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1. Introduction

**While good governance doesn't guarantee success,
poor governance guarantees failure.**

John McKechnie QC, CCC Commissioner

Good governance concerns the processes of making and implementing decisions. It is not about making “correct” decisions. It is about finding the best possible process for making those decisions.

Good decision-making processes have a positive effect on various aspects of local government including consultation policies and practices, meeting procedures, quality of service processes, conduct of elected members and employees, clarification of roles and good working relationships.

Good governance leads to good management, good performance, good stewardship of public funds, good public engagement and ultimately good outcomes for residents and service users. Good governance enables the Shire of Toodyay to effectively pursue its vision and support this vision through control and risk management mechanisms.

This Governance Framework examines the principles and practices of good governance at the Shire of Toodyay.

2. Definitions

Term	Meaning
Act	The <i>Local Government Act 1995</i> .
Audit	The inspection or examination of a Shire activity or facility to evaluate or improve its appropriateness, efficiency or compliance.
CCC	Western Australia's Corruption and Crime Commission
CEO	The Chief Executive Officer, who is the most senior employee in the organisation. The CEO is appointed by and directly accountable to the Council.
Committee	A Committee of Council established by the Council under various Acts, and constituted of Elected Members, employees and/or members of the public.
Committee member	Any council member, local government employee or

Term	Meaning
	unelected member of the community who has been engaged by the council to participate in a council committee.
Community	The entire population within the Shire of Toodyay district. It includes those who work or invest in the district or visit the area for recreational or similar reasons. It means all groups, individuals and interests represented within the Shire of Toodyay.
Council	The local government, responsible for making decisions in formal meetings held under the auspices of Part 5 of the <i>Local Government Act 1995</i> and under the Shire's Standing Orders Local Law 2008.
Council meeting	A meeting of Council conducted in accordance with the Act.
Councillor	A person who holds the office of councillor on a council (including a person who holds another office under section 2.17(2) or 2.17A(2) or (3) as well as the office of councillor);
CPA Australia	Certified Practising Accountants of Australia
District	Areas of the State, located within the district of the Shire of Toodyay, prescribed by legislation that a local government is required to control.
Elected member	The Shire President, Deputy Shire President and Councillors of the Shire.
Executive Management Group	The CEO and Executive Managers (Senior Employees) . Can be abbreviated as EMG.
Local government	The Shire of Toodyay, established as a body corporate under the <i>Local Government Act 1995</i> .
Plan for the future	The overarching Council Plan that provides strategic direction for all activities and guides the development and provision of the Shire's services and programs for the future of the district made in accordance with section 5.56 of the Act.
Regulations	<i>Local Government (Administration) Regulations 1996</i> .
Senior Officer	A senior position in the organisation engaged by and directly responsible to the CEO. Classified as a senior employee under s.5.37 of the Act.
Shire	The Shire of Toodyay.



Term	Meaning
Shire employees	People employed by the CEO to undertake activities to achieve the objectives of the Shire of Toodyay.
Shire President	A Mayor or President, elected by the Council from amongst the Councillors (Elected Members).

3. Local government defined

Local government in Western Australia is established under the Act and is the third sphere of government in Australia. Local government has legislative responsibility for many functions and activities relevant to a local community. As the level of government often considered 'closest' to the community, local government activities address issues fundamental to people's lives and have a significant impact on their quality of life.

Under section 2.5 of the Act, every local government in the state is established as a corporate body, with perpetual succession and a Common Seal. It has the legal capacity of a natural person which means that it can sue and be sued. However, the State government may dissolve, suspend or amalgamate local governments and may override Council decisions.

2.5. Local governments created as bodies corporate

- (1) When an area of the State becomes a district, a local government is established for the district.
- (2) The local government is a body corporate with perpetual succession and a common seal.
- (3) The local government has the legal capacity of a natural person.
- (4) The corporate name of the local government is the combination of the district's designation and name.

Example: City of (name of district)

- (5) If the district's name incorporates its designation, the designation is not repeated in the corporate name of the local government.

Example: district's name : Albany (Town)

corporate name : Town of Albany

- (6) Proceedings may be taken by or against the local government in its corporate name.

A local government consists of a Council – the Shire President and Councillors are the Shire's Elected Members of the Shire and form the Council, and an organisation made up of the CEO and employees.

