



SHIRE OF DONNYBROOK BALINGUP

COUNCIL POLICIES

May 2018

(New Format)

COUNCIL POLICIES

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Council Policy

1.1 Policy Manual

That all Policy matters adopted by Council prior to 21st May, 1997 be rescinded and that the only Policies recognised by Council are those that have been adopted on or since that date.

- 1.1.1 All policies were reviewed on 23rd July 1998
- 1.1.2 All policies were reviewed on 28th July 1999
- 1.1.3 All policies were reviewed on 24th April 2002
- 1.1.4 All policies were reviewed on 14th June 2006
- 1.1.6 All Policies were reviewed on 28th May 2008
- 1.1.7 All policies were reviewed on 27th February 2009
- 1.1.8 All policies were reviewed on 26th May 2010
- 1.1.9 All policies were reviewed on 27th April 2011
- 1.1.10 All policies were reviewed on 23 May 2012 or 24th April 2012
- 1.1.11 All policies were reviewed on 10 May 2013
- 1.1.12 All policies were reviewed on 17 or 25 June 2014
- 1.1.13 All policies were reviewed on 1 May 2015
- 1.1.14 All policies were reviewed on 26 or 28 April 2016
- 1.1.15 All policies were reviewed on 23 May 2018



Council Policy

1.2 Smoking in Council Buildings and Vehicles

PURPOSE

To ensure a smoke free environment for all Council employees and eliminate exposure to environmental tobacco smoke in the workplace.

POLICY STATEMENT

All Council buildings and vehicles shall be smoke free.

DEFINITIONS

Nil

RELATED LEGISLATION

Tobacco Products and Control Regulations 2006

RELATED DOCUMENTATION

Nil

Adopted:	1 January 1991
Last Amended:	27 February 2008
Last Reviewed:	23 May 2018
Next Review Date:	2021
Responsible Department:	Finance & Administration



Council Policy

1.1 Policy Manual

That all Policy matters adopted by Council prior to 21st May, 1997 be rescinded and that the only Policies recognised by Council are those that have been adopted on or since that date.

- 1.1.1 All policies were reviewed on 23rd July 1998
- 1.1.2 All policies were reviewed on 28th July 1999
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Council Policy

1.2 Smoking in Council Buildings and Vehicles

PURPOSE

To ensure a smoke free environment for all Council employees and eliminate exposure to environmental tobacco smoke in the workplace.

POLICY STATEMENT

All Council buildings and vehicles shall be smoke free.

DEFINITIONS

Nil

RELATED LEGISLATION

Tobacco Products and Control Regulations 2006

RELATED DOCUMENTATION

Nil

Adopted:	1 January 1991
Last Amended:	27 February 2008
Last Reviewed:	23 May 2018
Next Review Date:	2021
Responsible Department:	Finance & Administration



Council Policy

1.3 Elected Members – Reimbursement of Fees, Expenses and Allowances

PURPOSE

To outline the financial support that is provided to Elected Members while performing the official functions and duties of Civic Office for the Shire of Donnybrook - Balingup

POLICY STATEMENT

Elected Members, to be financially supported through the payment of allowances, fees and reimbursement of expenses incurred within the provisions of the Local Government Act 1995, as per below:

Council meetings

An annual fee for attendance at Council or Committee meetings as provided in Council's budget.

Travel expenses

Reimbursement at the rate prescribed in the Local Government Industry Award 2010 for using own vehicle for any travel when representing Council.

When acting as a Council representative to a meeting that requires travel outside of the Shire, a Councillor shall be entitled and encouraged to use a Shire vehicle, but in the event that the Councillor's own vehicle is used when a Shire vehicle had been available, the Councillor will not be entitled to claim travel expenses. If a Shire vehicle is not available and a Councillor is required to use their own vehicle they will be entitled to claim travel expenses. When such a meeting itself provides for travel reimbursement, a Council vehicle will not be made available and no travel claim against Council shall be possible.

Accommodation, meals and incidentals

Where approval has been granted by Delegation No. 1.2, Councillors shall be entitled to claim accommodation, meal and incidental expenses incurred due to attendance at a Conference, Seminar or Meeting as Council's authorised representative.

Also, Councillors shall be entitled to claim for their partners when accompanying them at recognised and approved Local Government events as per above, including partners' programs.

The accompanying person shall be solely responsible for all costs not associated with registration and/or participation in any of the above approved events/programs.

DEFINITIONS

Nil

RELATED LEGISLATION

Local Government Act 1995

RELATED DOCUMENTATION

Shire of Donnybrook Balingup Guidelines and Procedures – Elected Members Reimbursement of Fees, Expenses and Allowances.

Adopted:	1 January 1993
Last Amended:	23 May 2018
Last Reviewed:	26 April 2018
Next Review:	2021
Responsible Department:	Finance and Administration



Council Policy

1.4 Honorary Freeman of the Local Government

PURPOSE

To provide appropriate recognition to residents and other individuals who have served the Donnybrook Balingup community with distinction.

POLICY STATEMENT

Council may, by an absolute majority of the members voting at a meeting of the Council, confer upon any person, the title of Honorary Freeman of the Local Government.

The granting of this prestigious honour shall take into account contributions made by an individual to the community as a representative of Local Government and/or involvement in community and service organisations.

The conferring of the title on a person does not grant to that person any right or privilege other than that of permitting that person to designate themselves by the title so conferred.

DEFINITIONS

An Honorary Freeman is bestowed on a citizen in recognition of their services to the Shire.

"Absolute majority" means absolute majority as defined in section 1.4 of the Local Government Act 1995.

RELATED LEGISLATION

Local Government Act 1995

RELATED DOCUMENTATION

Nil

Adopted:	1 January 1993
Last Amended:	
Last Reviewed:	23 May 2018
Next Review:	2021
Responsible Department:	Council



Council Policy

1.5 Civic Receptions - Invitations List

PURPOSE

To fulfil its civic objectives the Shire Donnybrook Balingup will conduct various civic functions and receptions, as well as official openings of Council facilities and other specific receptions or functions from time to time as the need arises.

