN, KING, TILBURY, ROSS, ANGUS AND GIBSON VOTED IN FAVOUR**

9:06PM

4/06/2018

Gingin

- There are no Agenda Forums – all business is conducted at the OCM
 - Council meetings held on the 3rd Tuesday of each month starting at 3.00 pm
- Hold a “Concept Forum” on the first Tuesday of every month (similar to our Briefing Sessions):
 - Not open to the public
 - Non-decision making
 - Items of interest for discussion with Council
 - Can be a pre-cursor to Council report in the future
 - Used to seek initial feedback from Council
 - Effectiveness relies on mutual trust / maturity of Council
 - Examples - larger DA's, significant projects , budget process
- The OCM is not electronically recorded

Toodyay

- Conducts “Council Forums” (Agenda Forums). These are:
 - Open to the public and are conducted 2 weeks prior to the OCM
 - Program is available on-line 72 hrs prior to the meeting
 - The Council Forum is first item of business with the rules stating that Council may move behind closed doors following the Council Forum Program to consider confidential matters
 - Council Forum notes are prepared and are formally received (via Council resolution) at the following OCM
- Conducts “Information Briefing Sessions” (Concept Forums):
 - Not open to the General Public
 - Discuss topics like Bushfire Management, Budget, NBN, Developers etc.
 - An Agenda is prepared and a summary from the session is made available to elected members as an “informal record of proceedings”
- The OCM is not electronically recorded

4/06/2018

Northam

- Conducts "Council Forums" (Agenda Forums). These are:
 - Open to the public and are conducted on the Wed of the week prior to the OCM commencing at 5.30 pm
 - EA attends the Council Forum and takes written notes – a revised Agenda is issued on the Friday
 - The Forums notes also form part of the Agenda and are endorsed by Council
 - Public are able to ask questions at the Council Forums but the preference is that any questions be asked at the Council Meeting.
- Concept Forums:
 - From time to time, the Council holds Information Briefing Sessions (Concept Forums) which are not open to the public
 - Strategic Council Meetings (Concept Forums) are held once every quarter and are not open to the public
- Budget briefing sessions are held with small groups of Councillors (usually three at a time), rather than as a whole
- The OCM is not electronically recorded

City of Swan

- Advertised changes to Council Meetings for 2017:
 - Three weekly cycle to four weekly cycle
 - Agenda forums in the week prior to OCM
- Agenda Forums
 - Held in week prior to Council meeting
 - Open to the public
 - Also allow public deputations and questions relating to reports on the agenda
 - Allows for deputations in a "less formal environment"
- The OCM is not electronically recorded

4/06/2018

Wanneroo

- Holds “Briefing Sessions” (Agenda Forums) which are:
 - Open to the public
 - Allow for public question time at the conclusion of the briefing session
 - Briefing Agendas are distributed on the Friday prior to the briefing session
- Electronic recording of Council Meetings:
 - Primarily used for purposes of transcription
 - If a Councillor requests a copy of all or part, then all Councillors are provided the same
 - Costs are charged to supervise the listening of recorded proceedings (staff time – as per the adopted Schedule of Fees and Charges)

Joondalup

- Holds “Briefing Sessions” (Agenda Forums). These are:
 - Open to the public
 - Rules do not allow debate on matters raised
 - Allows for public question time at the conclusion of the briefing
 - Briefing Agendas are distributed on the Friday prior to the briefing session
 - Only keep a general record of the matters discussed
- Holds “Strategy Sessions” (Concept Forums). These are:
 - Closed to the public
 - All agendas and supporting material, including presentations is deemed confidential
 - Proponents and consultants are invited to attend as appropriate
 - Rules do not allow debate on matters raised
 - Only keep a general record of the matters discussed
 - Disclosure of conflicts of interest are recorded
- Electronic recording of Council Meetings:
 - Meetings are live streamed (podcast) except for confidential matters
 - Podcasting requires a comprehensive IT set-up to ensure reasonable quality
 - Access is available on the web following the meeting

4/06/2018

SOC Procedures

The following is currently on the secure area of the Council website:

- The Department of Local Government recommends that Councils adopt specific procedures for Agenda Forums to assist with openness and accountability, minimise public criticism and lead to a more effective and efficient local government.
- Following the *Department of Local Government Operational Guidelines on Council Forums*, the procedures for Agenda Forums are set out as follows:
 - Draft agenda items are collated and uploaded to Councillors Friday afternoon.
 - Agenda Forums are held on the second Tuesday of the month at 4.30pm in the Council Chambers.
 - Agenda Forums should be open to the public unless the forum is being briefed on a matter for which a formal Council meeting may be closed. **(The agenda forums will be closed to the public while they are being trialled for their success to begin with)**
 - Items addressed will be limited to matters listed on the forthcoming agenda only.
 - Briefings will only be given by staff or consultants for the purpose of ensuring that elected members and the public are more fully informed.
 - All questions and discussions will be directed through the chair.
 - There will be no debate style discussions as this needs to take place in the Ordinary Meeting of Council when the issue is set for discussion.

Matters for Discussion

- Does Council want to continue with the Agenda Briefings?
 - If yes:
 - they should probably be open to the public (as the trial period has passed)
 - need to develop rules relating to conduct (refer next slide)
- It is considered essential for Council to continue with the Briefing Sessions (Concept Forums):
 - If agreed:
 - they need to be closed to the public (as per current / common practice)
 - suggest a fixed schedule (refer next slide)
 - need to also develop rules relating to conduct
- Electronic recording of Council Meetings?
 - Not recommended for the following reasons:
 - would require sound/recording equipment to be installed (\$15K)
 - would require additional administrative effort / cost
 - other similar size Council's in our region do not do it (also Swan does not)
 - the perceived benefit does not warrant the cost



Local Government Update

Proposed recording and live streaming of local government council and committee meetings

By Denis McLeod, Partner, McLeods

The issue: proposed recording of council meetings

In Western Australia there has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors by uploading to the local government's website as soon as practical, and maintained online as an archive.