Pursuant to section 2.7 of the Act, the role of Council is to govern the local government's affairs and be responsible for the exercise of the functions of local government. Council must oversee the allocation of local government finances and resources and determine local government policies.

The following principles apply:

- Elected Members are able to exercise decision-making authority as a member of Council after they are elected and formally sworn in and when they meet as a Council.
- All lawful decisions are made at Council meetings or through delegations that are formally made by Council to the CEO (or a committee). The CEO can also sub-delegate his/her decision-making authority to other employees.

2.7. Role of council

- (1) The council —
 - (a) governs the local government's affairs; and
 - (b) is responsible for the performance of the local government's functions.
- (2) Without limiting subsection (1), the council is to —
 - (a) oversee the allocation of the local government's finances and resources; and
 - (b) determine the local government's policies

The CEO is the only employee appointed by Council and is therefore ultimately accountable to Council. The role of the CEO is detailed in section 5.41 of the Act.

5.41. Functions of CEO

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government; and
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and
- (f) speak on behalf of the local government if the mayor or president agrees; and
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

The Shire's Executive Managers are designated as senior employees for the purposes of section 5.37 of the Act. All Shire employees are accountable to the CEO.

5.37. Senior employees

- (1) A local government may designate employees or persons belonging to a class of employee to be senior employees.
- (2) The CEO is to inform the council of each proposal to employ or dismiss a senior employee, other than a senior employee referred to in section 5.39(1a), and the council may accept or reject the CEO's recommendation but if the council rejects a recommendation, it is to inform the CEO of the reasons for its doing so.
- (3) Unless subsection (4A) applies, if the position of a senior employee of a local government becomes vacant, it is to be advertised by the local government in the manner prescribed, and the advertisement is to contain such information with respect to the position as is prescribed.
- (4A) Subsection (3) does not require a position to be advertised if it is proposed that the position be filled by a person in a prescribed class.
- (4) For the avoidance of doubt, subsection (3) does not impose a requirement to advertise a position where a contract referred to in section 5.39 is renewed.

3.1 Functions of local government

In order to understand good governance in the context of local government, it is necessary to understand the functions of local government, including the following:

Strategic Planning

Planning for the development and wellbeing of the community is a critical role for a local government. Local governments are required to develop and adopt a "Plan for the Future" in accordance with the Act.

Due to local government reforms, the Strategic Community Plan and the Corporate Business Plan are now combined into one "*Plan for the Future*" otherwise referred to as a Council Plan.

The Council Plan is informed by resourcing and delivery of strategies such as the Long-Term Financial Plan, the Workforce Plan and Asset Management Plan. These plans drive the development of the local government's annual budget and provide the direction for the ongoing management of Shire activities.

Lawmaking and enforcement

Local government makes decisions in areas over which it has legislative authority but cannot duplicate or contradict state or federal law. Laws made by local governments are called local laws and cover such issues as the activities permitted on public land, animal management and use of local government infrastructure. Local laws are enforced by Shire employees.

Local government is also responsible for administering and enforcing state legislation under which it has authority, such as the *Local Government Act 1995*, *Building Act 2011*, *Planning and Development Act 2005*, *Dog Act 1976*, *Cemeteries Act 1986*, *Bush Fires Act 1954*, *Cat Act 2011*, *Caravan Parks and Camping Grounds Act 1995* etc. and associated regulations.

Stewardship of public assets

Effective stewardship of public assets is a key element in ensuring that local government optimises the use of its financial, physical and intellectual resources for the benefit of its residents and ratepayers.

Policy development

An important role of Council is to make policy decisions on behalf of the community, in accordance with its role of providing strategic direction. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing needs and allocating appropriate resources. A policy is a decision of Council and sets out agreed views and direction concerning a particular area of responsibility.

Representation

Elected Members represent the interests of and are accountable to all electors, ratepayers and residents of the Shire.

Advocacy

Local governments have a role advocating on behalf of their community to state and federal levels of government, statutory authorities and private interests whose activities may have an impact on the community.

Service delivery

Local governments must ensure that services are delivered in the most efficient and effective manner. The Act provides a degree of autonomy to local governments to determine policies, in consultation with their community, about the nature and level of services provided. A local government should ensure the equitable delivery of quality services for which it has responsibility.

