

# Audit & Risk Committee

Section 7.1A of the *Local Government Act 1995*

Committee Function: *Regulation 16 of the Local Government (Audit) Regulations 1996*

4 March 2021

# MINUTES

To: The Members of the Audit & Risk Committee

Here within the Minutes of the Audit & Risk Committee of the Shire of Toodyay held on the abovementioned date in the Council Chambers at the Shire of Toodyay, 15 Fiennes Street, Toodyay.

Suzie Haslehurst  
CHIEF EXECUTIVE OFFICER

## Membership Composition

Membership Composition	
Council Representation - Primary	Cr Ruthven, Cr Hart, Cr Madacsi and Cr Pearce
Council Representation - Deputy	Cr Bell and Cr Chitty
Community Representation	H McDonald-Appleby and J Robertson



## Preface

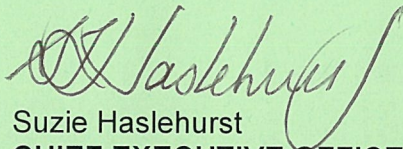
When the CEO approves these Minutes for distribution they are in essence "Unconfirmed" until the following Audit & Risk Committee Meeting, where the Minutes will be confirmed subject to any amendments.

The "Confirmed" Minutes are then signed off by the Presiding Person.

Attachments that formed part of the Agenda, in addition to those tabled at the Meeting are incorporated into a separate attachment to these Minutes.

## Unconfirmed Minutes

These minutes were approved for distribution on 15 March 2021.



Suzie Haslehurst  
**CHIEF EXECUTIVE OFFICER**

## Confirmed Minutes

These minutes were confirmed at a meeting held on ..... 8/4/21 .....

Signed:  .....

*Note: The Presiding Member at the meeting at which the minutes were confirmed is the person who signs above.*





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*ATTACHMENTS with separate index follows Item 10.*

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**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

Cr Ruthven, Chairperson, declared the meeting open at 2.02pm.

**2. RECORDS OF ATTENDANCE / APOLOGIES**

Members

Cr Ruthven	Council Member (PM/Chairperson)
Cr Madacsi	Council Member (DPM/Deputy Chair)
Cr Hart	Council Member
Cr Pearce	Council Member
Ms H McDonald-Appleby	Community Member
Ms J Robertson	Community Member

Staff

Ms S Haslehurst	Chief Executive Officer
Mrs M Lamb	Communication and Compliance Officer
Mrs C Luangala	Manager Corporate Services
Mrs M Rebane	Executive Assistant

Visitors

Nil.

Apologies

Nil

**3. DISCLOSURE OF INTERESTS**

The Chairperson advised that no disclosures of interest in the form of a written notice had been received prior to the commencement of the meeting.

**4. CONFIRMATION OF MINUTES**

**4.1 Minutes of Meeting held on 3 December 2020.**

**OFFICER'S RECOMMENDATION/ARC RES. NO. 01/03/21**

**MOVED** Cr Madacsi

That the Unconfirmed Minutes of the Audit & Risk Committee Meeting held on 3 December 2020 be confirmed.

**MOTION CARRIED 6/0**

**5. INFORMATION ADDITIONAL TO THE AGENDA**

**5.1 Review of Audit & Risk Committee Status Report**

This was reviewed.

**6. BUSINESS LEFT OVER FROM PREVIOUS MEETING (if adjourned)**

Nil.

**7. OFFICER REPORTS**

**7.1 Statement of Business Ethics**

Date of Report:	25 January 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2
Author:	M Lamb – Compliance & Communications Officer
Responsible Officer:	S Haslehurst– Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments	1. Statement of Business Ethics

**PURPOSE OF THE REPORT**

To consider the attached Statement of Business Ethics for recommendation to Council.

**BACKGROUND**

As part of the Procurement Review undertaken in late 2020, it was identified that best practice is to adopt a Statement of Business Ethics which outlines what the Shire expects from suppliers and what suppliers can expect from the Shire.

Once adopted, the Statement will be referred to in the Shire's amended purchasing policy and all staff engaged in purchasing will be required to adhere to it.

**COMMENTS AND DETAILS**

This Statement of Business Ethics provides guidance to business partners, contractors and suppliers on the values and ethical standards that the Shire of Toodyay upholds when conducting business, and the conduct and standards the Shire expects from its business partners, contractors and suppliers in return.

**OFFICER'S RECOMMENDATION**

The Audit Committee recommends the following to Council:

That Council:

1. Adopts the Statement of Business Ethics as attached to this report.
2. Notes that the amended purchasing policy reflects the requirement for adherence to the adopted Statement of Business Ethics.

The CEO received general agreement from Audit & Risk Committee Members to allow Shire Officers to pick up any typographical amendments to the Statement of Business Ethics.

Further amendments were made as follows:

- The words “all Laws applicable in Western Australia” replace the words “all Australian Laws” at the first dot point under the heading “What we ask of you.”
- The word “real” be replaced by the word “actual”.
- The words “undertake an annual induction process” are replaced by the words “undertake the induction process annually.”

**OFFICER’S RECOMMENDATION/ARC RES. NO. 02/03/21**

**MOVED** Cr Hart

The Audit Committee recommends the following to Council:

That Council:

1. Adopts the Statement of Business Ethics as amended.
2. Notes that the draft purchasing policy reflects the requirement for adherence to the adopted Statement of Business Ethics.

**MOTION CARRIED 6/0**

<b>7.2 F.3 Purchasing Policy</b>
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Date of Report:	8 February 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2
Author:	C Luangala – Manager Corporate & Community Services
Responsible Officer:	S Haslehurst – Chief Executive Officer
Previously Before Council:	25 February 2020 OCM, 24 March 2020 OCM
Disclosure of Interest:	Nil
Council's Role in the matter:	Executive
Attachments:	<ol style="list-style-type: none"> <li>1. REVISED F.3 - Purchasing Policy; and</li> <li>2. Western Australian Auditor General's Report - Local Government Contract Extensions and Variations.</li> </ol>

**PURPOSE OF THE REPORT**

To consider a recommendation to Council in relation to the adoption of the revised F.3 - Purchasing Policy (Attachment 1).

**BACKGROUND**

At the January 2019 Ordinary Council Meeting (OCM) Council adopted ten revised Finance Policies.

On 17 February 2020 Councillor Ruthven provided the CEO with notification of a Notice of Motion for the 24 March 2020 Ordinary Meeting of Council as follows:

*That Council directs the CEO to bring to the March Ordinary Meeting of Council Policy F3, Purchasing Policy, for review.*

At its March 2020 OCM, Council resolved as follows:

*That Council:*

1. *Set the date for a workshop of Finance Policies to be held on Tuesday 29 September 2020; thereby*
2. *Deferring the consideration of finance policies until the October 2020 Ordinary Council Meeting.*



In August 2020, Council resolved:

*That Council requests the Chief Executive Officer to review the Shire's procurement policies, practices and procedures in accordance with the recommendation made by the Auditor General and present a report to the December 2020 meeting of the Audit and Risk Committee for consideration of any recommended improvements to be made.*

A workshop with Councillors on Finance Policies was held on 20 October 2020.

Finance Policies with the exception of the F.3 Purchasing policy were reviewed and adopted at the October 2020 OCM and the December 2020 OCM.

### **COMMENTS AND DETAILS**

F.3 - Purchasing Policy has now been reviewed for Council's consideration.

The Purchasing policy was reviewed as part of the Procurement Review using the WALGA – *Integrity in Procurement – Self Audit Tool*.

F.3 - Purchasing Policy has been amended to include recommendations from the OAG to:

1. include more comprehensive guidance on recording of contract information and management of contract extensions and variations,
2. establish specific delegated authorisation limits for the approval of contract extensions and variations, and
3. ensure that contract variations are supported by adequate documentation describing the nature and reasons for the variations, including the associated cost, time and scope implications.

The updated policy also reflects changes to tendering thresholds which as per Regulation 11 of the *Local Government (Functions and General) Regulations 1996* requires that tenders are to be publicly invited before a local government enters into contracts for supply of goods or services where consideration is to be more than \$250,000 unless sub-regulation 2 of the Regulations applies.

### **IMPLICATIONS TO CONSIDER**

#### **Consultative:**

Consultation has occurred with the CEO and Managers.

#### **Strategic:**

A key factor in the Strategic Community Plan, Toodyay 2028 is Governance: The way the Shire leads and operates.

The strategic outcome is: *A Council that engages with the community and provides good governance on behalf of the community.*

*S.1.1 states that the SCP will be used as the blueprint for Council Policy development and decisions.*

**Policy related:**

Finance policies are reviewed every two years.

**Financial:**

There are no adverse financial implications envisaged from this report.

**Legal and Statutory:**

In accordance with section 2.7 of the *Local Government Act 1995* it is the role of Council to determine the local government policies.

There is a requirement under *Local Government (Functions and General) Regulations 1996* - Reg 11a for a local government to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250,000 or less or worth \$250,000 or less.

**Risk related:**

Reviewing and updating Finance policies is a risk mitigation strategy.

**Workforce related:**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**OFFICER'S RECOMMENDATION**

The Audit Committee recommends to Council the following:

That Council adopts the revised F.3 - Purchasing Policy as attached.

The Presiding Member requested a motion to suspend Standing Orders.

**MOTION/ARC RES. NO. 03/03/21**

**MOVED** Cr Hart

That Standing Order 7.9 be suspended at 2.32pm.

**MOTION CARRIED 6/0**

Clarification was sought.

**MOTION/ARC RES. NO. 04/03/21**

**MOVED** Cr Pearce

That Standing Order 7.9 be resumed at 3.54pm.

**MOTION CARRIED 6/0**

Further clarification was sought.

**MOTION/ARC RES. NO. 05/03/21**

**MOVED** Cr Madacsi

The Audit Committee recommends to Council the following:

That Council adopts the revised F.3 - Purchasing Policy as amended.

**MOTION CARRIED 6/0**



<b>7.3 Compliance Audit Return</b>
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Date of Report:	22 January 2021
Applicant or Proponent:	Shire of Toodyay
File Reference:	COC2
Author:	M Lamb – Compliance and Communications Officer
Responsible Officer:	S Haslehurst– Chief Executive Officer
Previously Before Council:	N/A
Author's Disclosure of Interest:	Nil
Council's Role in the matter:	Legislative
Attachments	1. Compliance Audit Return 2020.