POLICY STATEMENT

Civic Functions and Receptions

1. The President, in conjunction with the Chief Executive Officer shall have discretion to determine whether a civic reception is to be held.
2. The date, time and invitation list shall be determined by the President, in conjunction with the Chief Executive Officer.
3. At the discretion of the President and Chief Executive Officer, the President may host functions and receptions for visiting dignitaries, local residents who are recipients of awards or prizes and visitors from other local authorities from Australia and overseas. The invitation list shall be at their discretion.

DEFINITIONS

Not applicable

RELATED LEGISLATION

Local Government Act 1995

RELATED DOCUMENTATION

Nil

Adopted:	1 January 1993
Last Amended:	27 February 2008
Last Reviewed:	23 May 2018
Next Review Date:	2021
Responsible Department:	Council



Council Policy

1.6 Severance Pay Policy

Commented [TM1]: On hold pending feedback from WALGA

PURPOSE

POLICY STATEMENT

DEFINITIONS

RELATED LEGISLATION

RELATED DOCUMENTATION

Adopted:	1 January 1993
Last Amended:	
Last Reviewed:	23 May 2018
Next Review:	
Responsible Department:	Human Resources



Council Policy

1.7 Redundancy Policy

PURPOSE

To provide the principals for carrying out redundancies within the workplace and to reduce the significant effect of such redundancies upon employees

POLICY STATEMENT

All positions and functions in the Local Government are continually reviewed as part of Local Government ongoing service provision. The review results may vary and the Local Government may decide to make certain positions redundant where a position no longer exists.

Any decision to make a position redundant shall adhere to the provisions in the relevant Local Government Awards or any Workplace Agreements covering the employment.

Consultation

- a) The Local Government will consult employees likely to be affected by any proposed change as to the need for and/or reason for the change and no definite decision will be made until this process has been followed.
 - b) Where an employer has made a definite decision that the employer no longer wishes the job the employee has been doing to be done by anyone, and this is not due to the ordinary and customary turnover of labour and that decision may lead to the termination of employment, the employer shall hold discussions with the employees directly affected and with their representative.
 - c) The discussions shall take place as soon as is practicable after the employer has made a definite decision which will invoke the provisions of paragraph (3.2) hereof, and shall cover, inter alia, any reasons for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any terminations on the employees concerned.
- For the purposes of the discussion the employer shall as soon as practicable provide in writing to the employees concerned and their representative, all

relevant information about the proposed terminations including the reasons for the proposed terminations, the number and categories of employees likely to be affected and the number of workers normally employed and the period over which the terminations are likely to be carried out.

Provided that the employer shall not be required to disclose confidential information, the disclosure of which would be inimical to the employer's interests.

(NOTE: Paragraphs (3.2), (3.3) and (3.4) have been taken directly from the awards and reflect the requirements as to discussion prior to termination)

Transfers within the Organisation

- a) Wherever possible and practical, appropriate employees should be offered a transfer to other positions within the enterprise and also offered the necessary and reasonable training to effect a successful transition.
- b) Where an employee is transferred to other duties for the purpose of avoiding retrenchment and those duties attract a lesser rate of pay than the incumbents previous position, the Local Government will make up the difference between the two rates of pay for a period of twelve months (or 2 years in the case of employees covered by clause 7 below). After this time, the lesser rate will apply.

Redundancy Benefits

Where a position has been made redundant and a suitable transfer has not been possible, an employee maybe retrenched on the following basis:

- a) A maximum period of notice possible but in any event no less than 4 weeks or payment in lieu of notice to a maximum of 4 weeks;
- b) Payment of 2 weeks' pay;
- c) Plus 2 weeks' pay for each completed year of service with the Local Government;
- d) The maximum payable under (b) and (c) shall be 26 weeks' pay provided that the severance payments shall not exceed the amount which the employee would have earned if employment with the employer had proceeded to the employee's normal retirement date;
- e) Where an employee has been employed with the Local Government for a minimum of 5 years, pro rata long service leave shall be provided if the employee is not otherwise entitled to pro rata long service leave under the Local Government Long Service Leave Regulations;
- f) All other pro rata entitlements payable under the appropriate award or agreement to a terminating employee will be paid;
- g) During the notice period the employee shall be allowed reasonable time off from the job without loss of pay to attend employment interviews or other similar activities to assist the employee find employment;

- h) The term “weeks pay” means the normal weekly salary or wage payable to the employee including any penalty rates normally paid but excluding overtime or intermittent payments. The term also includes salary or wages specifically sacrificed for additional non-award benefits but does not include the value of any non-award benefit normally provided for the employee’s position (such as a vehicle in the case of a senior position, the normal superannuation contribution provided to all employees etc).

Discretionary Payment Where Employment Ends

a) Additional Payment

In situations other than those covered by clause 7, the Shire may pay to an employee whose employment with the Shire is finishing an amount not exceeding the prescribed minimum amount.

b) Prescribed Maximum Amount

The prescribed maximum amount payable under this Policy for an employee whose employment with the Shire is finishing must not exceed in total, including any amount payable under clause 5 (a), (b) and (c).

- if the employee accepts voluntary severance by resigning as an employee, 50% of the value of the employee’s final annual remuneration; or
- in all other cases, \$5,000. (See regulation 19A of the *Local Government (Administration) Regulations 1996*).

(NOTE – “final annual remuneration” means the value of the annum remuneration paid, or payable ... [by the Shire] immediately before the person’s employment with the [Shire] finished).