3.2 Community defined

When discussed in connection with good governance, the term “community” is often used as if it is a homogenous entity and assumes that there is a single community interest, community demand or community need. The population of the Shire of Toodyay consists of a diverse range of communities, for example, the resident community, the business community, the visitor community, the seniors community etc. Often these various communities do not share the same aspirations, goals and interests. One of the challenges for local government is how to govern in such a way that different and often competing interests are recognised, addressed and managed.

4. Governance in local government

4.1 Definition of governance

Whilst the definitions of governance can vary between the public and private sector, CPA Australia in its publication “Excellence in Governance for Local Government” defines governance as follows:

“Governance is the process by which decisions are made and implemented; the process by which organisations go about achieving their goals and producing their outputs and the process by which organisations are directed, controlled and held to account. It encompasses authority, accountability, stewardship, leadership, ethics, values and culture within the organisation.

Excellence in governance occurs when it is underpinned by accountability, integrity and openness. It involves a focus on clarity of roles and responsibilities, robust systems which support both internal and external accountability and public access to decision-making and information” (CPA 2005).

4.2 Good governance in local government

The Shire plays a key role in leading its community and ensuring the provision of high quality services to its community. Good governance is important for several reasons: it not only gives the local community confidence in its Council, but it also improves the faith that Elected Members and employees have in their own local government and its decision-making processes.

Characteristics of Good Governance

Accountable – Local government has an obligation to report, explain and be answerable for the consequences of decisions it makes on behalf of the community it represents.

Transparent – The community should be able to follow and understand the decision-making process and the reasons for the decision.

Follows the rule of the law – Decisions are consistent with legislation and are within the powers of Council.

Responsive – Local government should always try to serve the needs of the entire community while balancing competing interests in a timely, appropriate and responsive manner.

Equitable and inclusive – Community members should be satisfied that their interests have been considered with opportunities provided for all to participate.

Effective and efficient – Includes developing the capacity and capability of Elected Members to be effective and ensuring employees have the capacity and capability and are provided the opportunity to deliver effectively.

Participatory – Anyone affected by or interested in a decision should have the opportunity to participate in the process for making that decision.

Benefits of Good Governance:

- Promotes community trust and confidence;
- Leads to better decisions for the benefit of the community;
- Encourages Elected Members and Shire Officers to be confident;
- Helps the Shire to meet its legislative responsibilities; and
- Supports ethical decision making.

5. Governance principles

For the purposes of the Shire of Toodyay's Governance Framework, the principles contained in the 'Excellence in Governance in Local Government' developed by CPA Australia have been adopted. The principles provide the foundation for good governance and a means for assessing the extent to which good governance is applied at the Shire.

Principle 1 - Culture and vision

There is a clear **vision** and a Council Plan that is produced through a comprehensive and inclusive process, which is owned by all sectors of the community.

There is a positive **culture** and value system in place that promotes trust, openness and honesty, in which constructive and respectful questioning is encouraged and accountability is clear.

Principle 2 - Roles and relationships

There is clarity about the roles of local government and there exists a sophisticated approach to defining and implementing these.

There are effective working relationships that are promoted and supported within and between the Shire President, Councillors, CEO and employees.

Principle 3 - Decision-making and management

There are effective **decision-making processes** in place that reflect the transparency and accountability which underpin excellence in governance.

There should be robust and transparent **financial management** established and maintained to meet Shire's accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future.

An effective approach to the identification, assessment, monitoring and **management of risks** should be established and maintained.

Effective **delegations** should be implemented and maintained to enable Council to focus on strategic issues.

Principle 4 - Accountability

Local government must account for its activities and have systems and processes that support this **accountability**.

There should be an active **performance management** system in place that enables Elected Members and the administration to be openly accountable for their performance.

Local governments should establish internal structures that provide for **independent review** of processes and decision-making to assist the Council to meet its accountability to stakeholders.

Consultation should be undertaken that is appropriate to the scope and potential impact of the matter. It should respect the position and opinion of all stakeholders. The outcomes of the consultation should be taken into account when the decision is made and feedback should be provided to those who participated.

6. Principle 1 – Culture and vision

6.1 Vision

In accordance with section 5.56 of the Act and regulations 19C – 19D of the *Local Government (Administration) Regulations 1996*, the Shire is required to implement an Integrated Planning and Reporting Framework. This involves the development of three key documents and other informing strategies that reflect the priorities and vision of the community.

5.56. Planning for the future

- (1) A local government is to plan for the future of the district.
- (2) A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.