**PURPOSE OF THE REPORT**

To consider the annual Compliance Audit Return for 2020 (Attachment 1).

**BACKGROUND**

Local governments are required under legislation to complete an annual Compliance Audit Return.

The Compliance Audit Return 2020 is a checklist of the Shire’s statutory compliance with the *Local Government Act 1995* and its regulations that focuses on high-risk areas of statutory reporting as prescribed in Regulation 14 of the *Local Government (Audit) Regulations 1996*.

**COMMENTS AND DETAILS**

The Compliance Audit Return 2020 has been completed and is attached for the Audit & Risk Committee to consider and make a recommendation to Council.

The Compliance Audit Return 2020 is required to be lodged with the Department Local Government, Sport and Cultural Industries via the Smart Hub before 31 March 2021.

**IMPLICATIONS TO CONSIDER**

**Consultative:**

Consultation has occurred with the CEO, Managers and other Shire Officers as necessary.

**Strategic:**

Governance.

**Policy related:**

Nil

**Financial:**

Nil

**Legal and Statutory:**

Regulation 14 of the *Local Government (Audit) Regulations 1996* states as follows:

**14 Compliance audits by local governments**

- (1) *A local government is to carry out a compliance audit for the period 1 January to 31 December in each year.*
- (2) *After carrying out a compliance audit the local government is to prepare a compliance audit return in a form approved by the Minister.*
- (3A) *The local government's audit committee is to review the compliance audit return and is to report to the council the results of that review.*
- (3) *After the audit committee has reported to the council under subregulation (3A), the compliance audit return is to be —*
  - (a) *presented to the council at a meeting of the council; and*
  - (b) *adopted by the council; and*
  - (c) *in the minutes of the meeting at which it is adopted.*

**Risk related:**

There is a compliance risk if the Compliance Audit Return is not submitted by 31 March which is considered high.

**Workforce related:**

Nil

**VOTING REQUIREMENTS**

Simple Majority

**MOTION/ARC RES. NO. 06/03/21**

**MOVED** Cr Hart

The Audit Committee recommends to Council the following:

That Council adopts the attached Compliance Audit Return for the period 1 January 2020 to 31 December 2020 as amended pursuant to Regulation 14(3) of the *Local Government (Audit) Regulations 1996*.

**MOTION CARRIED 6/0**

## **8. OTHER BUSINESS / NEW BUSINESS OF AN URGENT NATURE**

- Cr Ruthven – Risks and Compliance.

The Audit & Risk Committee has identified risks associated with the lack of full participation of all Elected Members as defined in the Act.

Action: These identified risks will be raised by the Shire President at the next Concept Forum.

## **9. NEXT MEETING**

The next Audit & Risk Committee Meeting is scheduled for 8 April 2021.

## **10. CLOSURE OF MEETING**

The Chairperson declared the meeting closed at 4.25pm.



# Attachments to Minutes

Audit and Risk Committee

Thursday 4 March 2021

## INFORMATION ADDITIONAL TO THE AGENDA

<b>5.1 Review of Audit and Risk Committee Status Report</b>	<b>1</b>
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## REPORTS TO BE TABLED

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**AC STATUS REPORT**  
**Audit Committee**

*Supporting Officer*  
*Manager Corporate & Community Services*



Meeting Date	Purpose	Resolution	Target date for completion	Actioned by	Completion Date	Meeting Commentary / Comments made
3/12/2020	4.1 Audit & Risk Committee Meeting held on 3 September 2020	That the Unconfirmed Minutes of the Audit Committee Meeting held on 3 September 2020 be confirmed.	ASAP	EA	ASAP	Minutes have been signed off by the Chairperson
3/12/2020	7.1 Audit Matters for the year ended 30 June 2020	<p>The Audit and Risk Committee recommends that Council:</p> <ol style="list-style-type: none"> <li>1. Receives the Independent Auditor's Report to Councillors of the Shire of Toodyay; and</li> <li>2. Receives the Management Report for the year ended 30 June 2020; and</li> <li>3. Receives and accepts the Financial Report for the year ended 30 June 2020.</li> <li>4. Notes the adverse trend in the financial position of the Shire of Toodyay reported by the Auditors.</li> </ol>	ASAP	MCCS	ASAP	OCM 15/12/2020 Resolution No. 359/12/20



# AC STATUS REPORT

## Audit Committee

Supporting Officer  
Manager Corporate Services



Meeting Date	Purpose	Resolution	Target date for completion	Actioned by	Completion Date	Meeting Commentary / Comments made
3/12/2020	7.1 Audit Matters for the year ended 30 June 2020	<p>The Audit and Risk Committee recommends that Council:</p> <ol style="list-style-type: none"> <li>1. Sets the date for the Annual General Meeting of Electors to be held:  Date: Thursday 18 Feb 2021  Time: 7.00pm.  Venue: Shire of Toodyay Council Chambers.</li> <li>2. Authorises the CEO to advertise the date and time of the Annual General Electors Meeting.</li> </ol>	ASAP	MCCS	ASAP	OCM 15/12/2020  Resolution No. 360/12/20
3/12/2020	Audit and Risk Committee Charter	That Council adopts the Audit & Risk Committee Charter, as attached to this report.	ASAP	MCCS	ASAP	OCM 15/12/2020  Resolution No. 361/12/20

# Statement of Business Ethics

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## Overview

This Statement of Business Ethics provides guidance for all sectors of the community when conducting business with the Shire of Toodyay (Shire). It outlines the Shire's ethical standards and our expectation that goods and service providers will comply with these standards in all their dealings with the Shire. This Statement also outlines what goods and service providers can expect of the Shire.

## Our Key Business Principles

- **Ethics and integrity**

The Shire and its employees shall observe the highest standards of ethics and integrity in undertaking purchasing activities and act in an honest and professional manner. All parties will be treated equitably, consistently, impartially and fairly.

- **Best value for money**

The Shire will procure goods and services that offer the best value for money. Best value for money does not automatically mean the lowest price. Rather the Shire will balance all relevant factors including initial cost, whole-of-life cost, quality, reliability and timeliness in determining true value for money.

- **Transparency and accountability**

All purchasing activities shall comply with relevant legislation, regulations and Shire policies and be free from bias. Full documentation and accountability will be taken for purchasing decisions to ensure the efficient, effective and proper expenditure of public monies.

- **Sustainability**

The Shire is committed to sustainable procurement and where appropriate shall endeavour to design tenders and quotations to provide an advantage to goods, services and/or processes that minimise environmental and negative social impacts. Sustainable considerations will be balanced against best value for money outcomes.

## What you can expect from the Shire

The Shire will ensure that all its policies, procedures and practices relating to tendering, contracting and the purchase of goods and services are consistent with industry leading practice and the highest standards of ethical conduct.



Our employees are bound by the Shire's Code of Conduct. When doing business with the private sector, Shire employees are accountable for their actions and are expected to:

- Use public resources effectively and efficiently.
- Deal with all individuals and organisations in a fair, honest and ethical manner.
- Avoid any conflicts of interests (actual perceived or potential).
- Never seek gifts or other personal benefits.

In addition, all Shire procurement activities are guided by the following core business principles:

- All suppliers (whether invited to make a submission through tender or through direct quotation process) will be treated with impartiality and fairness and given equal access to information to assist with quotations, tendering or supply.
- All procurement activities and decisions will be fully and clearly documented by the Shire to provide an efficient audit trail and to allow for an effective performance review of contracts.
- All contracts that involve services to the public will be undertaken in a manner consistent with the Shire's Disability Access and Inclusions Plan (DAIP) 2018-2023.
- Energy-efficient equipment, products containing recycled materials and environmentally friendly products will be purchased wherever reasonably possible taking into account best value for money considerations.
- Tenders will not be called unless the Shire has a firm commitment to proceed to contract although the Council reserves the right not to proceed with any tender or quotation so advertised.
- The Shire will not disclose confidential or proprietary information.

## What we ask of you

The Shire requires all private sector providers of goods and services to observe the following principles when doing business with the Shire:

- Comply with all laws applicable in Western Australia.
- Gain an understanding of the Shire's policies, guidelines and procedures relating to purchasing, including an understanding of this Statement (all available on the Shire's website).
- Provide accurate and reliable advice and information when invited or required.
- Declare actual, perceived or potential conflicts of interests as soon as you or your employees become aware of the conflict.
- Act ethically, fairly and honestly in all your dealings with the Shire.
- Take all reasonable measures to prevent the disclosure of confidential Shire information.
- Do not engage in any form of collusive practice, including offering Shire employees or Elected Members inducements or incentives designed to improperly influence the conduct of their duties.
- Do not discuss Shire business or information in the media.
- Assist the Shire to prevent unethical practices in business relationships by reporting such practices.



## Why is compliance important?

By complying with the Shire's Statement of Business Ethics, you will be able to advance your business objectives and interests in a fair and ethical manner. As all Shire suppliers of goods and services are required to comply with this Statement, compliance will not disadvantage you in any way.

You should also be aware of the consequences of not complying with the Shire's ethical requirements when doing business with the Shire. Improper or unethical conduct could lead to termination of contracts or loss of future work with the Shire. Overall any business reputation can also be detrimentally affected if corrupt and criminal behaviour is made public.

Complying with the Shire's business principles will also prepare your business for dealing with the ethical requirements of other local governments and public sector agencies should you choose to do business with them.

## Guidance Notes

### Incentives, gifts and benefits

The Shire's employees and Elected Members do not expect to receive, or be the recipients of gifts, benefits or incentives as a result of our business relationship with goods or service providers. Goods and service providers are requested to refrain from offering such incentives, gifts or benefits to employees or Elected Members. The Shire's Code of Conduct provides for the type of incentives, gifts and benefits that can be received by Elected Members and employees. If wanting to give a gift, please check with the proposed recipient as to whether a gift can be accepted, or alternatively view the Shire's Code of Conduct.