After more than 40 years as a lawyer acting for and against local governments, I have formed the firm view that any recording of Council and committee meetings should be used for the purpose of confirming the correctness of the Minutes of meetings, but should not be otherwise published. The Minutes should then remain available as the public record of the meetings.

The article that follows provides an explanation of that view. As a starting point, my view is premised on acceptance of the proposition that local government is a worthwhile institution that should be preserved and encouraged, and not presented with obstacles calculated to discourage the participation of well intentioned men and women of good sense. Perhaps not all Council members are in that category, but my proposition is that the significant majority who are, should not be discouraged from participating.

The Westminster System of Government

Discussion of the meeting recording and live streaming issue should start with recognition of the basic principles of the Westminster System of government, which apply to the WA State Government, and which focus principally on the three distinct branches of government, being:

- 1 **Parliament:** which makes laws to facilitate government. Under s.2(2) of the *Constitution Act 1889 (WA)* (**Constitution Act**), the Parliament in WA consists of the Monarchy, Legislative Assembly and Legislative Council.
- 2 **Executive:** which administers the government in accordance with the laws. (The Cabinet is the effective part of the Executive, which is subject to the strict conventions of Cabinet confidentiality and solidarity).
- 3 **The Courts and Tribunals:** which interpret the laws and apply them to resolve disputes. (S.54 of the Constitution Act ensures the independence of Supreme Court judges, which generalises to all the States' judicial persons and tribunals).

Not only are those three branches of government intended in principle to function separately, but they are in fact administered separately.

There has been a long running debate on the question of whether Council meetings should be streamed live online, with the recordings being made available to electors

Local Government within the Westminster System

Although Local Government operates within the Westminster System, there are critical features and differences, including the following, that go some way to explain why Council meetings should not be streamed live online, etc, as some critics propose:

- 1 The Council of a local government may perform in any given meeting the role of all three branches of government:
 - (a) Legislative function of Council:

Council makes and amends the local government's laws including:

 - local laws; and
 - planning schemes.
 - (b) Executive functions of Council:

Council performs the same function for its district as State Cabinet performs for the State.
 - (c) Judicial functions of Council:

Council makes quasi-judicial decisions, such as determining applications for planning approval. In doing that a Council is expected to act like a Court or tribunal by complying as far as possible with principles of judicial fairness. A difference here is that unlike Courts and tribunals, a Council's deliberations are required to be in public, and determined by majority vote, which requirements impose special rigors on Council members who are:

 - part-time in their Council role;
 - essentially untrained in legal and judicial process and principles; and
 - subject to popular election and re-election (unlike judges and tribunal members).
- 2 Council acting as the Executive branch of local government makes decisions on policies and strategies of government and on contract and financial issues like the Cabinet in the State Government, but in stark contrast its deliberations are required to be in public, and Councils do not have the protection of Cabinet confidentiality and solidarity.
- 3 So far as Councils' quasi-judicial functions are concerned, Council members are expected to explain, discuss and debate their opinions as they evolve, in public meetings, and their decisions are made by majority vote in open ballot. This is in stark contrast to the privacy and confidentiality of judicial and tribunal members' deliberations towards reaching a decision.
- 4 Unlike all members of the judiciary in Australia, Council members are popularly elected, and must be prepared to defend their public decisions to their electors at the four-yearly Council elections. A decision properly made consistent with planning and legal principle may nevertheless be very unpopular with the electors. Council members who act properly, but contrary to the wishes of the electors, have a burden of explanation to electors going beyond the requirement of judges and Tribunal members to give reasons for their decisions, and they don't have to be concerned about electoral consequences of their decisions.



- 5 Council members are subject to very strict laws on financial interest, and impartiality interest, which by comparison are only very loosely and weakly applied to members of Parliament. State political parties can receive very substantial and regular donations from lobby and pressure groups which would result in serious penalties in the case of local government Council members.
- 6 Council members do not enjoy the protection of absolute privilege from actions for defamation for what is said in their meetings, in stark contrast with the protection of absolute privilege enjoyed by members of Parliament for what is said in their sessions.

The above comments demonstrate that the fundamental features of the local government system necessarily expose it already to a high level of public scrutiny that makes it a very difficult process to participate in, and to function effectively.

Comparison of Council Executive functions with State Government Executive functions

The Council in its role as the Executive must discuss matters critical to good government, in open Council, where similar issues dealt with by the State Government Executive would be discussed and decided strictly behind closed doors, and the proceedings would be protected by the conventions of Cabinet confidentiality and solidarity. For a Council to have those essentially confidential discussions streamed online, etc as the critics propose, would make the process all the more onerous and complex for the Council. Consider what the reaction of the Premier and Cabinet Ministers would be if the public insisted Cabinet meetings be open to the public, much less streamed online.

The professional politicians in State Government are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members, to that rigour. That doesn't seem reasonable or fair.

Comparison of Council quasi-judicial functions with Courts and tribunals

The unreasonableness and unfairness is even clearer when it comes to Council's quasi-judicial functions, which apply whenever the Council is deciding on planning and building applications, and applications for a wide range of other licences, permits and approvals. Council members are expected then to perform their functions in a judicially correct way. Yet unlike all Courts and tribunals, Council members are required to discuss their thinking in public, which goes a long way beyond the normal requirement that judges give reasons for their decisions. Of course Councils must give reasons for their decisions, as judges must, but consider what the reaction of judges and tribunal members would be if the public insisted that judges and tribunals conduct in public their deliberations and the steps in their consideration of a case, much less produce a transcript of their confidential deliberations.