Exercise of Discretion

A payment under this clause is to be at the discretion of:

- a) the Council, if the employee is the CEO; or
- b) the CEO, if the employee is not the CEO

In determining whether a payment to a particular employee should be made under this clause, and if so, the amount of that payment:

- a) the Council, if the employee is the CEO; or
- b) the CEO, if the employee is not the CEO,

is to take into account the length of service to the Shire of that employee, the performance of that employee, the Shire’s financial circumstances and any other relevant factors.

Redundancies Resulting from Local Government Boundary Changes, Amalgamations and Break-Ups

Additional Payment

If, as a result of an amalgamation of the Shire with one or more other local governments, or any other order made under section 2.1 of the Local Government Act 1995:

- a) either –
 - i) an employee's position becomes redundant, or in the Shire's view is likely to become redundant; or
 - ii) if the employee is the CEO, the Council considered that the CEO's position is likely to become redundant or if the employee is not the CEO, the CEO considers that the employee's position is likely to become redundant; and
- b) the employee accepts voluntary severance by resigning as an employee, the Shire may pay to the employee – at the discretion of the Council, if the employee is the CEO, or at the discretion of the CEO, if the employee is not the CEO – an amount not exceeding the prescribed maximum amount.

Prescribed Maximum Amount

At the date of the last review of this Policy, the prescribed maximum payment or payments under this Policy for an employee whose employment with the Shire finishes after 1 January 2010 must not exceed in total –

- a) if the employee accepts voluntary severance by resigning as an employee, the value of the employee's final annual remuneration; or
- b) in all other cases, \$5,000. (See regulation 19A of the Local Government (Administration) Regulations 1996).

(NOTE – “final annual remuneration” means the value of the annum remuneration paid, or payable ... [by the Shire] immediately before the person's employment with the [Shire] finished).

Exercise of Discretion

In determining whether a payment to a particular employee should be made under this clause, and if so, the amount of that payment:

- a) the Council, if the employee is the CEO; or
- b) the CEO, if the employee is not the CEO,

is to take into account the length of service to the Shire of that employee, the performance of that employee, the Shire's financial circumstances and any other relevant factors.

(Note – in the event of an amalgamation or other order made under section 2.1 of the Local Government Act 1995, the statutory provisions that apply include clause 11(4) and (5) of Schedule 2.1 of the Act which state –

- (4) A contract of employment that a person has with a local government is not to be terminated or varied as a result (wholly or partly) of an order

under section 2.1 so as to make it less favourable to that person unless

–

- a) *compensation acceptable to the person is made; or*
- b) *a period of a least 2 years has elapsed since the order had effect.*

- (5) *The rights and entitlements of a person whose contract of employment is transferred from one local government to another, whether arising under the contract or by reason of it, are to be no less favourable to that person after the transfer than they would have been had the person's employment been continuous with the first local government."*

Counselling

- a) Counselling by a professional counselling service shall be available for any employee who has been or is to be retrenched.
- b) In appropriate circumstances an outplacement service may also be offered. In this event no payment in lieu of such service will be made.

Termination During Notice

An employee who has been given notice of retrenchment in accordance with clause 5 may terminate during the period of notice and shall be entitled to the same benefits and payments as if he/she had remained until the expiry of the notice. Provided that in such circumstances, the employee shall not be entitled to payments in lieu of notice.

Alternative Work

- a) Should the Local Government have made suitable arrangements for alternative employment and the employee is not consequently unduly prejudiced, the additional benefits over and above the appropriate award arising from this Policy shall not apply.
- b) In addition the Local Government may make application to the
- c) Commission to have the award severance pay prescription varied in the case of such an employee according to the particular circumstances.

Exclusions

- a) Benefits provided under this Policy which go beyond the appropriate award shall not apply where employment is terminated as a consequence of conduct that justifies instant dismissal, including malingering, inefficiency or neglect of duty.
- b) This Policy does not apply in the case of casual or temporary employees who were engaged for a specific time period or for a specific reason or specific task, project or program.

c) This Policy also does not apply to an employee engaged on a fixed term contract where the term of the contract expires.

DEFINITIONS

Nil

RELATED LEGISLATION

Section 5.50 (1) of the Local Government Act (the "Act").

RELATED DOCUMENTATION

Severance Policy - 1.4

Adopted:	24 January 2001
Last Amended:	24 June 2009
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Human Resources

DRAFT



Council Policy

1.8 Legal Representation Costs Indemnification

PURPOSE

To protect the interests of council members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions. In most situations the Local Government may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

In each case it will be necessary to determine whether assistance with legal costs and other liabilities is justified for the good government of the district. This policy applies in that respect.

POLICY STATEMENT

- (a) The Local Government may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against interests of the Local Government or otherwise in bad faith.
- (b) The Local Government may provide such assistance in the following types of legal proceedings:
 - (i) Proceedings brought by members and employees to enable them to carry out their Local Government functions (e.g. where a member or employee seeks a restraining order against a person using threatening behaviour);
 - (ii) Proceedings brought against members or employees [this could be in relation to a decision of Council or an employee which aggrieves another person (e.g. refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (e.g. defending defamation actions)]; and
 - (iii) Statutory or other inquiries where representation of members or employees is justified.

- (c) The Local Government will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in the respective roles unless under exceptional circumstances (e.g. repeated acts of defamation against employees). Members or employees are not precluded, however, from taking their own private action. Further, the Local Government may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.
- (d) The legal services the subject of assistance under this policy will usually be provided by the Local Government's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the Local Government.

Any Council employee or Council member (or past member or former employee) who Council or the CEO approves to receive legal support will acknowledge in writing the details of Council Policy No. 1. 6 prior to Council providing that legal assistance.

DEFINITIONS

Nil

RELATED LEGISLATION

Section 5.42 of the Local Government Act 1995.