### Conflicts of interest

All Shire Employees and Elected Members are required to disclose any actual, or perceived potential conflicts of interest. The Shire extends this requirement to all Shire business partners, contractors and suppliers.

### Confidentiality

All Shire information must be treated as confidential unless otherwise indicated. The Shire will maintain appropriate confidentiality and not disclose propriety information unless legally obligated to do so.

### Safety

The Shire of Toodyay strives for continuous improvement while creating a strong safety and health culture within all aspects of Shire activities. This commitment to safety is the Shire's highest priority and will not be compromised. All employees, including volunteers and contractors, are required to take all reasonable care to ensure their own safety and that of others in the workplace.

### Communications between parties

All communications should be clear, direct and accountable to minimise the risk of perception of inappropriate influence being brought to bear on the business relationship. Canvassing of Elected Members during a tender process will disqualify bids from further consideration and contact with Elected Members during work for the Shire is prohibited unless expressly authorised by the Shire.



## Use of Shire equipment, resources and information.

All Shire equipment, resources and information should only be used for its proper official purpose.

## Contracting employees

All contracted and sub-contracted employees are expected to comply with this Statement. If you employ sub-contractors in your work for the Shire, you must make them aware of this Statement. All contractors and sub-contractors will be required to undertake an annual induction process prior to commencing business with the Shire.

## Secondary Employment

Employees are not permitted to engage in private work with any person that has an interest in a proposed or current contract with the Shire.

## Intellectual property rights

In business relationships with the Shire, parties respect each other's intellectual property rights and will formally negotiate any access, license or use of intellectual property.

## Who to contact?

If you have any questions regarding this Statement or to provide information about suspected corrupt conduct, please contact the Shire via the details below.

### Chief Executive Officer

Shire of Toodyay  
15 Fiennes Street (PO Box 96)  
TOODYAY WA 6566

**Phone:** (08) 9574 9300  
**Fax:** (08) 9574 2158  
**Email:** [records@toodyay.wa.gov.au](mailto:records@toodyay.wa.gov.au)  
**Website:** [www.toodyay.wa.gov.au](http://www.toodyay.wa.gov.au)

Persons reporting corrupt behaviour or misconduct are protected by the *Corruption and Crime Commission Act 2003* and other 'Whistle-blower' protection laws such as the *Public Interest Disclosure Act 2003*. These laws protect persons disclosing corruption related matters from reprisal or detrimental action and ensure disclosures are properly investigated and dealt with.





## F.3 Purchasing Policy

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### Introduction

This policy is intended to provide clear direction to staff when carrying out the purchasing of goods and services for the Shire of Toodyay and to ensure that purchasing is undertaken in an efficient, effective, economical and sustainable manner.

### Application

This Policy applies to all employees at the Shire of Toodyay and it is a requirement that all employees adhere to this Policy. Breaches of this Policy may result in disciplinary action.

This Policy:

- Provides the Shire of Toodyay 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 Shire of Toodyay receives value for money in its purchasing.
- Ensures that the Shire of Toodyay considers the environmental impact of the ~~procurement~~ procurement.
- Ensures the Shire of Toodyay is compliant with all regulatory obligations.
- Promotes effective governance and definition of roles and responsibilities.
- Ensures that the Shire of Toodyay considers the environmental impact of the procurement process across the life cycle of goods and;
- Provides for guidelines for preferential purchasing agreements with organisations which are regional.
- Upholds respect from the public and industry for the Shire of Toodyay's purchasing practices that withstand probity.

### Policy Intent

- To provide compliance with the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.
- To deliver a best practice approach and procedures to internal purchasing for the Shire of Toodyay.
- To ensure consistency for all purchasing activities that integrates within all Shire of Toodyay operational areas.
- To allow for preferential treatment for Toodyay businesses who wish to do business with Council.

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- To maximise potential expenditure from Council to the community and businesses located within the Shire of Toodyay.
- To ensure the future sustainability of the Shire of Toodyay and its community.

## 1. Ethics and Integrity

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

[The Shire has adopted a Statement of Business Ethics that outlines what the Shire expects from suppliers and what suppliers can expect from the Shire.](#)

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:

- (a) 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;
- (b) All purchasing practices shall comply with relevant legislation, regulation and requirements consistent with the Shire of Toodyay policies, [Statement of Business Ethics](#) and ~~its~~ Code of Conduct;
- (c) Purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- (d) All processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements;
- (e) Any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;
- (f) Any information provided to the Shire of Toodyay by a supplier shall be treated as commercial-in-confidence and shall not be released unless authorised but the supplier or relevant legislation; and
- (g) Where appropriate the Shire will consider environmental and social impacts along with value for money outcomes when making purchasing decisions.

## 2. Value for Money

Value for money is an overarching principle governing purchasing that allows the best possible outcome to be achieved for the Shire of Toodyay. 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:

- (a) 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.

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- (b) 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;
- (c) 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);
- (d) 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 ~~quotation~~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.

### 3. 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	POLICY
Up to \$10,000	Direct purchase from suppliers.
\$10,001 - \$49,999	Obtain at least two written quotations.
\$50,000 - \$2449,999	Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations). Formal Request for Quotation (RFQ) documents are to be issued by Business Units and a record of the details of written quotations received is to be made in accordance with the Purchasing Policy.
\$2450,000 and above	Conduct a public tender process or apply Regulation 11(2) of the <i>Local Government (Functions and General) Regulations 1996</i> .

#### Up to \$10,000

Where the value of procurement of goods or services does not exceed \$10,000 direct purchase from the supplier may be made. However, it is recommended to use professional discretion and occasionally undertake market testing to ensure best value is maintained. This instance should only apply for a single, simple purchase where the cost of seeking competitive quotes would be unreasonable on a cost to benefit analysis basis (e.g.e.g.: purchasing library books or minor catering supplies).

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

#### \$10,001 - \$49,999

This category is for the procurement of goods or services where the value of such procurement ranges between \$10,001 and \$49,999.

At least two 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. This purchasing method is suitable where the purchase is in a known market or is relatively small and low risk.

### **\$50,000 to \$249,999**

For the procurement of goods or services where the value exceeds \$50,000 but is less than \$249,999, it is required to obtain at least three written quotes.

The responsible officer is expected to demonstrate due diligence seeking quotes and to comply with any record keeping and audit requirements.

Formal Request for Quotation (RFQ) documents are to be issued by the responsible officer and a record of the details of written quotations received is to be made. Record keeping requirements must be maintained in accordance with record keeping policies. For procurement of goods and services in this range, the selection should not be based on price alone, and it is required to consider some of the qualitative factors such as quality, stock availability, accreditation, time for completion or delivery, warranty conditions, technology, maintenance requirements, the organisation's capability, previous relevant experience and any other relevant factors as part of the assessment of the quotes.

**NOTES:** The general principles relating to written quotations in this category are:

- (a) An appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.
- (b) The request for written quotation may include:
  - (i) Written Specification;
  - (ii) Selection Criteria to be applied;
  - (iii) Price Schedule;
  - (iv) Conditions of responding;
  - (v) Validity period of offer.
- (c) Invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.
- (d) Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- (e) Responses should be assessed to compliance, then against the section criteria, and then value for money and all evaluations documented.
- (f) Respondents should be advised in writing as soon as possible after the final determination is made and approved.

## **4. WALGA Preferred Suppliers**

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Officers will utilise the WALGA Preferred Supplier list whenever possible to ensure that all purchasing is carried out in a cost effective and time efficient manner that provides maximum benefit to the Council.

## 5. Ordering Thresholds

The following Officers are authorised to sign approve purchase orders, contract extensions after a contract is finalised and variations on behalf of the Council within the limits stated provided such proposed purchases are contained within the Budget and are Budget, are within the officer's area of activity, adhere to the purchasing threshold provisions in section 3 of this policy and subject to delegation ES1.

Title	Maximum
Chief Executive Officer	As delegated by Council
Manager Planning & Development	\$75,000
<del>Manager Community Development</del>	<del>\$75,000</del>
Manager Corporate <u>&amp; Community</u> Services	\$75,000
Manager <del>Assets</del> Works & Services	\$75,000
Works Supervisors <u>&amp; Engineering Technical Officer</u>	\$25,000
<del>Senior Building Surveyor</del>	<del>\$25,000</del>
Community Emergency Services Manager (emergency purposes only)	\$5,000

All orders raised are to have the following items included:

- (a) The name of the provider of goods or services;
- (b) The details of the goods or services being provided;
- (c) The total value of the order being raised;
- (d) The account or job number being utilised for the expenditure;
- (e) The name of the person requesting the order; and
- (f) The name and signature of the person authorising the order.

## 6. Regulatory Compliance

### 6.1 Tender Exemption

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In the following instances, public ~~tenderstenders'~~ procedures are not required (regardless of the value of expenditure):

- (a) An emergency situation as referred to in Section 11(2)(a) of the Local Government (Functions and General) Regulations 1996;
- (b) The purchase is under a contract of WALGA (Preferred Supplier Arrangements), Department of Treasury and Finance (permitted Common Use Arrangements), Regional Council, or another Local Government;
- (c) The purchase is under auction which has been authorised by Council;
- (d) The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- (e) Any of the other exclusions under Regulation 11(2) of the Local Government (Functions and General) Regulations 1996 that apply.

## 6.2 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 the provision "sole source of supply" should only occur in limited cases and procurement experience indicates that generally no more than one supplier is able to provide the requirements.

## 6.3 Anti-Avoidance

The Shire of Toodyay 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 an amount with the intention of avoiding the need to publicly tender or meet the standards of set thresholds.

## 6.4 Tender Criteria

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

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

## 6.5 Advertising Tenders

Tenders are to be advertised in a state wide publication as a minimum and in local media where possible. The tender must remain open for at least fourteen days after the date the tender is advertised. Care must be taken to ensure that fourteen full days are provided as a minimum.

The notice must include:

- (a) A brief description of the goods or services required;

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- (b) Information as to where and how tenders may be submitted;
- (c) The date and time after which tenders cannot be submitted;
- (d) Particulars identifying a person from whom more detailed information as to tendering may be obtained;
- (e) Detailed information shall include:
  - (i) Such information as the Shire of Toodyay decides should be disclosed to those interested in submitting a tender;
  - (ii) Detailed specifications of the goods or services required;
  - (iii) The criteria for deciding which tender should be accepted;
  - (iv) Whether or not the Shire of Toodyay has decided to submit a tender; and
  - (v) Whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tender may be submitted.