The highly trained lawyers and other professionals who serve as judges and tribunal members are not required to cope with that. Yet the current debate would expose the part-time, non-professional, essentially unpaid Council members to that rigour. That doesn't seem reasonable or fair.

Council's legislative function

There may presently be some argument for a Council's legislative function to be held in public, and perhaps, unlike Parliament, streamed online, etc. The fact that Council members are not protected from defamation action by absolute privilege is probably a strong enough argument against that, and it is certainly an adequate argument against streaming of debate online, etc.



Consider then the contrast with the position of members of Parliament. Many of them do not speak on any issue in Parliament from month to month. And when they do wish to speak on legislation, they generally have much time to prepare their speeches, and they generally have research assistants available, and can prepare speeches for weeks in advance. By comparison, Council members attend ordinary Council meetings once or twice each month, and also special meetings and committee meetings, and from time to time electors and public meetings. At any of those meetings many issues could arise calling for discussion and debate by the Council members. At an ordinary Council meeting, there may be dozens of matters before the Council which call for debate and a vote by Council members.

Is it reasonable to suggest then to the Council members that every word they utter in the process of deliberations will be recorded and streamed online, and recordings made available to any member of the public who might decide to put their every word under microscopic scrutiny. Not even well prepared professionals or legal experts could reasonably be expected to withstand that kind of scrutiny, without the potential for regular embarrassment, and criticism and perhaps recrimination and Court action.

Likely consequences of recording or live streaming of Council meetings

A possible effect of introducing that kind of scrutiny would be that the detailed thinking and reasoning of Council members would go underground. Rather than giving the benefit of their deliberations to the members of the public who care to attend a meeting, they may make their decisions for their own private reasons, and not attempt to explain or discuss those reasons in the public forum. That would be dramatically bad for the system of open local government. Another consequence would be to force Councils to do all their effective work, and to carry on their real debate, in non-formal Council briefing sessions or the like, which are not required to be open to the public. That could also be quite adverse for the system of open local government. More significantly, exposure to that level of scrutiny and risk is likely to function as a significant disincentive to persons interested in election to the office of councillor, which would undermine community participation in local government.

Other considerations

There are other considerations worthy of brief mention including:

- Members of the public, at Council meetings are able to speak in question time and on deputations or representations on issues arising at Council meetings. The Council has no control over their comments, but the recording and live streaming of the proceedings could result in the local government being liable in defamation for the republication of defamatory remarks, or being otherwise responsible for insulting or malicious comments.
- On listening to a recording of a Council meeting, it is often difficult to identify the person responsible for a particular comment. That is likely to lead to confusion and complications, with the local government being required to identify speakers in order to deal with complaints.
- To expect a local government to edit the recordings of meetings to guard against defamatory or otherwise hurtful comments, and to identify speakers, would place an unreasonable burden on the local government administration. There would be a further burden of work and expense in obtaining legal advice on possible defamation.
- A Council acts as a collegiate body. The views of individual Council members are for practical purposes irrelevant. The only view that counts is that expressed in a resolution of the Council. To record and stream live



the comments of individual Council members during debate has the potential to deflect attention away from the most important statement on the topic, which is the resolution passed by the Council and any reasons it identifies for its decision.

- Even newspapers would not contemplate allowing its reporters to present their views on a topic in a direct recording of their thinking processes, without the opportunity for careful independent editing and the possibility of scrutiny by the newspaper's lawyers. That applies no matter how well the reporter may have researched the topic.
- The threat of Court action for defamation can be a very disturbing prospect for a Council member whose personal and family assets may be at risk. A wealthy/powerful or vexatious complainant may press even a bad action through lengthy and expensive litigation processes, and the fact that the action may ultimately fail is little consolation to a Council member whose life for months or years may be dominated by the presence and risks of the action.
- Any member of the public interested in an issue to be considered at a Council meeting can and generally will attend the meeting. Many of those who press for recording and live streaming of the proceedings online may be more interested in targeting Council members whose views they wish to criticise, than to inform themselves on the issues.
- Those concerned about the standard of debate at Council meetings are presumably intelligent and sensitive persons. They are the very people who should offer themselves for election to that important public service. That should improve the standard of debate far more effectively than recording and live streaming of meeting proceedings, and will be of more benefit to the public.

Conclusion

Those are some of the reasons for my view that Council meetings should not be streamed live online, with recordings made available to electors by uploading to the local government's website as soon as practical and maintained online as an archive. For the reasons I have discussed above, in my opinion the minutes of Council meetings should remain as the basic public record of meetings, without the additional processes of exposure and scrutiny which are being proposed by the local government critics.

I know that some local governments do record their meetings and then make the recordings available to the public on their website. That is a decision any Council can legitimately make, but it is another matter for Councils to have that regime imposed on them.

For further information in regard to the above, contact Denis McLeod on 9424 6201 or dmcleod@mcleods.com.au. The information contained in this update should not be relied upon without obtaining further detailed legal advice in the circumstances of each case.





SHIRE OF CHITTERING Register of Policies

1.xx Recording (and Access to Recordings) of Council Meetings

Policy Owner:	Governance
Person Responsible:	Executive Support Officer
Date of Approval:	<Date approved by Council Resolution>
Amended:	<Date amended by Council Resolution>

The purpose of this policy is to be open and transparent with regard to Council Meeting recordings and access to these recordings for members of the public and Elected Members, as required.

1. Recording of Proceedings

- 1.1 Proceedings for meetings of the Council, Electors, and Public Question Time during Council meetings shall be recorded by the Shire on sound recording equipment - except in the case of meetings of the Council where the Council closes the meeting to the public.
- 1.2 Notwithstanding clause 1, proceedings of a meeting of the Council which is closed to the public shall be recorded where the Council resolves to do so.
- 1.3 No member of the public is to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council or a committee without approval as per Local Government (***Council Meetings***) ***Local Law 2014***, c6.15.