The [Plan for the future \(Council Plan\)](#) outlines the strategic directions and priorities for action over a ten year period. Developed with the input of the community, Elected Members and Shire Officers, the Plan articulates the community's vision and values.

r.19C. Strategic community plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a strategic community plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.

r.19C. Strategic community plans, requirements for (Act s. 5.56)

- (2) A strategic community plan for a district is to cover the period specified in the plan, which is to be at least 10 financial years.
- (3) A strategic community plan for a district is to set out the vision, aspirations and objectives of the community in the district.
- (4) A local government is to review the current strategic community plan for its district at least once every 4 years.
- (5) In making or reviewing a strategic community plan, a local government is to have regard to —
 - (a) the capacity of its current resources and the anticipated capacity of its future resources; and
 - (b) strategic performance indicators and the ways of measuring its strategic performance by the application of those indicators; and
 - (c) demographic trends.
- (6) Subject to subregulation (9), a local government may modify its strategic community plan, including extending the period the plan is made in respect of.
- (7) A council is to consider a strategic community plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.

**Absolute majority required.*
- (8) If a strategic community plan is, or modifications of a strategic community plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.
- (9) A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a strategic community plan and when preparing modifications of a strategic community plan.
- (10) A strategic community plan for a district is to contain a description of the involvement of the electors and ratepayers of the district in the development of the plan or the preparation of modifications of the plan.

The [Shire's Long Term Financial Plan \(LTFP\)](#) outlines how the priorities outlined in the Council Plan will be financed over the ten year period. The Corporate Business Plan, incorporated into the [Council Plan](#), is a business planning tool that translates Council's priorities into operations within the resources available and informs the annual budget process.

r.19DA. Corporate business plans, requirements for (Act s. 5.56)

- (1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.
- (2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.
- (3) A corporate business plan for a district is to —
 - (a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and
 - (b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and
 - (c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.
- (4) A local government is to review the current corporate business plan for its district every year.
- (5) A local government may modify a corporate business plan, including extending the period the plan is made in respect of and modifying the plan if required because of modification of the local government's strategic community plan.
- (6) A council is to consider a corporate business plan, or modifications of such a plan, submitted to it and is to determine* whether or not to adopt the plan or the modifications.

**Absolute majority required.*

- (7) If a corporate business plan is, or modifications of a corporate business plan are, adopted by the council, the plan or modified plan applies to the district for the period specified in the plan.

The Shire of Toodyay Council Plan is the Community's Strategic Plan outlining the direction that the Shire is undertaking to meet the needs and aspirations of its community.

There are five core performance areas in the plan: People, Planet, Place, Prosperity, and Performance. These areas are interrelated, and each must be satisfied to deliver excellent quality of life in the Shire of Toodyay.

For each area, there is an overarching aspirational statement and desired outcomes, summarised in the Council Plan which is available on the Shire's website at: <https://www.toodyay.wa.gov.au/documents/432/council-plan-plan-for-the-future-2023-2033>

6.2 Culture

A positive culture promotes openness and honesty, clarifies accountability and encourages debate on important issues. It helps the organisation retain high calibre employees who want to work and participate in the activities of the Shire.

6.2.1 Organisational Values

The following values are characteristic of a positive culture:

Honesty:	We are honest in our dealings with everyone.
Integrity:	We behave honestly to the highest ethical standard.
Respect:	We are always respectful of others and recognise the value of diversity in skills, backgrounds and perspectives.
Continuous Improvement:	We display a continuous willingness to learn, share, reflect and improve the way things are done.
Customer Focused:	We are committed to being professional and providing excellent customer service.
Innovation:	We are willing to seek ideas, share knowledge and try new ways of doing things, acknowledging that risks may be taken and mistakes learned from.

6.2.2 Ethical behaviour and the Code of Conduct

For people to have faith in those who govern and participate in the governance process, they must trust that governments are acting for the common good. They must believe that governance is characterised by honesty and integrity and that those in government will behave accordingly.

In June 2020, a review of the *Local Government Act 1995* resulted in the introduction of priority reforms under *the Local Government Amendment Act 2019*. On 2 February 2021, as part of these reforms, the *Model Code of Conduct Regulations 2021* were gazetted prescribing a Model Code of Conduct for Council Members, Committee members and candidates, with effect from 3 February 2021.