#### 6.6 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, addendums 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 Toodyay not to compromise its Duty to be fair.

#### 6.7 Tender Deadline

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

#### 6.8 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 either the CEO, Manager Corporate and Community Services, Manager Planning & Development, ~~Manager Community Development~~ or the Manager Works-Assets & Services and 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 may be regarded as commercial-in-confidence to the Shire of Toodyay. 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 printed, date stamped and initialled by at least two Shire Officers present at the opening of tenders.

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## 6.9 No Tender Received

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

- (a) A sufficient number of quotations are obtained;
- (b) The process follows the guidelines for seeking quotations between \$50,000 and \$249,999 (listed above);
- (c) The specification for goods and/or services remains unchanged;
- (d) Purchasing is arranged within six months of the closing date of the lapsed tender; and
- (e) Council Approval

## 6.10 Tender Evaluation

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

## ~~6.11 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 Toodyay 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.~~

## 6.12 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 Toodyay 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.

## 6.13 Minor Variation

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

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.

## 6.14 Notification of Outcome

Each tenderer shall be notified of the outcome of the tender by the Chief Executive Officer (under Delegated Authority) or following Council resolution within 21 days. Notification shall include:

- (a) The name of the successful tenderer.
- (b) The total value of consideration of the winning offer or schedule of rates.

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. If no tender was accepted it must be advertised "that no tenders were accepted."

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## 7. 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:

- (a) Tender documentation;
- (b) Internal documentation;
- (c) Evaluation documentation;
- (d) Enquiry and response documentation; and
- (e) Notification and award documentation.

For a direct purchasing process this includes:

- (a) Quotation documentation;
- (b) Internal documentation; and
- (c) Order forms and requisitions.

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

## 8. Regional Price Preference Effect on Purchasing Thresholds Tenders

A supplier of goods or services who submits a tender/quotation is regarded as being a local tenderer if:

- (a) The supplier has a physical business premises (in the form of an office, depot, shop, outlet, headquarters or other premises where goods or services are being supplied from), located within the Shire. This does not exclude suppliers whose registered business is located outside the Shire but undertake the business from premises located in the Shire;
- (b) A business having permanent staff that are based at the business premises located within the Shire;
- (c) Management or delivery of the majority of the outcomes will be carried out from the business premises located in the shire; and
- (d) In order for the policy to apply, the supplier is required to provide to the Shire sufficient evidence which demonstrates compliance with the above criteria.



Regional\* Preference will be provided to tenderers by assessing the tender from that Shire of Toodyay tenderer as if the price bids were reduced by:

### Part 1

- (a) 10% - where the contract is for goods or services, up to a maximum price reduction of \$50,000.
- (b) 5% - where the contract is for construction (building) services, up to a maximum price reduction of \$25,000.

### Part 2

Although goods or services that form a part of a tender submitted by a Shire of Toodyay tenderer (who is a regional tenderer by virtue of the Local Government (Functions & General) Regulations 1996, regulation 24B(2)(b)) may be:

- (a) Wholly supplied from regional sources; or
- (b) Partly supplied from regional sources, and partly supplied ~~from~~, non-regional sources,

Only those goods or services identified in the tender as being from regional sources may be included in the discounted calculations that form part of the assessments of a tender when a regional price preference policy is in operation.

## 9. Panels of Pre-Qualified Suppliers

In accordance with Regulation 24AC of the *Local Government (Functions and General) Regulations 1996*, a Panel of Pre-qualified Suppliers ("Panel") may be created where most of the following factors apply:

- (a) The Shire of Toodyay determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- (b) There are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- (c) The purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- (d) The Panel will streamline and continuously improve procurement processes; and
- (e) The Shire of Toodyay has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The Shire will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

## 9.1 Establishing a Panel

Should the Shire of Toodyay determine that a Panel is beneficial to be created, it must do so in accordance with Part 4, Division 3 the *Local Government (Functions and General) Regulations 1996*. Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Panels may be established for a minimum of two years and for a maximum length of four years. ~~time deemed appropriate by the Shire of Toodyay.~~

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the Shire of Toodyay will endeavour to appoint at least three suppliers to each category, on the basis that best value for money is demonstrated. Where less than three suppliers are appointed to each category within the Panel, the category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the Shire of Toodyay must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

## 9.2 Distributing Work amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the Shire intends to:

- (a) Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases; or
- (b) Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- (c) Develop a ranking system for selection to the Panel, with work awarded.

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- (a) Each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or
- (b) Work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) when establishing the Panel. The Shire is to invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined,

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an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire of Toodyay may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds of this Policy. When a ranking system is established, the Panel must not operate for a period exceeding twelve months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond twelve months, which includes options to extend the contract.

### 9.3 Purchasing from the Panel

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be made through eQuotes, or any other electronic quotation facility.

Each quotation process, including the invitation to quote, communications with panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire's electronic records system. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the Shire and Panel members.

For the creation of a Panel, this includes:

- (a) The Procurement initiation document such as a procurement business case which justifies the need for a Panel to be created;
- (b) Procurement Planning and approval documentation which describes how the procurement is to be undertaken to create and manage the Panel;
- (c) Request for Applications documentation;
- (d) Copy of public advertisement inviting applications;
- (e) Copies of applications received;
- (f) Evaluation documentation, including clarifications sought;
- (g) Negotiation documents such as negotiation plans and negotiation logs;
- (h) Approval of award documentation;
- (i) All correspondence to applicants notifying of the establishment and composition of the Panel such as award letters;
- (j) Contract Management Plans which describes how the contract will be managed; and

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(k) Copies of framework agreements entered into with pre-qualified suppliers. The Shire of Toodyay is also to retain itemised records of all requests for quotation, including quotations received from pre-qualified suppliers and contracts awarded to Panel members. A unique reference number shall be applied to all records relating to each quotation process, which is to also be quoted on each purchase order issued under the Contract.

Information with regards to the Panel offerings, including details of suppliers appointed to the Panel, must be kept up to date, consistent and made available for access by all officers and employees of the Shire of Toodyay.

## 10. Risk

Purchase and procurement is to take into consideration a risk assessment of the product or service to ensure potential hazards are identified and mitigation strategies determined, before the product or service is introduced into the workplace.

The Shire of Toodyay must utilise the following industry experts for advice on procurement matters:

- WALGA
- Department of Local Government, Sport and Cultural Industries
- Professional services such as legal experts and auditors

## 11. Environmental Purchasing

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

- (a) Preference is to be given to the purchase of products that are recycled and/or contain recycled material with a recyclable content of more than 20% (recycled materials being defined as post-consumer material, domestic material and post-consumer industrial material as defined by Australian Standard AS 1986) from Australian waste provided:
- (i) The product is suitable for the purpose intended;
  - (ii) The quality of the product is equivalent to its new material counterpart; and
  - (iii) The cost is comparable to its new material counterpart or not more than 5% greater including any other printing costs.
- (b) Preference is to be given to goods or services that aim to minimise impacts on the environment.
- (c) Purchase of electrical equipment should be Energy Star compliant. The highest star rating should be sought within the designated price range with a minimum rating of four required. Higher star ratings may be afforded a 5% allowance when comparing pricing with lesser rated products.
- (d) Purchase of water using appliances should be AAA rated. Higher rated appliances may be afforded a 5% allowance when comparing pricing with lesser rated products.

Where the Shire intends to procure goods and services, the following considerations should be given:

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- (a) The selection of vehicles featuring the highest fuel efficiency available based on the required vehicle type and within the designated price range;
- (b) The use of renewable energy and technologies for new buildings and refurbishments whenever possible;
- (c) Demonstrated environmental best practice in energy efficiency and/or consumption which can be demonstrated through suitable rating systems and eco-labelling;
- (d) Demonstrated environmental best practice in water efficiency;
- (e) 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;
- (f) Products that are environmentally sound in manufacture, use and disposal;
- (g) Products that are made using minimal amounts of raw materials from an unsustainable resource; and
- (h) Products that are free of toxic or polluting materials and that consume minimal energy during the production stage.

## 12. Contract Extensions and Variations

Contract variations are amendments to a contract that change the original terms or conditions. Variations are usually used to alter the scope of the supply or services provided or to change pricing. Where a contract variation to provide goods and services that is inconsistent with the scope of the original contract, or significantly alters the scope of the original contract, a separate procurement process would be required. Contracts could be extended only if the terms of the original contract included extension options and should be subject to a documented performance assessment.

The Shire of Toodyay will:

- a) provide include comprehensive guidance to staff on recording of contract information and management of contract extensions and variations, so that better practices are consistently applied across the organisation;
- b) maintain a register of contracts to help effectively manage contract extensions and variations. The register should be reviewed annually, to identify contracts that are due to expire, so that appropriate action starts well before the contract expiry date;
- c) ensure the register of contracts includes all key information relating to contracts. The level of information should be based on an assessment of the significance, number and complexity of contractual arrangements;
- d) ensure that records of key decisions are retained in accordance with recordkeeping plans and are readily available;
- e) improve review processes relating to contract extensions, including timely and documented reviews of contractor performance before exercising contract extension options;
- f) ensure that contract variations are supported by adequate documentation describing the nature and reasons for the variations, including the associated cost, time and scope implications. The cumulative impact of variations on a contract should also be reviewed and an assessment made of whether a separate procurement process should be undertaken;

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g) ensure that all contract extensions and variations are approved in accordance with approved delegations, to ensure that all contracting decisions are subject to appropriate levels of scrutiny.