2. Access to Recordings

- 2.1 The record of proceedings is to be loaded on to the Shire's website once the minutes have been made available.
- 2.2 The official record of the meeting is not the audio recording, but the meeting minutes, which require confirmation by Council resolution and must be signed by the person presiding at the meeting.
- 2.3 Opinions expressed or statements made by persons during the course of Council Meetings, and contained within the audio recording, are the opinions of statements of those individual persons, and are not opinions or statements of the Shire. The recording is not, and shall not be taken to be, a confirmed official record of Council, or any meeting or discussion to which it relates, or may appear to relate.



SHIRE OF CHITTERING Register of Policies

- 2.4 Attendance at Council meetings does not provide an Elected Member, staff or member of the public with Absolute Privilege. It does not protect individuals from defamation in relation to behaviour or statements made.
- 2.5 The Shire of Chittering prohibits any reproduction, distribution, republication and/or retransmission of Council meeting audio recordings without the prior written consent of the Shire.

3. Retention of Recordings

- 3.1 Recordings pertaining to the proceedings of Council Meetings shall be retained in accordance with the ***State Records Act 2000***.

4. Disclosure of Policy

- 4.1 An excerpt of this Policy shall be printed within the agenda of all Council, Special Council, Electors and Special Electors meetings to advise the public that the proceedings of the meeting are recorded.
- 4.2 Clear signage and a verbal notice via the Presiding Member shall be provided to ensure that attendees to Council meetings are aware of the recording practice of Council.



SHIRE OF CHITTERING Register of Policies

2.xx Related Party Disclosures

Policy Owner:	Corporate
Person Responsible:	Executive Manager Corporate Services
Date of Approval:	<Date approved by Council Resolution>
Amended:	<Date amended by Council Resolution>
Review Frequency:	Biennial
Next Review:	<Two years from date approved>

Objective The purpose of this policy is to define the parameters for Related Party Transactions and the level of disclosure and reporting required for the Shire of Chittering (the Shire) to achieve compliance with the ***Australian Accounting Standard AASB 124 – Related Party Disclosures***.

Introduction All councils in Western Australia must produce annual financial statements that comply with Australian Accounting Standards. From 1 July 2016, the Australian Accounting Standards Board determined that ***AASB 124 – Related Party Disclosures*** will apply to government entities, including local governments. 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 conflicts of interest, 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.



SHIRE OF CHITTERING Register of Policies

Policy Statement

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.

Identification of Key Management Personnel (KMP)

AASB 124 defines KMP's as "those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly".

KMP's for the Council are considered to include:

- Councillors;
- Chief Executive Officers;
- Executive Managers.



SHIRE OF CHITTERING Register of Policies

Identification of Related Parties

A Related Party is a person or entity that is related to the entity that is preparing its financial statements.

For the purposes of this Policy, related parties of Council are:

- 1) Entities related to Council;
- 2) Key Management Personnel (KMP) of Council;
- 3) Close family members of KMP;
- 4) Possible close family members of KMP's; and
- 5) Entities or persons that re controlled or jointly controlled by KMP, or their close family members, or their possible close family members.

Also, a person or entity is a related party of Council is 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 that 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 or possibly close member of the family of a person with significant influence over Council, or a close or possibly close member of the family of a person who is a KMP of Council; or
- They or any member of a group of which they are part, provide KMP services to Council.

Identification of Control or Joint Control

A person or entity is deemed to have control if they have:

- a) Power over the entity;
- 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.



SHIRE OF CHITTERING Register of Policies

To jointly control, a person or entity must have contractual rights or 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.

Related Party Transaction 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;
- Purchase or sale of property and other assets;
- Rendering or receiving services;
- Leases;
- 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;
- Commitments; and
- Settlements of liabilities on behalf of Council or by Council on behalf of the related party.

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

- Any valid transaction, rates payment, fine, use of facility, attendance of function, service, benefit, discounts and fee waivers that are available to the party as an ordinary citizen and is available to any ordinary citizen in the same circumstances; and
- Any service or benefit occurring within normal employee, customer or supplier relationships and at arm's length; and
- Are not material or significant.



SHIRE OF CHITTERING Register of Policies

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.

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.

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.

Procedures

The method of identifying the close family members and associated entities of KMP will be by KMP self-assessment. KMP have an ongoing responsibility to advise Council immediately of any Related Party Transactions.

The preferred method of reporting is for KMP to provide details of Related Parties and Related Party Transactions to the **Support Officer Governance** on a quarterly basis.



SHIRE OF CHITTERING Register of Policies

Information provided will be reviewed in accordance with the Council's operational requirements and held on a centralised register.

Should a KMP have any uncertainty as to whether a transaction may constitute a related party transaction, they should contact the **Support Officer Governance** or Chief Executive Officer for clarification.

Privacy

Information provided by KMP and other related parties shall be held for the purpose of compliance with Council's legal obligation, and shall be disclosed where required for compliance and legal reasons only.

Review of Related Party Transactions

A review of KMP's and their related parties will be completed on adoption of this Policy and then at intervals not exceeding 12 months.

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

- A change of Councillors, Chief Executive Officer or other KMP;
- Corporate restructure;
- The related legislation/documents are amended or replaced;
- Other circumstances as determined from time to time by a resolution of Council; and
- As a result of changes to the OLG Local Government Code of Accounting Practice and Financial Reporting.

Training and Communication

This Policy will be provided to the KMP in the initial awareness raising and data collection and as part of Councillor Inductions.