RELATED DOCUMENTATION

Shire of Donnybrook Balingup Guidelines and Procedures - Legal Representation Costs Indemnification

Adopted:	24 January 2001
Last Amended:	24 June 2009
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Council



Council Policy

1.9 Committee Membership – Other Than Committees Comprising Council Members Only

Commented [TM2]: On hold pending Cr workshop

PURPOSE

POLICY STATEMENT

DEFINITIONS

Nil

RELATED LEGISLATION

Nil

RELATED DOCUMENTATION

Nil

Adopted:	28 April 2004
Last Amended:	14 June 2006
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Council



Council Policy

1.10 Gratuity Payments

Commented [TM3]: Independent report to Council – July 2018.

PURPOSE

POLCIY STATEMENT

DEFINITIONS

Nil

RELATED LEGISLATION

Section 5.50 of the Local Government Act 1995.

RELATED DOCUMENTATION

Nil

Adopted:	23 June 2004
Last Amended:	22 May 2013
Last Reviewed:	26 April 2016
Next Review Date:	2017
Responsible Department:	Council



Council Policy

1.11 Council Elected Members Records

PURPOSE

- To ensure compliance with the *State Records Act 2000* and its amendments and the Shire of Donnybrook-Balingup Record Keeping Plan.
- To establish procedures for capturing relevant Elected Members' records that falls within the scope of this policy.
- To properly maintain and preserve records of continuing value for legal, evidential, administrative, financial purposes or historical value.

POLICY STATEMENT

The State Records Commission requires that communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business be recorded.

Elected members **must** create and keep records of communications or transactions, which convey information relating to **local government business or functions**. These records should be forwarded on a weekly basis to the local government administration for capture into the official record-keeping system.

Communications and Transactions are:

1. Communications in any form (i.e. - email, letter, fax, verbal etc.) –
 - complaints and compliments;
 - correspondence concerning corporate matters;
 - submissions, petitions and lobbying;
 - information for Council's interest relating to local government business activity and functions.
2. Telephone, meetings and other verbal conversations between an elected member and another party, that are directly related to the formal decision making function of elected members regarding local government projects or business activities. Details of the discussion should be noted in an email and forwarded to the Records Keeping Officer.
3. Created emails, responses and emails received by an elected member regarding local government projects or business activity.

4. Work diaries containing information that may be significant to the conduct of the elected member on behalf of the local government.
5. Presentations and speeches delivered as part of an elected member's official duties.

Records NOT required for Record Keeping

1. Duplicated copies of Council meeting agenda, minutes and papers.
2. Draft documents or working papers which are already captured by the Shire Record Keeping Officer.
3. Publications such as newsletters, circulars and journals.
4. Invitations to community events where an elected member is **not** representing Council or the Shire of Donnybrook-Balingup.
5. Telephone, meetings and other verbal conversations which –
 - convey routine information only; or
 - do not relate to local government business or functions
6. Electioneering or party political information.
7. Personal records not related to an elected member's official duties.

DEFINITIONS

Nil

RELATED LEGISLATION

State Records Act 2000

RELATED DOCUMENTATION

Shire of Donnybrook Balingup Guidelines/Procedures - Use of Shire Specific Email Addresses by Elected Members

Adopted:	28 April 2010
Last Amended:	
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Finance and Administration



Council Policy

1.12 Use of Shire Specific Email Addresses by Elected members

PURPOSE

To provide Elected Members with the opportunity to establish an email address for the purpose of receiving and issuing correspondence in their role as Councillor.

POLICY STATEMENT

The adoption of the email address is optional.

DEFINITIONS

Not applicable

RELATED LEGISLATION

Nil

RELATED DOCUMENTATION

Shire of Donnybrook Balingup Policies - Guidelines & Procedures - Use of Shire Specific Email Addresses by Elected members

Adopted:	23 November 2016
Last Amended:	
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Council / Executive



Council Policy

1.13 Councillor-Staff Contact

PURPOSE

To establish a protocol to maintain a professional, effective and cordial relationship between Elected Members and staff.

POLICY STATEMENT

Council's role is to set policy and strategic direction for the Shire, whilst the Chief Executive Officer's (CEO) role is to implement that policy and strategic direction, using the staff and other resources made available by Council through the setting of the budget.

Elected Members have no power of authority over the staff, including the CEO. Only the Council, at a formally convened meeting, can give direction to the CEO. Furthermore, an Elected Member has no authority to expend local government funds.

All Elected Member contact with the Shire's Administration is to be made through the CEO (or Office of the CEO), whether by email, telephone, in person or via other communications methods.

The CEO (or Office of the CEO) will either respond to the query or assign the appropriate staff member to respond to the inquiry.

Each initial contact must start with the CEO (or Office of the CEO), unless expressly approved otherwise by the CEO, in writing. If approval is given by the CEO to an Elected Member to contact a staff member other than the CEO on a particular matter, this is not approval for that Elected Member to contact that staff member continually or on future matters.

DEFINITIONS

Nil

RELATED LEGISLATION

Local Government Act 1995 (s.5.103 – Codes of Conduct)

Local Government (Administration) Regulations 1996 (Regs 34B and 34C).

RELATED DOCUMENTATION

Shire of Donnybrook Balingup Guidelines/Procedures – Councillor / Staff Contact.

Shire of Donnybrook-Balingup Code of Conduct 2017-2018

Adopted:	26 June 2013
Last Amended:	23 August 2017
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Executive

DRAFT



Council Policy

1.14 Senior Staff Appointments

PURPOSE

To define Council's Senior staff appointments policy and outline appointment procedures.

POLICY STATEMENT

1. Senior Staff shall be the Chief Executive Officer, Manager Finance and Administration, Manager Development and Environmental Services, Manager of Works and Services (vide s 5.37 *Local Government Act 1995*)
2. That all staff appointments be subject to the following:
 - a) Senior Staff appointments shall be made as per the provisions of Regulation 18c of the *Local Government Functions and General Regulations*.
 - b) Appointee producing a Medical Certificate, obtained at Council expense, which indicates a full summary of the appointee's health and ability to undertake work for the Shire.
 - c) Job specification/ description to be completed for all appointments unless otherwise authorised by the Chief Executive Officer.
 - d) A three month probationary period.