**Regional\*** applies to local government areas neighbouring the Shire of Toodyay.

**Reference Information**

**Related Documents**                    [Shire of Toodyay Delegation Register](#)  
**Related Legislation**                *Local Government Act 1995 (WA)*  
     *Local Government (Functions and General) Regulations 1996*  
     *Records Management Act 2000*

**Associated Forms and Attachments**

**Document Control Information**

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<b>Date of Next Review</b>	



# Western Australian Auditor General's Report



CONTRACT

## Local Government Contract Extensions and Variations and Ministerial Notice Not Required



Report 20: 2019-20

4 May 2020

**Office of the Auditor General  
Western Australia**

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***The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.***

**Local Government Contract Extensions and  
Variations  
and  
Ministerial Notice  
Not Required**

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Report 20: 2019-20  
May 2020



**THE PRESIDENT  
LEGISLATIVE COUNCIL**

**THE SPEAKER  
LEGISLATIVE ASSEMBLY**

**LOCAL GOVERNMENT CONTRACT EXTENSIONS AND VARIATIONS AND  
MINISTERIAL NOTICE NOT REQUIRED**

This report has been prepared for submission to Parliament under the provisions of section 25 of the *Auditor General Act 2006*.

This focus area audit assessed if entities adequately managed extensions and variations to their contracts, and if they maintained comprehensive summaries of their contracts.

I wish to acknowledge the entities' staff for their cooperation with this report.

Also included is my determination that a section 82 notice was not required by the Minister for Water.

A handwritten signature in black ink, appearing to read 'C Spencer'.

CAROLINE SPENCER  
AUDITOR GENERAL  
4 May 2020

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**Local Government Contract Extensions and  
Variations**



# Executive summary

## Background

Western Australia's 148 local government entities (entities) spend billions of dollars each year on purchasing a wide range of goods and services. A significant number of these purchases involve contracts.

Procurement contracts vary in complexity, value, duration and risk, but all benefit from a strong approach to contract management. Robust contract management processes centred around the principles of probity, accountability and transparency help to ensure that contracting is effective, meets the standards expected by the community and the Parliament and provides good value for money for the ratepayer.

Comprehensive policies and good management of contract extensions and variations are essential to achieving these outcomes. It is important for all entities to maintain a summary of their contracts in a register or database (hereafter referred to as register), with all key contract details, to help effectively manage contract extensions and variations. This is essential from an accountability perspective and also assists entities in meeting their financial reporting obligations.

## Conclusion

At 5 entities there was insufficient documentation to demonstrate that extensions or variations were given due consideration, so we were unable to conclude if they were appropriately managed. At 3 entities, some extensions did not have evidence of contractor performance reviews, and at 3 entities some variations were not approved by delegated officers.

Most entities need to enhance their policies with comprehensive guidance. All entities' contract registers lacked key information essential to effective monitoring of contractual obligations.

## What we did

The focus of this audit was to assess if entities adequately managed extensions and variations to their contracts, and if they maintained comprehensive summaries of their contracts.

We assessed the policies, procedures and practices for managing contract extensions and variations at 8 entities of varying sizes in both metropolitan and regional Western Australia. We assessed the following criteria:

- Do entities have adequate policies and procedures for managing contract extensions and variations?
- Do entities have complete and accurate summaries of their contracts?
- Are entities adequately:
  - controlling contract extensions, including the review of contractor performance before extending contracts
  - controlling contract variations, and determining if a variation significantly changes the original scope of the contract
  - complying with management approved delegations before a contract is extended or varied?

When testing against these criteria, we had regard for Part 4 of the Local Government (Functions and General) Regulations 1996, which deals with the provision of goods and services, and includes specific requirements relating to contract extensions and variations. In addition, we expected entities to meet the principles of the *Local Government Act 1995*, which requires entities to have policies, and to keep proper accounts and records. We also had regard to the broader principles of good internal control and governance and general better practice principles that help reduce procurement risks and support value for money.

The audit focused on whether controls were in place to support effective management of contract extensions and variations after a contract was finalised. It was not designed to review the adequacy of procurement processes undertaken prior to the signing of the original contracts.

The following 8 entities were included in this audit:

Entities
City of Bayswater (Bayswater)
City of Kwinana (Kwinana)
City of Rockingham (Rockingham)
City of Swan (Swan)
Shire of Narrogin (Narrogin)
Shire of Wagin (Wagin)
South Metropolitan Regional Council (SMRC)
Town of Cottesloe (Cottesloe)

Source: OAG

**Table 1: Entities included in the audit**

We assessed contract extensions and variations processed from 1 January 2018 to the date of the audits, in mid-2019.

Detailed findings have been reported to audited entities. Their audit committees should follow up to ensure audit findings and recommendations are appropriately addressed by management in a timely manner.

We conducted this audit under section 18 of the *Auditor General Act 2006* and in accordance with Australian Auditing and Assurance Standards. The approximate cost of undertaking the audit and reporting was \$177,500.

## What we found

The contract management policies and procedures at most entities lacked appropriate guidance for staff to correctly and consistently process extensions and variations. We also found contract registers at all 8 entities were missing key information required for effective contract management.

We found instances at 5 entities where sound practices were not always followed for assessment and approval of extensions and/or variations. We therefore could not conclude whether this represented probity in purchasing and value for money for the ratepayer.

### **Policies and procedures need to be enhanced to ensure consistent application by staff**

Comprehensive policies and procedures provide clear guidance to staff, help ensure that regulatory requirements are complied with, and that better practices are consistently followed by all staff. It is also important to have clear documentation of delegated authorisations to ensure that all decisions on contract extensions and variations are made by officers within their delegated authority limits.

Kwinana had sound policies and procedures for managing contract extensions and variations, with scope for improvement at the other 7 entities.

We identified the following shortcomings:

- Four entities did not have clearly established authorisations and delegations for the approval of contract extensions and/or variations. Establishing clear lines of responsibility and accountability for all decision making is an important prerequisite to ensuring decisions are made by individuals the entity considers have the requisite skills, knowledge and experience.
- The policies of 5 entities lacked guidance on what constitutes an appropriate contract variation. For example, a contract variation to provide goods and services that is inconsistent with the scope of the original contract, or significantly alters the scope of the original contract is not appropriate. In such circumstances, a separate procurement process would normally be required.
- The policies of 6 entities did not outline the key requirements for processing contract extensions, including that contracts could be extended only if the terms of the original contract included extension options.
- The policies or procedures of 5 entities did not require a documented performance assessment of a contractor before a contract extension option was considered. This increases the risk that poor performing contractors may be granted extensions.
- No entities' policies or procedures required staff to maintain a contract register, with all key contract information.
- Six entities did not require a regular review of their contract registers to identify contracts that are due to expire, so that appropriate action starts well before the contract expiry date. Lack of a review process increases the risk that contract extension decisions may be rushed, leading to inappropriate extensions, and potentially impact continuity in the provision of goods and services.

## **Contract registers did not include key information for effective contract oversight**

It is important for all entities to maintain a summary of their contracts, with all key information, to help contract managers effectively manage contract extensions and variations.

The entities in our audit maintained records of their contracts on databases, registers, or a combination of both. One entity did not have any collective record of their contracts at the commencement of the audit, but subsequently provided us with a contract summary. The contract registers at the 8 entities did not include all key contract information. We identified the following:

- The contract registers at 2 entities were incomplete and did not include all current contracts. The register at another entity did not include the commencement, duration and end dates of contracts. A fourth entity's register included inaccurate and/or inconsistent information on key data such as contract values, term dates and the status of contracts. Inaccurate and incomplete contract registers can affect management's ability to effectively manage contracts.
- At 6 entities, the contract registers did not include the dollar value of contracts, or any contract extensions or variations. In addition, at 3 of these entities, registers did not include the estimated dollar value of Schedule of Rate<sup>1</sup> contracts. As a result, inadequate information was available to management on the total cost of their contracts.
- Where relevant, although details of contract variations are contained within individual contract management plans, none of the entities' contract registers included summarised information on approved contract variations, such as the number and dollar value of individual variations, and the total value of approved variations. This information is essential for contract managers to effectively track the cumulative value of contract variations, evaluate the impact on the scope of the original contracts, and initiate separate procurement processes where appropriate.
- At 4 entities, contract registers did not include information on the number and duration of extension options available under each contract and details of extension options that were exercised. This information would enable better monitoring of contracts, including the timely exercise of contract extension options.
- The contract registers at 6 entities did not have details of scheduled performance review dates, to ensure that timely reviews of contractor performance were performed prior to considering contract extension options.

## **Some entities need to improve their assessment of contractors' performance before extending contracts**

A contract extension may extend the agreed terms for a further period and/or involve changes to price, personnel and services. We expected to find evidence that contract managers had performed an adequate and timely review of contractors' performance before granting an extension. This would provide management with adequate opportunity to assess if the contractor still offered value for money.

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<sup>1</sup> Schedule of Rates contracts are used where the nature of contract work is certain, but the exact amount of work to be performed cannot be predicted at the outset and is inherently provisional in nature. Nonetheless, tenders are usually invited and awarded based on the range of estimated quantities.

All entities except Rockingham and Kwinana exercised contract extension options during our audit period. One of the 6 did not have detailed records of the total number and value of contract extension options exercised. Based on the contract registers of the remaining 5 entities, 51 contract extension options totalling \$19.6 million were exercised during the audit period.

We tested a sample of 18 contract extensions totalling \$13.6 million across the 6 entities. Narrogin, Wagin and SMRC had adequate processes in place for the extension of contracts.

At the other 3 entities, we noted the following shortcomings:

- At 2 entities, 6 of 7 contract extensions did not have any formal documentation to demonstrate that an assessment of contractor performance was conducted before the contract extensions were approved. We were therefore unable to conclude if there was adequate review of contractor performance before exercising the extension options. This increases the risk that poor performing contractors may be granted extensions. The total value of 5 of these extensions was \$1.4 million, while the value of the remaining extension could not be determined as the original contract was not available.
- Three extensions at 2 entities totalling \$1.48 million were approved after the expiry of the initial contracts. One of the entities advised that there were extenuating circumstances that resulted in a short period when some key functions were performed later than usual. Renewal processes that are not initiated well before the expiry of contracts, limit the entities' ability to assess whether the contracts still offer the best value for money. This also potentially impacts the continued supply of goods and services.
- For 2 of 5 contract extensions at 1 entity, there was no mutually accepted agreement or correspondence between both the parties to extend the contract.