Definitions

"Act" means the *Local Government Act 1995*.

"AASB 124" means the Australian Accounting Standards Board, Related Party Disclosure Standard.

"Close members of the family of a person" are those family members who may be expected to influence, or be influenced by, that person in their dealings with the Council and include:

- (a) That person's children and spouse or domestic partner;
- (b) Children of that person's spouse or domestic partner; and
- (c) Dependents of that person or that person's spouse or domestic partner.



“Control” means the ability to direct the business’ activities of an entity through rights or exposure to returns from its involvement with the entity

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

“Financial Benefit” A financial benefit includes giving a financial benefit indirectly through an interposed entity, making an informal, oral or non-binding agreement to give the benefit, and giving a benefit that does not involve paying money. Examples (not limited) of “giving a financial benefit” to a Related Party include the following:

- Giving or providing the Related Party finance or property;
- Buying an asset from or selling an asset to the Related Party;
- Leasing an asset from or to the Related Party;
- Supplying services to or receiving services from the Related Party;
- Issuing securities or granting an option to the Related Party; or
- Taking up or releasing an obligation of the Related Party.

“Key Management Personnel” as defined under *“Identification of Key Management Personnel (KMP)”*.

“KMP Compensation” means all forms of consideration paid, payable, or provided in exchanged for services provided, and may include:

- 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 12 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, post-employment 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 12 months after the end of the period, profit sharing, bonuses and deferred compensation; and
- Termination benefits.



SHIRE OF CHITTERING Register of Policies

“Material” (materiality) means the assessment of whether the transaction, either individually or in aggregate with other transactions, by omitting it or misstating it could influence decision that users make on the basis an entity’s financial statements. For the purpose of this Policy, it is not considered appropriate to set either a dollar value or a percentage value to determine materiality.

“Ordinary Citizen Transaction” means a transaction that an ordinary citizen of the community would undertake in the ordinary course of business with Council.

“Possible (Possibly) Close members of the family of a person” are those family members who could be expected to influence, or be influenced by, that person in their dealings with the Council and include:

- (a) That person’s brothers’ and sisters’;
- (b) Aunts’, uncles’, and cousins’ of that person’s spouse or domestic partner;
- (c) Dependents of those persons’ or that person’s spouse or domestic partner as stated in (b); and
- (d) That persons’ or that person’s spouse or domestic partners’ parents’ and grandparents’.

“Related Party” defined under *Identification of Related Parties*.

“Related Party Transaction” is a transfer of resources, services or obligations between Council and a related party, regardless of whether a price is charged.

“Regulation” means the *Local Government (Financial Management) Regulations 1996*.

“Senior Executive” means an employee of the Council who reports directly to the Executive Manager and whose position would be considered to be a senior position in the Council’s corporate structure.

“Significant” (significance) means likely to influence the decisions that users of the Council’s financial statements make having regard to both the extent (value and frequency) of the transactions, and that the transactions have occurred between the Council and related party outside a public service provider/taxpayer relationship.

“Remuneration” means remuneration package and includes any money. Consideration or benefit received or receivable by the person by excludes reimbursement of out-of-pocket expenses, including any amount received or receivable from a related party transaction.

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”**AASB 2015-6**

This Standard was issued in March 2015 and extends the Scope of AASB 124 *Related Party Disclosures* to include application by not-for-profit entities.

Operative Date for Local Government: 1 July 2016 (effectively for the year ended 30 June 2017).

Comparatives: No comparatives were required to be presented in the period of initial implementation.

AASB 124**SUMMARY****APPLICATION AND SCOPE****AASB 124.2**

This standard is applied in:

- Identifying related party transactions and relationships;
- Identifying outstanding balances including commitments between an entity and its related parties;
- Identifying circumstances in which disclosure of the above items are required;
- Determining the disclosures to be made about those items.

PURPOSE OF RELATED PARTY DISCLOSURES**AASB 124.5 TO 124.8**

Knowledge of related party transactions, outstanding balances and relationships is important to understanding and assessing an entity's operations.

DEFINITIONS**AASB 124.9 TO 124.12**

Definitions include related party, compensation, control, key management personnel, director and remuneration as well as some explanations and clarifications.

DISCLOSURE**AASB 124.13 TO 124.27**

Includes:

- Relationships between parents and subsidiaries of the entity, regardless of whether there have been any transactions between the related parties (may be applicable to local government under new legislation);
- Information about key management personnel compensation in total and for certain categories;
- Certain information about transactions between related parties and any outstanding balances at reporting date for each type of related party; and
- Information about government-related entities.

ILLUSTRATIVE EXAMPLES

Includes illustrative examples – one specifically relating to a Councillor of a local government.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

DISCLOSURES

KEY REQUIREMENTS OF AASB 124

AASB 124.17

A local government shall disclose key management personnel compensation in total and for each of the following categories:

- a) Short-term employee benefits;
- b) Post-employment benefits;
- c) Other long-term benefits;
- d) Termination benefits; and
- e) Share-based payment.

AASB 124.18

If the local government has had related party transactions during the periods covered by the financial statements, it shall disclose the nature of the related party relationship as well as information about those transactions and outstanding balances, including commitments, necessary for users to understand the potential effect of the relationship on the financial statements. These disclosure requirements are in addition to those in paragraph 17. At a minimum, disclosures shall include:

- a) The amount of the transactions;
- b) The amount of outstanding balances, including commitments, and
 - i. their terms and conditions, including whether they are secured, and the nature of the consideration to be provided in settlement; and
 - ii. details of any guarantees given or received;
- c) Provisions 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.

AASB 124.18A

Amounts incurred by the local government for the provision of key management personnel services that are provided by a separate management entity shall be disclosed.