The Chief Executive Officer has the discretion to pursue and appoint personnel from other organisations where appropriate and where there is a benefit to Council in doing so, without advertising.

Appointment of CEO and Senior Staff

Vacant position of CEO and Senior employees shall be advertised in a newspaper circulating statewide. All details of the vacant position are to be advertised in accordance with the *Local Government Act* and *Local Government (Administration) Regulations 18A*.

Advertisement details are presented in Regulation 18A.

DEFINITIONS

Nil

RELATED LEGISLATION

Nil

RELATED DOCUMENTATION

Adopted:	1 January 1993
Last Amended:	22 May 2013
Last Reviewed:	23 May 2018
Next Review:	23 May 2018
Responsible Department:	Administration

DRAFT



Council Policy

1.15 Acknowledgement of Country and Welcome to Country

PURPOSE

To ensure that Council acknowledge (*Acknowledgement of Country and Welcome to Country*) and show respect for the original custodians of the land on which the Shire of Donnybrook Balingup is situated and ensure the correct protocols are used when doing so.

POLICY STATEMENT

Council will show respect for Australia's first people by recognising the traditional custodians of the land at public meetings and events, either through an 'Acknowledgement of Country' or - at major events - by inviting Aboriginal Elders to formally welcome guests.

1. Acknowledgement of Country

An 'Acknowledgement of Country' may be delivered at the following types of events:

- Significant events where members of the public, representatives of governments and/or the media are present
- Council Meetings
- Forums, briefing sessions, community workshops where the public are present
- Conferences or seminars
- NAIDOC celebrations
- Citizenship Ceremonies

An 'Acknowledgement of Country' should be given by a speaker at the beginning of the event.

The wording of and 'Acknowledgement of Country' may vary. A list of suggested phraseology is available in the attached guidelines.

2. Welcome to County

A 'Welcome to Country' ceremony may be held at the start of the following types of events:

- The opening of a new significant building involving State or Federal Government representatives
- Major civic ceremonies or functions

The initiation of a 'Welcome to Country' is to occur only after receiving prior approval from the Chief Executive Officer.

A 'Welcome to Country' should always occur as the first item in a ceremony or event. It may consist of a single speech by the representative of the local Aboriginal community or may also include a performance, such as a traditional song, dance or didgeridoo performance.

Arrangements for a 'Welcome to Country' are to be made by the officer/s responsible for the event or activity. This includes contacting and liaising with the appropriate Elder.

DEFINITIONS

Acknowledgement of Country – is an acknowledgement of the traditional Aboriginal custodians of the land in order to pay respect to them. An acknowledgement can be performed by any person, Aboriginal or non-Aboriginal.

Welcome to Country – is where the traditional custodians formally welcome people to their land. This ceremony is undertaken by Elders acknowledged as such by their family and community.

RELATED LEGISLATION

Nil

RELATED DOCUMENTATION

Shire of Donnybrook Balingup Guidelines/Procedures – Acknowledgement of Country and Welcome to Country

Adopted:	27 May 2015
Last Amended:	
Last Reviewed:	23 May 2018
Next Review:	23 May 2021
Responsible Department:	Executive



Council Policy

1.16 Media Spokesperson

PURPOSE

- To define those people who may speak to the media or issue a media release on behalf of Council.
- To clarify when persons other than those authorised under the *Local Government Act 1995* (the Act) are permitted to speak or issue a media release on behalf of Council to the media.

POLICY STATEMENT

1. In accordance with Section 2.8(d) of the Act, the President is the authorised spokesperson of the Council.
2. In accordance with Section 5.41(f) of the Act, the Chief Executive Officer may also be the spokesperson of the Council if the President agrees (refer Council Delegation 1.1).
3. If the President is not available or unable to be the spokesperson (Section 5.34) then the Deputy President may perform this function.
4. In accordance with Section 5.44(1) of the Act, the Chief Executive Officer may delegate authority to other officers to be the spokesperson and/or to issue a media release.
5. If a Councillor or Employee is approached by the press to answer questions or make a comment on council business, unless specifically authorised by the President (if a Councillor) or the Chief Executive Officer (if an officer) the member of the press be referred to the authorised spokespersons of the Council for response.
6. Unless a Councillor or employee have been authorised by the President (Councillors) or Chief Executive Officer (employees) they are to refrain from speaking on behalf of Council and should refer the media to the authorised person (President or Chief Executive Officer).

7. Nothing in this policy shall prevent a Councillor expressing his/her personal opinion to the media. However, as a general principle, Councillors having dealings with the media when approached by it to make a statement or private comment on a matter of Council business, should have regard to any resolutions of the Council affecting the matter in question.

DEFINITIONS

Nil

RELATED LEGISLATION

Local Government Act 1995 sections 2.8(d), 5.41(f) and 5.41(1)

RELATED DOCUMENTATION

Nil

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Last Amended:	
Last Reviewed:	23 May 2018
Next Review Date:	23 May 2021
Responsible Department:	Council / Executive

DRAFT



Council Policy

1.17 Audio Recording of Council Meetings

PURPOSE

To assist in the preparation of the minutes of Ordinary and Special Meetings of Council held in Council Chambers.

POLICY STATEMENT

All Ordinary and Special Meetings of Council held in Council Chambers shall be audio recorded, except when the Council has resolved to close the meeting to members of the public,

It is noted that the only official record of any Council meeting is the minutes and only the resolutions of Council as published in the minutes can be actioned.

This policy does not impinge on any person's access to public records.

3. Access to audio recordings

The Minute Clerk shall have access to the audio recordings.