### **Contract variations were not always adequately explained at 2 entities**

Contract variations are amendments to a contract that change the original terms or conditions. Variations are usually used to alter the scope of the supply or services provided or to change pricing. We considered if contract variations, individually or cumulatively, significantly altered the scope of the original contract. This may indicate that an entity was using variations to avoid undertaking a new procurement process.

All entities except Wagin undertook contract variations during the period of our audit, although only 5 were able to provide detailed information of the total number and value of their contract variations processed. The contract registers of these 5 entities showed 63 variations totalling \$6 million. We reviewed 27 contract variations totalling \$5.2 million across the 7 entities.

At 2 entities, 4 of 12 variations were not supported by detailed proposals with descriptions of the nature and reasons for the variations, including associated cost, time and scope implications. We were therefore unable to conclude whether the variations had been approved based on adequate analysis of these implications and whether value for money assessments had been performed.

### **Delegation levels were not always complied with when extending or varying contracts**

It is important that all decisions relating to the approval of contract extensions and variations are made in accordance with approved authorisation limits. This ensures that these decisions are valid, and are made by staff with the experience and knowledge commensurate with the value and complexity of the contracts involved.

We reviewed the approval processes of 27 variations valued at \$5.2 million and 18 contract extensions totalling \$13.6 million across all 8 entities and identified the following shortcomings:

- At 2 entities, 7 variations totalling \$1.2 million were approved by officers in excess of their delegated authority.
- At a third entity, we identified 2 variations to a contract totalling \$77,395 that significantly changed the scope of the original contract, increasing the contract value in excess of the \$150,000 tender threshold limit. The consequent waiver from tender was approved by an officer who did not have the delegated authority.
- Two extensions totalling \$73,058 at 1 entity did not have any documented evidence of their approval. We were therefore unable to conclude if an appropriate officer had approved them. This reduces transparency and accountability in decision making and increases the risk that the mandated level of scrutiny is not applied.



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## Recommendations

1. All local government entities, including those not sampled in this audit, should:
  - a. ensure their policies and procedures include comprehensive guidance to staff on recording of contract information and management of contract extensions and variations, so that better practices are consistently applied across the organisation
  - b. establish specific delegated authorisation limits for the approval of contract extensions and variations
  - c. ensure their contract summaries include all key information relating to contracts. The level of information should be based on their assessment of the significance, number and complexity of their contractual arrangements
  - d. ensure that records of key decisions are retained in accordance with their recordkeeping plans and are readily available
  - e. improve review processes relating to contract extensions, including timely and documented reviews of contractor performance before exercising contract extension options
  - f. ensure that contract variations are supported by adequate documentation describing the nature and reasons for the variations, including the associated cost, time and scope implications. The cumulative impact of variations on a contract should also be reviewed and an assessment made of whether a separate procurement process should be undertaken
  - g. ensure that all contract extensions and variations are approved in accordance with approved delegations, to ensure that all contracting decisions are subject to appropriate levels of scrutiny.
2. Entities should review their policies and procedures against the principles in Appendix 1.

Under section 7.12A of the *Local Government Act 1995*, all sampled entities are required to prepare an action plan addressing significant matters relevant to their entity for submission to the Minister for Local Government within 3 months of this report being tabled in Parliament and for publication on the entity's website. This action plan should address the points above, to the extent that they are relevant to their entity, as indicated in this report.

### Response from entities

Entities in our sample generally accepted the recommendations and confirmed that, where relevant, they have amended policies and administrative systems, or will improve practices for managing contract extensions and variations.

## Appendix 1: Better practice principles

The following table shows control principles on which our audit focused. They are not intended to be an exhaustive list.

Management of contract extensions and variations	Focus area	What we expected to see
<b>Policy</b>	Policies and procedures	<ul style="list-style-type: none"> <li>Contract management policies and procedures are regularly reviewed to ensure compliance with current legislation and relevance to current operations.</li> <li>Policies or procedures include a requirement to maintain a comprehensive register or database of all contracts, including:               <ul style="list-style-type: none"> <li>the dollar value above which contracts are to be included in the register, and</li> <li>the custodian of the register with responsibility for regular review and update of the contract register or database.</li> </ul> </li> <li>Policies include clear guidance on what constitutes a contract variation and when a separate procurement process is required.</li> <li>The policies or procedures provide guidance on the key processes for contract extensions, including timely and documented assessments of contractor performance prior to exercising an extension option.</li> </ul>
	Delegations	<ul style="list-style-type: none"> <li>There are appropriate delegations and authorisations in place for procurement as well as for contract extensions and variations.</li> </ul>
<b>Records</b>	Comprehensive register of contracts	<ul style="list-style-type: none"> <li>A comprehensive register of all contracts is maintained, with all key contract information.</li> </ul>
<b>Contract extensions</b>	Contract terms	<ul style="list-style-type: none"> <li>Contracts are extended only if the original contract includes extension options.</li> </ul>
	Approval	<ul style="list-style-type: none"> <li>Contract extensions are approved by an appropriate officer, in accordance with delegated authorisation limits.</li> <li>Extensions are approved before the expiration date of the original contract or previously extended term, for continuity in the provision of services.</li> </ul>
	Contractor performance review	<ul style="list-style-type: none"> <li>There is documented evidence that contractor performance has been assessed before a contract extension is approved.</li> </ul>

Management of contract extensions and variations	Focus area	What we expected to see
	Recordkeeping	<ul style="list-style-type: none"> <li>• There is documented evidence that the terms of the contract extension have been mutually agreed by the entity and the contractor.</li> <li>• Documents for approval of contract extensions are retained in accordance with recordkeeping plans, to promote accountability and transparency in decision making.</li> </ul>
<b>Contract variations</b>	Approval	<ul style="list-style-type: none"> <li>• Contract variations are approved by an appropriate officer, in accordance with delegated authorisation limits.</li> <li>• Consideration is given to the cumulative impact of variations, to ensure that the scope of the original contract is not significantly altered, and that a separate procurement process is not required.</li> </ul>
	Proposal for variation	<ul style="list-style-type: none"> <li>• Contract variations are supported by proposals with detailed description of the nature of the variation, with associated cost, time and scope implications.</li> </ul>
	Recordkeeping	<ul style="list-style-type: none"> <li>• The variation proposals and approval documents are retained in accordance with recordkeeping plans, to promote accountability and transparency in decision making.</li> </ul>

Source: OAG

**Ministerial Notice Not Required**

## Ministerial notice not required

On 24 March 2020, we received 2 notices from the Minister for Water, the Hon David Kelly MLA, under section 82 of the *Financial Management Act 2006* (FMA) in relation to Legislative Assembly Questions on Notice 5872 part (6) and 5873 part (c).

On 10 December 2019, the Hon Terry Redman MLA asked the Minister for the following information:

### *Legislative Assembly Question on Notice 5872*

*(1) I refer to the recent Freedom of Information (FOI) released by Water Corporation including a redacted copy of "PRA Business Case" arguing the value of "insourcing the Perth Region Alliance", and ask?*

*(6) Will the Minister table a copy of the "Alliance Agreement" referenced on page 10 of the business case?*

On 19 March 2020, the Minister replied:

*(6) The Alliance Agreement is a commercial contract arrangement between the Water Corporation and Programmed Facilities Management.*

### *Legislative Assembly Question on Notice 5873*

*I refer to the decision by Water Corporation to insource the services currently provided under the Aroona Alliance, and ask:*

*(c) Can the Minister table the Aroona Alliance contract;*

On 10 March 2020, the Minister replied:

*(c) The Alliance Agreement is a commercial contract arrangement between the Water Corporation and the Alliance partners.*

The Minister's notices advised that the Perth Regional Alliance Agreement and the Aroona Alliance Contract could not be provided to Parliament, as their release would disclose commercially confidential and sensitive information.

We determined that the 2 notices were not required in this instance, as the information does not concern the conduct or operation of an agency as required by the FMA. Section 85 of the *Water Corporations Act 1995* outlines the limited application of the FMA and the *Auditor General Act 2006* to the Water Corporation, but this does not cover section 82 of the FMA.

The Audit Practice Statement on our website ([www.audit.wa.gov.au](http://www.audit.wa.gov.au)) outlines the circumstances when a notice is unlikely to be required. These include when the requested information does not concern the conduct or operation of an agency as required by the FMA.

## Auditor General's reports

Report number	2019-20 reports	Date tabled
19	Control of Monies Held for Specific Purposes	30 April 2020
18	Information Systems Audit Report 2020 – State Government Entities	6 April 2020
17	Controls Over Purchasing Cards	27 March 2020
16	Audit Results Report – Annual 2018-19 Financial Audit of Local Government Entities	11 March 2020
15	Opinion on Ministerial Notification	28 February 2020
14	Opinion on Ministerial Notification	31 January 2020
13	Fee-setting by the Department of Primary Industries and Regional Development and Western Australia Police Force	4 December 2019
12	Audit Results Report – Annual 2018-19 Financial Audits of State Government Entities	14 November 2019
11	Opinion on Ministerial Notification	30 October 2019
10	Working with Children Checks – Follow-up	23 October 2019
9	An Analysis of the Department of Health's Data Relating to State-Managed Adult Mental Health Services from 2013 to 2017	9 October 2019
8	Opinions on Ministerial Notifications	8 October 2019
7	Opinion on Ministerial Notification	26 September 2019
6	Opinions on Ministerial Notifications	18 September 2019
5	Fraud Prevention in Local Government	15 August 2019
4	Access to State-Managed Adult Mental Health Services	14 August 2019
3	Delivering Western Australia's Ambulance Services – Follow-up Audit	31 July 2019
2	Opinion on Ministerial Notification	26 July 2019
1	Opinions on Ministerial Notifications	19 July 2019



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## Toodyay - Compliance Audit Return 2020

### Certified Copy of Return

Please submit a signed copy to the Director General of the Department of Local Government, Sport and Cultural Industries together with a copy of the relevant minutes.