AASB 124.19

The disclosures required by paragraph 18 should be made separately for each of the following categories:

- a) The parent;
- b) Entities with joint control or significant influence over the entity;
- c) Subsidiaries;
- d) Associates;
- e) Joint ventures in which the entity is a venturer;
- f) Key management personnel of the entity or its parent; and
- g) Other related parties.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

DISCLOSURES (CONTINUED)

AASB 124.21

The following are examples of transactions that are disclosed if they are with a related party:

- a) purchases or sales of goods (finished or unfinished);
- b) purchases or sales of property and other assets;
- c) rendering or receiving of services; and
- d) leases.

AASB 124.23

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

AASB 124.24

Items of a similar nature may be disclosed in aggregate except when separate disclosure is necessary for an understanding of the effects of related party transactions on the financial statements of the local government.

RELEVANT DEFINITIONS

AASB 124.9

Related Party:

A person or entity that is related to the local government that is preparing its financial statements.

A person or a close member of that person's family is related if that person:

- i. (not applicable to local government);
- ii. Has significant influence over the reporting entity; or
- iii. Is a member of the key management personnel of the reporting entity.

An entity is related if any of the following conditions applies:

- i. The entity and the reporting entity are members of the same group (which means that each parent, subsidiary and fellow subsidiary is related to the others) - may be applicable; or
- ii. A person is a member of the key management personnel of the entity.

Note: Many of the other conditions listed in this paragraph do not apply and we have chosen, for the sake of clarity, not to list them here.

Related Party Transaction:

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

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”**RELEVANT DEFINITIONS (CONTINUED)****Close Members of the Family of a Person:**

Those 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.

Compensation

Includes all employee benefits – refer to content of AASA 124.9 for specific details.

Key Management Personnel

Those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of that entity.

In the case of local government will include all Councillors and Senior Staff.

Senior Staff would include the CEO, deputy CEO and any staff member at a Director or Executive Manager level.

In the case of rural/regional local governments, there would also be the need to include the works supervisor, health inspector, planning officer where they have direct responsibility for an operational area of local government.

SUBSTANCE OVER FORM**AASB 124.10**

In considering each possible related party relationship, attention is directed to the substance of the relationship and not merely the legal form.

CLARIFICATIONS**AASB 124.11**

In the context of AASB 124, the following are not related parties:

- a) Two entities simply because they have a member of key management personnel in common or because a member of key management personnel of one entity has significant influence over the other entity.
- b) Two joint ventures simply because they share joint control over a joint venture.
 - i. providers of finance,
 - ii. trade unions,
 - iii. public utilities, and
 - iv. departments and agencies of a government that does not control, jointly control or significantly influence the local government.
 - v. simply by virtue of their normal dealings with the local government (even though they may affect the freedom of action of a local government or participate in its decision-making process).
- c) A customer, supplier, franchisor, distributor or general agent with whom the local government transacts a significant volume of business.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

IMPLEMENTATION GUIDANCE

Implementation and guidance applying to public sector entities (ie local government) forms an integral part of AASB 124.

Some key paragraphs to assist with interpretation have been extended and are detailed (unaltered) as follows:

KEY MANAGEMENT PERSONNEL

AASB 124. IG 3

Paragraph 9 of the Standard defines key management personnel as being those persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly, including any director (whether executive or otherwise) of the entity. In a public sector context, entities should consider the facts and circumstances in assessing whether a person is a member of the key management personnel, as defined, of the entity. For example, the facts and circumstances may reflect that not all persons described as ‘senior executive staff’ or ‘Secretary’ or ‘Minister’ may be key management personnel of the entity. Similarly, in relation to a not-for-profit public sector entity, the facts and circumstances may reflect that a person’s powers do not give rise to a capacity to direct or control the activities of an entity, where the powers are only ceremonial or procedural in substance.

RELATED PARTY TRANSACTIONS

AASB 124. IG 9

Paragraph 18 of the Standard requires an entity to disclose information about transactions that have occurred between the entity and its related parties, including transactions between the entity and its key management personnel or key management personnel of the entity’s parent, that is necessary for users to understand the potential effect of the relationship on the financial statements.

AASB 124. IG 10

Ministers, councillors and other senior public servants may qualify as a related party of a public sector entity under one or more of the criteria set down in paragraph 9(a) of the definition of ‘related party’ in AASB 124. For example, a Minister who is a member of the key management personnel of his government is, under the definition of ‘related party’, a related party not only of the government but also of each controlled entity of that government. In such instances, the Standard requires the controlled government entity to disclose related party transactions with that Minister, whether or not the Minister has responsibility for the entity.

AASB 124. IG 11

A related party transaction is a transfer of resources, services or obligations between an entity and its related party, regardless of whether a price is charged. In the not-for-profit public sector, many entities are likely to engage frequently with persons who are a related party of that entity in the course of delivering the entity’s public service objectives, including the raising of funds (for example, rates and taxes) to meet those objectives. These related party transactions often occur on terms and conditions no different to those applying to the general public (for example, the Medicare rebate or public school fees). A not-for-profit public sector entity may determine that information about related party transactions occurring during the course of delivering its public service objectives and which occur on no different terms to that of the general public is not material for disclosure in its general purpose financial statements is included in AASA 101 “Presentation of Financial Statements and AASA 108 “Accounting Policies, Changes in Accounting Estimates and Errors. The factors described in paragraph 27 of the Standard may also assist an entity in making this determination.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

IMPLEMENTATION GUIDANCE (CONTINUED)

AASB 124. IG 12

Examples 7-8 describe different types of related party transactions that may occur between not-for-profit public sector entities and their related parties.