The purpose of the Model Code is to guide the decisions, actions and behaviours of members, both in council and on council committees, and of candidates running for election as a council member.

The [Shire of Toodyay Code of Conduct for Council Members, Committee Members and Candidates](#) outlines the principles, values and behaviours that the community is entitled to expect of all Elected Members, committee members and candidates for election. These are to:

- act with reasonable care and diligence;

- act with honesty and integrity;
- act lawfully;
- identify and appropriately manage any conflict of interest;
- avoid damage to the reputation of the Shire;
- be open and accountable to the public;
- base decisions on relevant and factually correct information;
- treat others with respect and fairness; and
- not be impaired by mind affecting substances.

This should be read in conjunction with the [Shire of Toodyay Standing Orders Local Law \(2008\)](#) and it should be noted that part of the local government reforms being undertaken in 2023 include a uniform set of regulations to ensure that local government meetings all operate in a comparable way.

Council has adopted policy [Complaints of alleged breach of the Code of Conduct for Council Members, Committee Members and Candidates](#) which outlines the Shire's approach to the management of such complaints.

6.2.3 Reporting serious misconduct to the Corruption and Crime Commission

Both Elected Members and the CEO have a mandatory duty under section 28 of the *Corruption Crime and Misconduct Act 2003* to report to the CCC any reasonable suspicion of serious misconduct on the part of Elected Members or employees.

Serious misconduct is the type of conduct which involves the misuse of an elected member's or employee's position to obtain a financial advantage; bribery and corruption where money or gifts are provided to coerce an elected member or employee to make a decision in a certain way; stealing from the Shire, lying, fraudulent behaviour and other criminal type behaviours.

28. Certain Officers obliged to notify serious misconduct

- (1) This section applies to the following persons —
- (a) the Parliamentary Commissioner;
 - (b) the Inspector of Custodial Services;
 - (c) the principal officer of a notifying authority;
 - (d) an officer who constitutes a notifying authority.

28. Certain Officers obliged to notify serious misconduct

- (2) Subject to subsections (4), (5) and (6), a person to whom this section applies must notify the Commission in writing of any matter —
 - (a) which that person suspects on reasonable grounds concerns or may concern serious misconduct; and
 - (b) which, in the case of a person referred to in subsection (1)(c) or (d), is of relevance or concern to that person in his or her official capacity.
- (3) The Commission must be notified under subsection (2) as soon as is reasonably practicable after the person becomes aware of the matter.

6.2.4 Comprehensive induction programs

The Shire's positive culture is passed on to new Elected Members and employees through effective induction programs.

New Elected Members come from diverse backgrounds and may not have experience in governance, local government, organisational behaviour or other fields relevant to their roles as Elected Members. The Induction is expected to help Elected Members operate in the unique environment of local government to produce good outcomes for their communities.

The Shire's induction programs for Elected Members and employees focuses on:

- the differing and complementary roles and functions of Elected Members and employees;
- communication and working relationships between Elected Members and employees;
- decision-making processes;
- responsibility, accountability and delegations;
- Code of Conduct, including organisational values and culture; and
- access to information and confidentiality.

The Shire also invests in and actively encourages training for both Elected Members and employees to assist in the development of skills required to fulfil their roles.

7. Principle 2 – Roles and relationships

7.1 Roles

An understanding and acceptance of the different roles of Council, the Shire President, Councillors, the CEO and employees, together with strong cooperation between all parties, underpins good governance at the Shire of Toodyay. While Elected Members are responsible for strategy and policy, the administration (CEO and employees) is responsible for advice, implementation and operations. This separation of roles is essential for local governments to govern effectively.

While each element of local government has its own role, each may also have a legitimate interest in the role of the others. For instance, while the management structure is the responsibility of the CEO, Elected Members will have an interest in the management structure and whether it achieves the Council's goals. While the CEO makes the ultimate decision, an astute CEO will always consult the Council before establishing or making significant changes to the management structure.

Similarly, while policy and strategy are role of Elected Members, the CEO and employees should be consulted and offer advice when developing a policy or strategy.

7.1.1 Shire President

At the Shire of Toodyay, Council elects the Shire President by secret ballot immediately after local government elections held every two years.

Section 2.8 of the Act outlines the responsibilities of the Shire President which recognises the role of Shire President to represent the Shire at civic and ceremonial functions and to preside at Council meetings.