<b>Commercial Enterprises by Local Governments</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	s3.59(2)(a) F&G Regs 7,9,10	Has the local government prepared a business plan for each major trading undertaking that was not exempt in 2020?	N/A		Merridith Lamb
2	s3.59(2)(b) F&G Regs 7,8,10	Has the local government prepared a business plan for each major land transaction that was not exempt in 2020?	N/A		Merridith Lamb
3	s3.59(2)(c) F&G Regs 7,8,10	Has the local government prepared a business plan before entering into each land transaction that was preparatory to entry into a major land transaction in 2020?	N/A		Merridith Lamb
4	s3.59(4)	Has the local government complied with public notice and publishing requirements for each proposal to commence a major trading undertaking or enter into a major land transaction or a land transaction that is preparatory to a major land transaction for 2020?	N/A		Merridith Lamb
5	s3.59(5)	During 2020, did the council resolve to proceed with each major land transaction or trading undertaking by absolute majority?	N/A		Merridith Lamb



<b>Delegation of Power/Duty</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	s5.16	Were all delegations to committees resolved by absolute majority?	N/A	No delegations to committees.	Merridith Lamb
2	s5.16	Were all delegations to committees in writing?	N/A		Merridith Lamb
3	s5.17	Were all delegations to committees within the limits specified in section 5.17?	N/A		Merridith Lamb
4	s5.18	Were all delegations to committees recorded in a register of delegations?	N/A		Merridith Lamb
5	s5.18	Has council reviewed delegations to its committees in the 2019/2020 financial year?	Yes		Merridith Lamb
6	s5.42(1) & s5.43 Admin Reg 18G	Did the powers and duties delegated to the CEO exclude those listed in section 5.43 of the Act?	Yes		Merridith Lamb
7	s5.42(1)	Were all delegations to the CEO resolved by an absolute majority?	Yes		Merridith Lamb
8	s5.42(2)	Were all delegations to the CEO in writing?	Yes		Merridith Lamb
9	s5.44(2)	Were all delegations by the CEO to any employee in writing?	Yes		Merridith Lamb
10	s5.16(3)(b) & s5.45(1)(b)	Were all decisions by the council to amend or revoke a delegation made by absolute majority?	Yes		Merridith Lamb
11	s5.46(1)	Has the CEO kept a register of all delegations made under Division 4 of the Act to the CEO and to employees?	Yes		Merridith Lamb
12	s5.46(2)	Were all delegations made under Division 4 of the Act reviewed by the delegator at least once during the 2019/2020 financial year?	Yes		Merridith Lamb
13	s5.46(3) Admin Reg 19	Did all persons exercising a delegated power or duty under the Act keep, on all occasions, a written record in accordance with Admin Reg 19?	Yes		Merridith Lamb

<b>Disclosure of Interest</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	s5.67	Where a council member disclosed an interest in a matter and did not have participation approval under sections 5.68 or 5.69, did the council member ensure that they did not remain present to participate in discussion or decision making relating to the matter?	Yes		Merridith Lamb



No	Reference	Question	Response	Comments	Respondent
2	s5.68(2) & s5.69 (5) Admin Reg 21A	Were all decisions regarding participation approval, including the extent of participation allowed and, where relevant, the information required by Admin Reg 21A, recorded in the minutes of the relevant council or committee meeting?	Yes		Merridith Lamb
3	s5.73	Were disclosures under section sections 5.65, 5.70 or 5.71A(3) recorded in the minutes of the meeting at which the disclosures were made?	Yes		Merridith Lamb
4	s5.75 Admin Reg 22, Form 2	Was a primary return in the prescribed form lodged by all relevant persons within three months of their start day?	Yes		Merridith Lamb
5	s5.76 Admin Reg 23, Form 3	Was an annual return in the prescribed form lodged by all relevant persons by 31 August 2020?	Yes		Merridith Lamb
6	s5.77	On receipt of a primary or annual return, did the CEO, or the mayor/president, give written acknowledgment of having received the return?	Yes		Merridith Lamb
7	s5.88(1) & (2)(a)	Did the CEO keep a register of financial interests which contained the returns lodged under sections 5.75 and 5.76?	Yes		Merridith Lamb
8	s5.88(1) & (2)(b) Admin Reg 28	Did the CEO keep a register of financial interests which contained a record of disclosures made under sections 5.65, 5.70, 5.71 and 5.71A, in the form prescribed in Admin Reg 28?	Yes		Merridith Lamb
9	s5.88(3)	When a person ceased to be a person required to lodge a return under sections 5.75 and 5.76, did the CEO remove from the register all returns relating to that person?	Yes		Merridith Lamb
10	s5.88(4)	Have all returns removed from the register in accordance with section 5.88(3) been kept for a period of at least five years after the person who lodged the return(s) ceased to be a person required to lodge a return?	Yes		Merridith Lamb
11	s5.89A(1), (2) & (3) Admin Reg 28A	Did the CEO keep a register of gifts which contained a record of disclosures made under sections 5.87A and 5.87B, in the form prescribed in Admin Reg 28A?	Yes		Merridith Lamb
12	s5.89A(5) & (5A)	Did the CEO publish an up-to-date version of the gift register on the local government's website?	Yes		Merridith Lamb
13	s5.89A(6)	When a person ceases to be a person who is required to make a disclosure under section 5.87A or 5.87B, did the CEO remove from the register all records relating to that person?	Yes		Merridith Lamb



No	Reference	Question	Response	Comments	Respondent
14	s5.89A(7)	Have copies of all records removed from the register under section 5.89A (6) been kept for a period of at least five years after the person ceases to be a person required to make a disclosure?	Yes		Merridith Lamb
15	Rules of Conduct Reg 11(1), (2) & (4)	Where a council member had an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person, did they disclose the interest in accordance with Rules of Conduct Reg 11(2)?	Yes		Merridith Lamb
16	Rules of Conduct Reg 11(6)	Where a council member disclosed an interest under Rules of Conduct Reg 11 (2) was the nature of the interest recorded in the minutes?	Yes		Merridith Lamb
17	s5.70(2) & (3)	Where an employee had an interest in any matter in respect of which the employee provided advice or a report directly to council or a committee, did that person disclose the nature and extent of that interest when giving the advice or report?	Yes		Merridith Lamb
18	s5.71A & s5.71B (5)	Where council applied to the Minister to allow the CEO to provide advice or a report to which a disclosure under s5.71A(1) relates, did the application include details of the nature of the interest disclosed and any other information required by the Minister for the purposes of the application?	N/A		Merridith Lamb
19	s5.71B(6) & s5.71B(7)	Was any decision made by the Minister under subsection 5.71B(6) recorded in the minutes of the council meeting at which the decision was considered?	N/A		Merridith Lamb
20	s5.103 Admin Regs 34B & 34C	Has the local government adopted a code of conduct in accordance with Admin Regs 34B and 34C to be observed by council members, committee members and employees?	Yes		Merridith Lamb
21	Admin Reg 34B(5)	Has the CEO kept a register of notifiable gifts in accordance with Admin Reg 34B(5)?	Yes		Merridith Lamb

**Disposal of Property**

No	Reference	Question	Response	Comments	Respondent
1	s3.58(3)	Where the local government disposed of property other than by public auction or tender, did it dispose of the property in accordance with section 3.58(3) (unless section 3.58(5) applies)?	Yes		Merridith Lamb
2	s3.58(4)	Where the local government disposed of property under section 3.58(3), did it provide details, as prescribed by section 3.58(4), in the required local public notice for each disposal of property?	Yes		Merridith Lamb



<b>Elections</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	Elect Regs 30G(1) & (2)	Did the CEO establish and maintain an electoral gift register and ensure that all disclosure of gifts forms completed by candidates and donors and received by the CEO were placed on the electoral gift register at the time of receipt by the CEO and in a manner that clearly identifies and distinguishes the forms relating to each candidate?	Yes		Merridith Lamb
2	Elect Regs 30G(3) & (4)	Did the CEO remove any disclosure of gifts forms relating to an unsuccessful candidate, or a successful candidate that completed their term of office, from the electoral gift register, and retain those forms separately for a period of at least two years?	N/A		Merridith Lamb
3	Elect Regs 30G(5) & (6)	Did the CEO publish an up-to-date version of the electoral gift register on the local government's official website in accordance with Elect Reg 30G(6)?	Yes		Merridith Lamb

<b>Finance</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	s7.1A	Has the local government established an audit committee and appointed members by absolute majority in accordance with section 7.1A of the Act?	Yes		Merridith Lamb
2	s7.1B	Where the council delegated to its audit committee any powers or duties under Part 7 of the Act, did it do so by absolute majority?	N/A	No delegated authority	Merridith Lamb
3	s7.3(1) & s7.6(3)	Was the person or persons appointed by the local government to be its auditor appointed by an absolute majority decision of council?	Yes		Merridith Lamb
4	s7.3(3)	Was the person(s) appointed by the local government under s7.3(1) to be its auditor a registered company auditor or an approved auditor?	Yes		Merridith Lamb
5	s7.9(1)	Was the auditor's report for the financial year ended 30 June 2020 received by the local government by 31 December 2020?	Yes		Merridith Lamb
6	s7.12A(3)	Where the local government determined that matters raised in the auditor's report prepared under s7.9 (1) of the Act required action to be taken, did the local government ensure that appropriate action was undertaken in respect of those matters?	Yes		Merridith Lamb





No	Reference	Question	Response	Comments	Respondent
7	s7.12A(4)(a)	Where matters identified as significant were reported in the auditor's report, did the local government prepare a report that stated what action the local government had taken or intended to take with respect to each of those matters?	Yes	Included in the February 2021 Ordinary Council Meeting Agenda	Merridith Lamb
8	s7.12A(4)(b)	Where the local government was required to prepare a report under s.7.12A(4)(a), was a copy of the report given to the Minister within three months of the audit report being received by the local government?	N/A	To be done after adoption at the February 2021 Ordinary Council Meeting Agenda	Merridith Lamb
9	s7.12A(5)	Within 14 days after the local government gave a report to the Minister under s7.12A(4)(b), did the CEO publish a copy of the report on the local government's official website?	N/A	To be done after adoption at the February 2021 Ordinary Council Meeting Agenda	Merridith Lamb
10	Audit Reg 7	Did the agreement between the local government and its auditor include the objectives and scope of the audit, a plan for the audit, details of the remuneration and expenses paid to the auditor, and the method to be used by the local government to communicate with the auditor?	Yes		Merridith Lamb
11	Audit Reg 10(1)	Was the auditor's report for the financial year ending 30 June received by the local government within 30 days of completion of the audit?	Yes		Merridith Lamb