Example 7

Councillor P is a member of the key management personnel of the LMN local government (the 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, he 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 and are considered for disclosure in the Council’s general purpose financial statements. Based on the facts and circumstances described, the Council may determine that these transactions are unlikely to influence the decisions that users of the Council’s financial statements make having regard to both the extent of the transactions, and that the transactions have occurred between the Council and Councillor P within a public service provider/taxpayer relationship.

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

BASIS FOR CONCLUSIONS

Whilst not forming part of the standard, the AASB has provided explanations in respect to their conclusions. We have extracted (unaltered) some key bases (as they relate to local government).

DEFINITION OF KEY MANAGEMENT PERSONNEL

AASB 124. BC 8

The Board considered whether an amendment of the definition of key management personnel for the not-for-profit public sector would be necessary to facilitate a decision to remove the not-for-profit public sector exemption from AASB 124, but decided that the present definition was suitable. The AASB noted that, in a public sector context, entities should consider the facts and circumstances in assessing whether a person is a member of the key management personnel, as defined, of the entity.

AASB 124. BC 9

The Board considered that normally, the determination of key management personnel will be similar for entities in the public sector or the private sector. For example, a not-for-profit public sector entity will need to determine whether all, or only certain, of its senior executive service employees meet the definition of key management personnel. However, the Board acknowledged constituents' concerns that the determination of key management personnel may not be straightforward in the not-for-profit public sector given ministerial type roles. The Board noted that it does not regard a Minister to always be a member of the key management personnel of a not-for-profit public sector entity or of a for-profit public sector entity; rather, this is dependent on the particular circumstances of the jurisdiction and of the entity. Accordingly, the Board decided to add guidance to the Standard, in the absence of a private sector analogy, to assist public sector entities in applying the definition of key management personnel to Ministers, as ministerial-type roles do not usually arise in a private sector.

AASB 124. BC 17

The Board noted that, as is often the case with related party transactions, judgement would be required as to when transactions are material, especially when qualitative assessments are made about the nature of transactions. The Board considered situations in which Ministers or local government councillors paid taxes, levies or other statutory charges or fees faced generally by citizens. The Board does not expect, absent unusual circumstances, that the application of materiality would result in disclosure in many of these situations. In contrast, a commercial contract entered into by a Minister or local government councillor with a related public sector entity may be relevant for disclosure, similar to a commercial contract between a member of the key management personnel of a for-profit entity and the reporting entity (for example, a contract to provide accountancy services between the entity and an entity controlled by a member of the key management personnel). Accordingly, the Board observed that a not-for-profit public sector entity would also need to apply judgement in determining the extent of information it needs to collect to meet the objective of AASB 124, as there is little value in an entity incurring significant costs to obtain data that is immaterial for disclosure. The Board noted that it would expect appropriate criteria to be identified so that information about transactions that are possible material (for example, transactions that have occurred at a different price or volume to that applying to the general public) is captured for assessment.

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

DEFINITION OF KEY MANAGEMENT PERSONNEL (CONTINUED)

AASB 124. BC 18

Having regard to the role of materiality, the Board decided that no specific exemption from disclosure of the related party transactions with key management personnel of a not-for-profit public sector entity, including any Ministers or local government councillors where so identified, was necessary. However, to respond to constituents’ requests for clarification on the extent of disclosures required of related party transactions that occur in the not-for-profit public sector, the Board decided to add implementation guidance to AASB 124 to assist not-for-profit public sector entities in this regard.

APPLICATION DATE AND TRANSITIONAL PROVISIONS

AASB 124. BC 30

The Board considered the application date and transitional provisions of the amendments to extend the scope of AASB 124 to include not-for-profit public sector entities. The Board acknowledged constituent concerns about the ability of existing systems, processes and controls to capture the information required, and requests for a lengthy transition period prior to mandatory application of the amendments.

AASB 124. BC 31

The Board was disinclined to unnecessarily further extend the period to which these amendments are on issue before mandatory application, having made its key decisions on the amendments in 2012, and as the finalised amendments are largely as were exposed. Further, the Board noted that Australian Implementation Guidance to AASB 10 Consolidated Financial Statements relating to the application of control by not-for-profit entities had been issued by the Board in October 2013. The Board also noted that the forthcoming issue of an amending standard extending the scope of AASB 124 to not-for-profit public sector entities has been signalled in its publicly available work program. Accordingly, the Board decided that the amendments should apply to annual reporting periods beginning on or after 1 July 2016.

AASB 124. BC 32

However, having regard to constituent concerns, the Board decided not to require comparative related party disclosures to be presented in the period of initial application of the amendments.

EXAMPLE DISCLOSURE

Example disclosure may be found by reference to our 2019 Somewhere Model Financial Report.

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

BUSINESS OPERATING PROCEDURE

Corporate Services/Governance & Finance

Procedure Number XXX

PROCEDURE FOR RELATED PARTY DISCLOSURES

The scope of AASB 124 *Related Party Disclosures* was extended in July 2015 to include application by not-for-profit entities, including local governments. The operative date for Local Government was 1 July 2016 and the first disclosures was made in the Financial Statements for year ended 30 June 2017. This procedure outlines required mechanisms to assist the **Shire/Town/City** meet the disclosure requirements of AASB 124.

BACKGROUND

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/Town/City** must make an informed judgement as to who is considered to be 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. Identification of Related Parties

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

Related parties includes 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.

KMP are defined as persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly.