4. Public notification of recording of meetings

Members of the public attending meetings will be advised that an audio recording of the meeting will be made to assist with minute-taking. The wording of the advice will be as follows:

"This meeting is being digitally recorded to assist with minute-taking in accordance with Council Policy 1.12. If you do not give permission for your participation to be recorded, please indicate this at the meeting."

"Members of the public are reminded that no other visual or audio recording of this meeting by any other means is allowed without the permission of the chairperson."

This advice will be provided:

- On the agenda for Council and Committee meetings

- On paperwork associated with Public Question Time
 - Verbally by the chairperson at the start of the meeting.
5. Retention of audio recordings

All audio recordings are to be retained as part of the Shire's records.

DEFINITIONS

Audio recording means any recording made by any electronic device capable of recording sound.

RELATED LEGISLATION

Freedom of Information Act 1992.

State Records Act 2000

General Disposal Authority for Local Government 25.1.3

RELATED DOCUMENTATION

Nil

Adopted:	23 March 2016
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Responsible Department:	Council / Executive



Council Policy

1.18 Caretaker Policy

PURPOSE

To:

- Ensure Council avoids making major decisions prior to an election that would bind an incoming Council;
- Prevent the use of public resources in ways that could be seen as advantageous or disadvantageous to members seeking re-election or new candidates; and
- Recognise the requirement for the Shire administration to act impartially in relation to all candidates.

POLICY STATEMENT

1. Scheduling Consideration of Major Policy Decisions

So far as is reasonably practicable, the CEO should avoid scheduling major policy decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:

- a. considered by the Council prior to the Caretaker Period; or
- b. scheduled for determination by the incoming Council.

Where extraordinary circumstances prevail, the CEO may submit a major policy decision to the Council (refer to Part 3).

2. Decisions Made Prior to a Caretaker Period

This Policy only applies to decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker Period. Whilst announcements of earlier decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins or after it has concluded.

3. Role of the CEO in Implementing Caretaker Practices

The role of the CEO in implementing the caretaker practices outlined in this policy is as follows:

- a. The CEO will ensure as far as possible, that all Elected Members and staff are aware of the Caretaker Policy and practices at least 30 days prior to the start of the Caretaker Period.
- b. The CEO will ensure, as far as possible, that any major policy or significant decisions required to be made by the Council are scheduled for Council resolution prior to the Caretaker Period or deferred where possible for determination by the incoming Council.
- c. The CEO will endeavour to make sure all announcements regarding decisions made by the Council, prior to the Caretaker Period, are publicised prior to the Caretaker Period.
- d. The CEO will provide guidelines for all relevant staff on the role and responsibilities of staff in the implementation of this policy.

4. Extraordinary Circumstances requiring exemption

Despite clause 1, the CEO may, where extraordinary circumstances exist, permit a matter defined as a 'major policy decision' to be submitted to the Council for determination during the Caretaker Period.

5. Appointment or Removal of the CEO

Whilst clause 1 above establishes that a CEO may not be appointed or dismissed during a Caretaker Period, the Council may, where the substantive officer is on leave, appoint an Acting CEO, or in the case of an emergency, suspend the current CEO (in accordance with the terms of their contract) and appoint a person to act in the position of CEO, pending the election, after which date a permanent decision can be made.

6. Inclusion of Caretaker Statement

To assist the Council to comply with its commitment to appropriate decision making during the Caretaker Period, a Caretaker Statement will be included in each report submitted to the Council where the Council's decision would, or could, be a Major Policy Decision. The Caretaker Statement will state:

"The decision the Council may make in relation to this item could constitute a 'Major Policy Decision' within the context of the Shire of Donnybrook-Balingup Caretaker Policy, however, an exemption should be made because, (insert the circumstances for making the exemption)".

7. Shire Website

During the Caretaker Period the Shire's website will not contain any material which is precluded by this policy. Any references to the election will only relate to the election process. Information about Elected Members will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed to by the Council.

8. Prohibition

It is prohibited under this policy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing) on an issue which, in the CEO's opinion, could be perceived as intended or calculated to affect the result of an election, unless authorised by the CEO.

This Policy does not prevent any mandatory public consultation required by the *Local Government Act 1995* or any other relevant Act which is required to be undertaken to enable the Shire to fulfil its functions.

9. Approval for Public Consultation

Given the prohibition under Part 8 of this policy, the Council should not commission or approve any public consultation where it is likely that such consultation will continue into the Caretaker Period.

Where public consultation is approved to occur during the Caretaker Period, the results of that consultation will not be reported to the Council until after the Caretaker Period, except where otherwise approved by the CEO or necessary for the performance of the Shire's functions as prescribed in the *Local Government Act 1995* or any other relevant Act.

10. Public Events Hosted by External Bodies

Elected Members may continue to attend events and functions hosted by external bodies during the Caretaker Period.

11. Shire Organised Civic Events/Functions

Events and/or functions organised by the Shire and held during the Caretaker Period will be limited to only those that the CEO considers essential to the operation of the Shire, and should not in any way be associated with any issues that in the CEO's opinion, are considered relevant to, or likely to influence the outcome of, an election.

All known candidates are to be invited to civic events/functions organised by the Shire during the Caretaker Period.

12. Addresses by Elected Members

Excluding the President and Deputy President fulfilling their functions as prescribed by sections 2.8 and 2.9 of the *Local Government Act 1995*, respectively, Elected Members that are also candidates should not, without the prior approval of the CEO, be permitted to make speeches or addresses at events/functions organised or sponsored by the Shire during the Caretaker Period.

13. Use of Shire Resources

The Shire's Code of Conduct and the *Local Government (Rules of Conduct) Regulations 2007* provide that the Shire's resources are only to be utilised for authorised activities (for example - no use of employees for personal tasks or no use of equipment, stationery, or hospitality for non-Council business). This includes the use of resources for electoral purposes. It should be noted that the prohibition on the use of the Shire's resources for electoral purposes is not restricted to the Caretaker Period.