**Integrated Planning and Reporting**

No	Reference	Question	Response	Comments	Respondent
1	Admin Reg 19C	Has the local government adopted by absolute majority a strategic community plan? If Yes, please provide the adoption date or the date of the most recent review in the Comments section?	Yes	October 2018 Resolution No. 261/10/18	Merridith Lamb
2	Admin Reg 19DA (1) & (4)	Has the local government adopted by absolute majority a corporate business plan? If Yes, please provide the adoption date or the date of the most recent review in the Comments section?	Yes	23 April 2019 Resolution No. 103/04/19	Merridith Lamb
3	Admin Reg 19DA (2) & (3)	Does the corporate business plan comply with the requirements of Admin Reg 19DA(2) & (3)?	Yes		Merridith Lamb



<b>Local Government Employees</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	Admin Reg 18C	Did the local government approve a process to be used for the selection and appointment of the CEO before the position of CEO was advertised?	Yes		Merridith Lamb
2	s5.36(4) & s5.37 (3) Admin Reg 18A	Were all CEO and/or senior employee vacancies advertised in accordance with Admin Reg 18A?	Yes		Merridith Lamb
3	Admin Reg 18E	Was all information provided in applications for the position of CEO true and accurate?	Yes		Merridith Lamb
4	Admin Reg 18F	Was the remuneration and other benefits paid to a CEO on appointment the same remuneration and benefits advertised for the position under section 5.36(4)?	Yes		Merridith Lamb
5	s5.37(2)	Did the CEO inform council of each proposal to employ or dismiss senior employee?	N/A		Merridith Lamb
6	s5.37(2)	Where council rejected a CEO's recommendation to employ or dismiss a senior employee, did it inform the CEO of the reasons for doing so?	N/A		Merridith Lamb

<b>Official Conduct</b>					
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>
1	s5.120	Has the local government designated a senior employee as defined by section 5.37 to be its complaints officer?	No	CEO is Complaints Officer in accordance with s5.120(2)	Merridith Lamb
2	s5.121(1)	Has the complaints officer for the local government maintained a register of complaints which records all complaints that resulted in a finding under section 5.110(2)(a)?	Yes		Merridith Lamb
3	s5.121(2)	Does the complaints register include all information required by section 5.121 (2)?	Yes		Merridith Lamb
4	s5.121(3)	Has the CEO published an up-to-date version of the register of the complaints on the local government's official website?	No		Merridith Lamb

<b>Optional Questions</b>					



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No	Reference	Question	Response	Comments	Respondent
1	Financial Management Reg 5 (2)(c)	Did the CEO review the appropriateness and effectiveness of the local government's financial management systems and procedures in accordance with Financial Management Reg 5(2)(c) within the three years prior to 31 December 2020? If yes, please provide the date of council's resolution to accept the report.	Yes	Resolution No. 205/8/18 31/03/18	Merridith Lamb
2	Audit Reg 17	Did the CEO review the appropriateness and effectiveness of the local government's systems and procedures in relation to risk management, internal control and legislative compliance in accordance with Audit Reg 17 within the three years prior to 31 December 2020? If yes, please provide date of council's resolution to accept the report.	Yes	Resolution No. 204/8/18 28/8/18 Item No. 9.2.6	Merridith Lamb
3	s5.87C(2)	Where a disclosure was made under sections 5.87A or 5.87B, was the disclosure made within 10 days after receipt of the gift?	Yes		Merridith Lamb
4	s5.87C	Where a disclosure was made under sections 5.87A or 5.87B, did the disclosure include the information required by section 5.87C?	Yes		Merridith Lamb
5	s5.90A(2)	Did the local government prepare and adopt by absolute majority a policy dealing with the attendance of council members and the CEO at events?	Yes	Resolution 61/02/20	Merridith Lamb
6	s.5.90A(5)	Did the CEO publish an up-to-date version of the attendance at events policy on the local government's official website?	Yes	Resolution No. 59/02/20	Merridith Lamb
7	s5.96A(1), (2), (3) & (4)	Did the CEO publish information on the local government's website in accordance with sections 5.96A(1), (2), (3), and (4)?	Yes		Merridith Lamb
8	s5.128(1)	Did the local government prepare and adopt (by absolute majority) a policy in relation to the continuing professional development of council members?	Yes	Resolution 62/02/20	Merridith Lamb
9	s5.127	Did the local government prepare a report on the training completed by council members in the 2019/2020 financial year and publish it on the local government's official website by 31 July 2020?	Yes	Resolution No. 25/02/20	Merridith Lamb
10	s6.4(3)	By 30 September 2020, did the local government submit to its auditor the balanced accounts and annual financial report for the year ending 30 June 2020?	Yes		Merridith Lamb



<b>Tenders for Providing Goods and Services</b>						
<b>No</b>	<b>Reference</b>	<b>Question</b>	<b>Response</b>	<b>Comments</b>	<b>Respondent</b>	
1	F&G Reg 11A(1) & (3)	Does the local government have a current purchasing policy that complies with F&G Reg 11A(3) in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250,000 or less or worth \$250,000 or less?	Yes		Merridith Lamb	
2	F&G Reg 11A(1)	Did the local government comply with its current purchasing policy in relation to the supply of goods or services where the consideration under the contract was, or was expected to be, \$250,000 or less or worth \$250,000 or less?	Yes		Merridith Lamb	
3	s3.57 F&G Reg 11	Subject to F&G Reg 11(2), did the local government invite tenders for all contracts for the supply of goods or services where the consideration under the contract was, or was expected to be, worth more than the consideration stated in F&G Reg 11(1)?	Yes	Fire Mitigation Works	Merridith Lamb	
4	F&G Regs 11(1), 12(2), 13, & 14(1), (3), and (4)	When regulations 11(1), 12(2) or 13 required tenders to be publicly invited, did the local government invite tenders via Statewide public notice in accordance with F&G Reg 14(3) and (4)?	Yes		Merridith Lamb	
5	F&G Reg 12	Did the local government comply with F&G Reg 12 when deciding to enter into multiple contracts rather than a single contract?	Yes		Merridith Lamb	
6	F&G Reg 14(5)	If the local government sought to vary the information supplied to tenderers, was every reasonable step taken to give each person who sought copies of the tender documents or each acceptable tenderer notice of the variation?	Yes		Merridith Lamb	
7	F&G Regs 15 & 16	Did the local government's procedure for receiving and opening tenders comply with the requirements of F&G Regs 15 and 16?	Yes		Merridith Lamb	
8	F&G Reg 17	Did the information recorded in the local government's tender register comply with the requirements of F&G Reg 17 and did the CEO make the tenders register available for public inspection and publish it on the local government's official website?	Yes		Merridith Lamb	
9	F&G Reg 18(1)	Did the local government reject any tenders that were not submitted at the place, and within the time, specified in the invitation to tender?	No		Merridith Lamb	



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No	Reference	Question	Response	Comments	Respondent
10	F&G Reg 18(4)	Were all tenders that were not rejected assessed by the local government via a written evaluation of the extent to which each tender satisfies the criteria for deciding which tender to accept?	Yes		Merridith Lamb
11	F&G Reg 19	Did the CEO give each tenderer written notice containing particulars of the successful tender or advising that no tender was accepted?	Yes		Merridith Lamb
12	F&G Regs 21 & 22	Did the local government's advertising and expression of interest processes comply with the requirements of F&G Regs 21 and 22?	Yes		Merridith Lamb
13	F&G Reg 23(1) & (2)	Did the local government reject any expressions of interest that were not submitted at the place, and within the time, specified in the notice or that failed to comply with any other requirement specified in the notice?	Yes	Respondent did not attend mandatory site briefing.	Merridith Lamb
14	F&G Reg 23(3)	Were all expressions of interest that were not rejected assessed by the local government?	Yes		Merridith Lamb
15	F&G Reg 23(4)	After the local government considered expressions of interest, did the CEO list each person considered capable of satisfactorily supplying goods or services as an acceptable tenderer?	Yes		Merridith Lamb
16	F&G Reg 24	Did the CEO give each person who submitted an expression of interest a notice in writing of the outcome in accordance with F&G Reg 24?	Yes		Merridith Lamb
17	F&G Regs 24AD(2) & (4) and 24AE	Did the local government invite applicants for a panel of pre-qualified suppliers via Statewide public notice in accordance with F&G Reg 24AD(4) and 24AE?	N/A		Merridith Lamb
18	F&G Reg 24AD(6)	If the local government sought to vary the information supplied to the panel, was every reasonable step taken to give each person who sought detailed information about the proposed panel or each person who submitted an application notice of the variation?	N/A		Merridith Lamb
19	F&G Reg 24AF	Did the local government's procedure for receiving and opening applications to join a panel of pre-qualified suppliers comply with the requirements of F&G Reg 16, as if the reference in that regulation to a tender were a reference to a pre-qualified supplier panel application?	N/A		Merridith Lamb
20	F&G Reg 24AG	Did the information recorded in the local government's tender register about panels of pre-qualified suppliers comply with the requirements of F&G Reg 24AG?	N/A		Merridith Lamb



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No	Reference	Question	Response	Comments	Respondent
21	F&G Reg 24AH(1)	Did the local government reject any applications to join a panel of pre-qualified suppliers that were not submitted at the place, and within the time, specified in the invitation for applications?	N/A		Merridith Lamb
22	F&G Reg 24AH(3)	Were all applications that were not rejected assessed by the local government via a written evaluation of the extent to which each application satisfies the criteria for deciding which application to accept?	N/A		Merridith Lamb
23	F&G Reg 24AI	Did the CEO send each applicant written notice advising them of the outcome of their application?	N/A		Merridith Lamb
24	F&G Regs 24E & 24F	Where the local government gave regional price preference, did the local government comply with the requirements of F&G Regs 24E and 24F?	N/A		Merridith Lamb

I certify this Compliance Audit Return has been adopted by council at its meeting on \_\_\_\_\_

\_\_\_\_\_  
Signed Mayor/President, Toodyay

\_\_\_\_\_  
Signed CEO, Toodyay