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

- An elected Council member
- Key management personnel being a person employed under section 5.36 of the Local Government Act 1995 in the capacity of Chief Executive Officer or Director
- 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.
- 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/Town/City** will therefore be required to assess all transactions made with these persons or entities.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

2. Identification of related party transactions

A related party transaction is a transfer of resources, services or obligations between the **Shire/Town/City** (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 criteria:

- Paying rates
- Fines
- Use of **Shire/Town/City** owned facilities such as **[Recreation Centre, Civic Centre, library, parks, ovals and other public open spaces (whether charged a fee or not)]**
- Attending council functions that are open to the public
- Employee compensation whether it is for KMP or close family members of KMP
- Application fees paid to the **Shire/Town/City** for licences, approvals or permits
- Lease agreements for housing rental (whether for a **Shire/Town/City** owned property or property sub-leased by the **Shire/Town/City** through a Real Estate Agent)
- Lease agreements for commercial properties
- Monetary and non-monetary transactions between the **Shire/Town/City** 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/Town/City** (trading arrangement)
- Sale or purchase of any property owned by the **Shire/Town/City**, to a person identified above.
- Sale or purchase of any property owned by a person identified above, to the **Shire/Town/City**
- Loan Arrangements
- 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/Town/City** can determine that an OCT was provided at arms 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.

3. 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.

Ordinary Citizen Transactions (OCTs)

Management will put forward a draft resolution to Council annually, declaring that in its opinion, based on the facts and circumstances, 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 quarterly *Related Party Disclosures - Declaration* form will be required.

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

- Paying rates
- Fines
- Use of **Shire/Town/City** owned facilities such as Recreation Centre, Civic Centre, library, parks, ovals and other public open spaces (whether charged a fee or not)
- Attending council functions that are open to the public

Where these services were not provided at arms 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.

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.

Frequency of disclosures

Elected Council members and KMP will be required to complete a *Related Party Disclosures - Declaration* form annually.

In addition, disclosures must be made by all Councillors immediately prior to any ordinary or extraordinary election and immediately prior to the termination of employment of/by a KMP.

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.

4. 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 Regulatory Framework

AASB 124 Related Party Disclosures

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Associated Policies

Include if relevant

Further Information

Related Party Disclosures - Declaration form



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

Review Responsibility

Coordinator Financial Services

Date Adopted: XX
Review Required: As Required
Review Undertaken: XX

_____	_____	Approved / Not Approved
Chief Executive Officer	Date	



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

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:

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

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 Councillor

A Councillor for the **Shire/Town/City** has lived in the **Shire/Town/City** her whole life. In fact her family has been in the area for generations.

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

From these facts it would appear that the Councillor's cousin is a close family member of the Councillor 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.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

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.

If you are unsure whether you, or a close family member, has control or joint control of an entity then you should contact the Manager Financial Services for a confidential discussion.

Example: Clubs or other incorporated bodies

(A **Shire/Town/City** Councillor is the President of a local football club)

A **Shire/Town/City** Councillor is the President of **Shire/Town/City** 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 it would appear that the Councillor does not control or jointly control the football club so it will not be a related party of Council just because the Councillor is the president of the club.

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

Other examples

Example 1 (Audit committee member)

Shire/Town/City of Anywhere's audit committee comprises two Councillors 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 Mayor and councillors to consider.

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

Example 2 (Son of CFO employed by council)

Shire/Town/City of Anywhere 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 Mayor - related party commonly known but omitted from declaration)

Shelley, the Mayor of Shire/Town/City of Nowhere 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 Mayor of Shire/Town/City of Nowhere and owns 100% of the ordinary shares in Shire/Town/City of Nowhere 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.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

Example 5 (Example of joint control)

Fred is the Mayor of **Shire/Town/City of Nowhere** and owns 50% of the ordinary shares in **Shire/Town/City of Nowhere** 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.



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

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.

The following declaration must be completed by all Council members, the CEO and Directors of the **Shire/Town/City** who were elected or employed at any time during the financial year.

Disclosure Period (Quarter Ended):	
Person making disclosure:	
Position held by person: e.g. Councillor, Director	

1. CLOSE MEMBERS OF THE FAMILY (See Appendix 1)

Name of Family Member	Relationship to you
<i>If there has been no change since your last declaration, please complete “No Change”</i>	



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

2. ENTITIES THAT I, OR A CLOSE FAMILY MEMBER CONTROLS OR JOINTLY CONTROLS (See Appendix 2)	
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”	



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

3. 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.

4. LEASING AGREEMENTS - DOMESTIC RESIDENTIAL

Did you, a close family member or related entity, enter into a lease agreement with the **Shire/Town/City** (either as lessee or lessor) for the provision of a domestic rental property (Includes properties owned by the **Shire/Town/City** and privately owned properties sub-leased through the **Shire/Town/City** 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

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

5. LEASING AGREEMENTS - COMMERCIAL

Did you, a close family member or related entity, enter into a commercial leasing agreement with the **Shire/Town/City** 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

6. 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/Town/City**? 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/Town/City**.

Business name	Goods or services provided	Approximate value for the reporting period	Terms & conditions



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

7. OTHER AGREEMENTS (Construction, Consultancy, Service Contracts)

Did you, a close family member or related entity, enter into any other agreements/arrangements with the **Shire/Town/City** (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/Town/City** for building a new office facility.

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

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

8. PURCHASE OF PROPERTY

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

Was the purchase made at arms 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

9. SALE OF PROPERTY

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

Was the sale made at arms 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

SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

10. 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

11. SELF SUPPORTING LOANS

Did you, a close family member or related entity, enter into a loan agreement with the **Shire/Town/City**?
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

12. 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



SOMEWHERE

AASB 124 – “RELATED PARTY DISCLOSURES”

I declare that all information and details provided in this form are true and correct to the best of my knowledge and belief 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.

SELECT OPTION 1: ☐ Handwritten Signature

Signed: _____ Date: ____/____/____

Once signed please provide to the **Manager Financial Services**.

OR

SELECT OPTION 2: ☐ Electronic Signature

This form can be sent by email to the **Manager Financial Services** provided the email is sent by the person making the disclosure from their work or personal (e.g. Councillors) email account.