The Shire's staff must not be asked to undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting Elected Members in ways that could create a perception that they are being used for electoral purposes. In any circumstances where the use of Shire resources might be construed as being related to a candidate's election campaign, advice is to be sought from the CEO.

14. Electoral Information and Assistance

All candidates will have equal rights to access public information, such as the electoral rolls (draft or past rolls), monthly enrolment details, and information relevant to their election campaigns from the Shire administration.

Any assistance and advice provided to candidates as part of the conduct of the Council election will be provided equally to all candidates.

15. Media Advice

Any requests for media advice or assistance from Elected Members during the Caretaker Period will be referred to the CEO. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Elected Members. If satisfied that advice sought by

an Elected Member during the Caretaker Period does not relate to the election or publicity involving any specific Elected Member(s), the CEO may authorise the provision of a response to such a request.

16. Publicity Campaigns

During the Caretaker Period, publicity campaigns, other than for the purpose of conducting (and promoting) the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Shire activity, it must be approved by the CEO. In any event, the Shire's publicity during the Caretaker Period will be restricted to communicating normal Shire activities and initiatives.

17. Media Attention

Elected Members will not use or access Shire staff or resources to gain media attention in support of their or any other candidate's election campaign.

18. Election Process Enquiries

All election process enquiries from candidates, whether current Elected Members or not, will be directed to the Returning Officer or, where the matter is outside of the responsibilities of the Returning Officer, to the CEO.

DEFINITIONS

'Caretaker Period' means the period of time when the caretaker practices are in place prior to the election. The caretaker practices will apply from the close of nominations (37 days prior to the Election Day – Section 4.49 (a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

'Election Day' means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election but excludes an extraordinary election other than an extraordinary election to elect a new Shire President.

'Electoral Material' means any advertisement, handbill, pamphlet, notice, letter or article that is intended or calculated to affect the result in an election but does not include:

- a. An advertisement in a newspaper announcing the holding of a meeting (Section 4.87 (3) of the *Local Government Act 1995*).
- b. Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*.

- c. Any materials produced by the Shire relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.

'Extraordinary Circumstances' means a situation that requires a major policy decision of the Council because:

- a. in the CEO's opinion, the urgency of the issue is such that it cannot wait until after the election;
- b. of the possibility of legal and/or financial repercussions if a decision is deferred; or
- c. in the CEO's opinion, it is in the best interests of the Council and/or the Shire for the decision to be made as soon as possible.

'Major Policy Decision' means any:

- a. Decisions relating to the employment, termination or remuneration of the CEO or any other designated senior officer, other than a decision to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of their contract), pending the election.
- b. Decisions relating to the Shire entering into a sponsorship arrangement with a total Shire contribution that would constitute substantial expenditure unless that sponsorship arrangement has previously been granted "in principle" support by the Council and sufficient funds have been included in the Council's annual budget to support the project.
- c. Decisions relating to the Shire entering into the disposition of property or a commercial enterprise as defined by Sections 3.58 and 3.59 of the Local Government Act 1995.
- d. Decisions that would commit the Shire to substantial expenditure or actions that, in the CEO's opinion, are significant, such as that which might be brought about through a Notice of Motion by an Elected Member.
- e. Decisions that, in the CEO's opinion, will have a significant impact on the Shire of Donnybrook-Balingup or the community.
- f. Reports requested or initiated by an Elected Member, candidate or member of the public that, in the CEO's opinion could, be perceived within the general community as an electoral issue and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

'Public Consultation' means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy but does not include consultation required to be undertaken in order to comply with a written law.

'Substantial Expenditure' means expenditure that exceeds 0.1% of the Shire's annual budgeted revenue (inclusive of GST) in the relevant financial year.

RELATED LEGISLATION

Local Government Act 1995 - Sections 2.8, 2.9, 3.59, 3.59, 4.49(a) and 4.87(3)
Local Government (Rules of Conduct) Regulations 2007
Regulation 78 of the Local Government (Elections) Regulations 1997.

RELATED DOCUMENTATION

Nil

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DRAFT



Council Policy

1.19 Related Party Disclosures

PURPOSE

To define the parameters for Related Party Transactions and the level of disclosure and reporting required for council to achieve compliance with the Australian Accounting Standard AASB124 – Related Party Disclosures.

POLICY STATEMENT

This policy addresses the four (4) different types of related party relationships that must be considered by Council:

1. Entities related to Council;
2. Key Management Personnel;
3. Close family members of Key Management Personnel; and
4. Entities that are controlled or jointly controlled by either 2 or 3 above.

1. Key Management Personnel (KMP)

All Key Management Personnel (KMP) are responsible for assessing and disclosing their own, their close family members' and their related entities' relationship with Council. All related parties must be included in the self-assessment. A disclosure form is provided as an Attachment to this Policy.

2. Related Party Transactions

2.1 Ordinary Citizen Transaction

For the purpose of this Policy, an Ordinary Citizen Transaction is one that occurs between Council and KMP and/or related parties which satisfy the following criteria. The transaction must:

- occur during the normal course of Council delivering its public service goals;
- be under the same terms that would be available to a member of the community; and
- belong to a class of transaction that an ordinary member of the community would normally transact with Council.

This includes for example facility hire, and the payment of rates and dog registrations.

There is no obligation to disclose Ordinary Citizen Transactions. However, if the terms and conditions of what would normally be considered an Ordinary Citizen Transaction differ from normal practice, it must be disclosed.

2.2 Non-ordinary Citizen Transactions

All related party transactions that do not satisfy the definition of an Ordinary Citizen Transaction (as per 2.1) must be disclosed in accordance with AASB 124.

The following are examples of transactions that must be disclosed if they are with a related party and are not an Ordinary Citizen Transaction:

- purchases of sales or goods (finished or unfinished);
- purchases or sales of property or 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 kind);
- provisions of guarantees or collateral;
- commitments to do something if a particular event occurs or does not occur in the future, including execution of contracts (recognised or unrecognised); and
- settlement of liabilities on behalf of Council or by Council on behalf of the related party.