2.8. Role of mayor or president

- (1) The mayor or president —
 - (a) presides at meetings in accordance with this Act; and
 - (b) provides leadership and guidance to the community in the district; and
 - (c) carries out civic and ceremonial duties on behalf of the local government; and
 - (d) speaks on behalf of the local government; and
 - (e) performs such other functions as are given to the mayor or president by this Act or any other written law; and
 - (f) liaises with the CEO on the local government's affairs and the performance of its functions.
- (2) Section 2.10 applies to a councillor who is also the mayor or president and extends to a mayor or president who is not a councillor.

A very specific role of the Shire President is to represent and advocate the decisions of Council and to speak on behalf of the Shire. The position of the Shire President is pre-eminent and when speaking on behalf of the Shire, the Shire President must put aside personal opinions and articulate the views and decisions of Council.

The Shire places great importance on the role of the Shire President as the Presiding Member of Council to facilitate good decision-making. It is therefore important that the Shire President has a good knowledge of the Shire of Toodyay's *Standing Orders Local Law 2008*.

The leadership role of the Shire President is very important in terms of good governance. Although the Shire President has no statutory authority over other Elected Members in matters such as behaviour or compliance with Council policy, the Shire President must ensure that all Elected Members are part of the decision-making process and are well and equally informed. The Shire President must reinforce the need for Elected Members to represent the interests of the entire community, not just the constituents of specific areas or interest groups.

The Shire President should also facilitate good relationships between Elected Members and the administration and help to create an environment where good communication thrives.

Section 5.34 of the Act states that the Deputy Shire President may perform the functions of the Shire President if that office is vacant or the Shire President is not available or unwilling to perform the functions of Shire President.

5.34. When deputy mayors and deputy presidents can act

If —

- (a) the office of mayor or president is vacant; or
- (b) the mayor or president is not available or is unable or unwilling to perform the functions of the mayor or president,

then the deputy mayor may perform the functions of mayor and the deputy president may perform the functions of president, as the case requires.

7.1.2 Council and Elected Members

As outlined in Part 3 above, Section 2.7 stipulates the role of the Council.

While these powers include responsibility for defining the policy and setting the overall strategic direction of the Shire, Council is not responsible for the day-to-day running of the business of the Shire. Such operational matters are the responsibility of the CEO. The role of Elected Members is defined the Act as follows:

2.10. Role of councillors

A councillor —

- (a) represents the interests of electors, ratepayers and residents of the district; and

2.10. Role of councillors

- (b) provides leadership and guidance to the community in the district; and
- (c) facilitates communication between the community and the council; and
- (d) participates in the local government's decision-making processes at council and committee meetings; and
- (e) performs such other functions as are given to a councillor by this Act or any other written law.

Elected Members are elected for a four-year term at elections held every two years. There is no limit on the number of times they can be re-elected.

Elected Members sitting formally as Council make and are accountable for all decisions taken at Council level. Decisions are made through formal Council meetings. Individual Elected Members do not have any powers to make decisions.

7.1.3 Chief Executive Officer (CEO)

The CEO has a statutory responsibility to manage the organisation through the implementation of the goals and strategies that have been endorsed by Council. The CEO plays a critical role in achieving excellence in governance through the development of a culture that sees Council as the peak decision-making body, supported and advised by the administration. The CEO's promotion and personal adoption of the Shire's culture and vision set the standards which permeate the whole organisation.

A key accountability of the CEO is financial management: ensuring that the Shire is soundly managed from a financial perspective and regularly reporting the results and performance to Council.

The functions of the CEO are outlined in section 5.41 of the Act:

5.41. Functions of CEO

The CEO's functions are to —

- (a) advise the council in relation to the functions of a local government under this Act and other written laws; and
- (b) ensure that advice and information is available to the council so that informed decisions can be made; and
- (c) cause council decisions to be implemented; and
- (d) manage the day to day operations of the local government; and
- (e) liaise with the mayor or president on the local government's affairs and the performance of the local government's functions; and
- (f) speak on behalf of the local government if the mayor or president agrees; and
- (g) be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees); and

5.41. Functions of CEO

- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and
- (i) perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.

7.2 Working relationships

Effective working relationships are an important element of good governance and decision-making and must be promoted and supported within and between Shire President, Councillors, CEO and employees. At times, the very nature of local government business leads to conflicts. How this conflict is addressed has implications for good governance and should be underpinned by principles of respect, courtesy and goodwill.