3. Disclosure of Information

3.1 Council disclosure

AASB 124 provides that Council must disclose the following financial information in its financial statements for each financial year period:

- the nature of any related party relationships;
- the amount of the transactions;
- the amount of outstanding balances, including commitments, including:
 - (i) their terms and conditions, whether they are secured, and the nature of the consideration to be provided in settlement; and
 - (ii) details of any guarantees given or received;
- provisions for doubtful debts related to the amount of outstanding balances; and
- the expense recognised during the period in respect of bad or doubtful debts due from related parties.

The following matters must be considered in determining the materiality and significance of any related party transactions:

- significance of transaction in terms of size;
- whether the transaction was carried out on non-market terms;

- whether the transaction is outside normal day-to-day business operations, such as the purchase and sale of assets;
- whether the transaction is disclosed to regulatory or supervisory authorities;
- whether the transaction has been reported to senior management; and
- whether the transaction was subject to Council approval.

Regard must also be given for transactions that are collectively, but not individually significant.

All transactions involving related parties will be captured and reviewed to determine materiality or otherwise of such transactions, if the transactions are Ordinary Citizen Transactions (OCTs), and to determine the significance of each of the transactions.

3.2 Key Management Personnel disclosure

In accordance with this Policy, KMP must provide a Related Party Disclosure in the form set out in the Attachment twice yearly, no later than 30 June each year.

4. Review of Related Parties

A review of KMP's and their related parties will be completed every 12 months. Particular events, such as a change of Councillors, Chief Executive Officer or Executive Managers or a corporate restructure will also trigger a review of Council's related parties immediately following such an event.

The Chief Executive Officer shall implement a suitable system to identify related parties. The primary identification method of close family members and associated entities of Key Management Personnel shall be by (but not limited to) KMP self-assessment. KMP have a responsibility to identify and report any changes to their related parties as they occur.

The Chief Executive Officer shall identify suitable methodology and procedures for identifying and reporting on related party transactions such that accurate data will be collated from 01 July 2017. Identification and reporting methods shall consider:

- transactions occurring via Council's accounting and electronic records management systems;
- other transactions not passing through Council's electronic accounting / management systems;
- the identification of the associated terms and conditions of the related party transactions;
- declarations in the Financial Interests Register; and
- information provided in Primary and Annual Returns.

If any elected member or employee believes a transaction may constitute a related party transaction they must notify the Chief Executive Officer who will, in consultation with the Executive Manager Corporate Services, make a determination on the matter.

5. Privacy and Confidentiality

5.1 Access to information

The following persons are permitted to access, use and disclose the information provided in a related party disclosure or contained in a register of related party transactions for the purposes of 5.2.

- the Chief Executive Officer;
- Manager Finance and Administration;
- Accountant;
- an Auditor of Council (including an Auditor from the WA Auditor General's Office); and
- other officers as determined by the Chief Executive Officer.

5.2 Permitted purposes

Persons specified in 5.1 may access, use and disclose information in a related party disclosure or contained in a register of related party transactions for the following purposes:

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

5.3 Confidentiality

The following information is classified as confidential and is not available for inspection by or disclosure to the public;

- information (including personal information) provided by a KMP in a related party disclosure; and
- personal information contained in a register of related party transactions.

DEFINITIONS

AASB 124 - Australian Accounting Standards Board, Related Party Disclosures Standard 124

Close family members of Key Management Personnel (KMP) - Those family members who may be expected to influence, or be influenced by, that KMP in their dealings with the Shire of Donnybrook-Balingup and include:

- the KMP's children, and spouse or domestic partner;
- the KMP's parents or step-parents;
- children of that KMP's spouse or domestic partner; and
- dependants of the KMP or the KMP's spouse or domestic partner.

Entity - Can include a body corporate, a partnership or a trust, incorporated, or unincorporated group or body.

Entity Related to a KMP - Related Entities to Key Management Personnel are entities that are:

- *controlled or jointly controlled by a KMP;

- where a KMP has significant influence over, or is a member of the key management personnel of the entity or parent of the entity (apart from Council itself); or
- controlled or jointly controlled by a close family member of a KMP of Council.

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

- power over the entity;
- exposure, or rights, to variable returns from involvement with the entity; or
- the ability to use power over the entity to affect the amount of returns.

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.

Entity Related to Council - This includes any entity that is either controlled, controlled jointly or is an entity over which Council has a significant influence. A person or entity is a Related Party of Council if 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 venturers of the same third party;
- they are part of a joint venture of a third party and Council is an associate of the third party;
- they are on 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 family members of the family of a KMP;
- 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 a part, provide KMP services to Council.

Key Management Personnel (KMP) - AASB 124 defines KMP as “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”.

Key Management Personnel for the Shire of Donnybrook-Balingup are:

- elected Council Members (including the President); and
- persons employed under s5.36 of the *Local Government Act 1995* in the capacity of Chief Executive Officer or Executive Manager.

Material (materiality) - Means the assessment of whether by omitting it or misstating a transaction (either individually or in aggregate with other transactions), it could influence decisions that users make on the basis of 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 - A transaction that an ordinary member of the community would undertake in the ordinary course of business with the Shire of Donnybrook-Balingup.

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

Related Party Transaction - A transfer of resources, services or obligations between the Shire of Donnybrook-Balingup and a related party, regardless of whether a price is charged.

Significant (significance) - 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.

RELATED LEGISLATION

Local Government Act 1995, Australian Accounting Standards:

- AASB 124 Related Party Disclosures
- AASB 10 Consolidated Financial Statement
- AASB 11 Joint Arrangements
- AASB 128 Investments in Associates and Joint Ventures

RELATED DOCUMENTATION

Nil

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