7.2.1 Relationship between Shire President and Councillors

The important aspects of this relationship are summarised as follows:

- the relationship needs to be based on mutual respect;
- the Shire President should facilitate an inclusive approach to decision-making and involvement in Council activities, ensuring that each elected member has access to the same information prior to making their decision;
- the Shire President should assist Councillors to have their issues considered by Council;
- the Shire President should take some responsibility for elected member training and development and should work with the CEO to ensure that Elected Members receive appropriate training opportunities; and
- the Shire President is responsible for facilitating resolution of any conflict between Elected Members.

7.2.2 Relationship between Shire President and CEO

The Shire President as leader of the Council, and the CEO as leader of the administration, are required to work closely together, often dealing with pressing and potentially controversial issues, when they may not have known each other before they were drawn together to lead the Shire.

The Act requires each to liaise with the other on the Council's activities and its performance. However, the relationship between both roles is much more complicated than this, involving an inevitable intersection of roles.

The essential principles for an effective Shire President / CEO

relationship are:

(a) Communication

- Both parties brief and inform the other about information each is privy to and which would assist the other in their job. Agreement about what information is important and what should be passed on and communicated to each other is well understood and constantly negotiated.
- Regular meetings and electronic communications, as well as meetings called to progress unexpected and important matters, will enhance planning and communication.
- The “no surprises” principle ensures that neither the Shire President nor the CEO is caught off guard in any circumstance.

(b) Role clarity

- The Shire President and CEO understand and respect one another’s role.
- The Shire President and CEO work within the bounds of their authority. The Shire President has status and leadership capacity at Council and in the district. The CEO has statutory authority under the Act and leadership of the Shire workforce.

(c) Effective relationship

- The relationship is symbiotic. The Shire President and the CEO put conscientious effort into making the relationship successful for the good of the Shire.
- The relationship between the Shire President and the CEO aims to facilitate involvement and inclusion amongst Elected Members and administration rather than concentrating power in the relationship.

At the Shire of Toodyay, the Shire President and CEO communicate on a regular basis, at least weekly but more frequently depending on emerging issues, either in person, by phone or email.

7.2.3 Relationship between Elected Members

Elected Members need each other to achieve their individual and collective goals. Effective relationships between Elected Members help to promote a successful Council, a successful working environment and a Council with public credibility.

Features of an effective relationship are:

- While they may have different views, Elected Members treat each other with respect and courtesy.

- Disagreements are expressed in ways that are not personal attacks and do not cause detriment to individual Elected Members or Council as a whole.
- Elected Members are not to undermine each other, either within the Shire or in public.
- Elected Members have effective working relationships in order to succeed individually and collectively.

7.2.4 Relationship between Elected Members and CEO

The relationship between Elected Members and CEO is critical to good governance.

Elected Members need support to manage pressures in such a way that their constituents feel their issues or concerns are being heard but appreciate that their demands cannot always be met. Advice and support on consultation and engagement, good systems that refer complaints and queries to the relevant area for resolution, and responsive services and processes all assist in furthering good governance.

Elected Members must have a clear understanding that the role of the CEO is to implement Council's goals, policies, strategies and services and to advise and support Council.

The CEO is accountable to Elected Members when they sit as Council. Elected Members, sitting as Council, are responsible for the performance management of the CEO.

Features of an effective relationship are as follows:

- goodwill and trust;
- a good understanding of and respect for each other's role;
- good communication;
- agreed processes and protocols;
- an appreciation of legislative requirements; and
- clear delegations.

7.2.5 Relationship between Elected Members and employees

The fundamental difference in the roles between Council and the administration underpins this relationship. Elected Members should focus on strategy, policy and outcomes, while the role of the administration is to focus on advice, implementation and operations.

In light of these role differences, the characteristics of an effective relationship are highlighted below:

- the role of Elected Members is one of strategic leadership, not

- 
- management or administration;
 - the CEO is responsible for implementing the decisions and policies of Council;
 - employees are responsible to the CEO and the CEO is responsible to Council;
 - Elected Members do not direct or instruct employees;
 - Elected Members do not undertake a task that contributes to the administration of the Shire, unless the activities are undertaken in relation to a meeting or the express authority of Council or the CEO has been obtained prior to undertaking the task;
 - Elected Members undertake their day-to-day communications with the Shire directly through the CEO or relevant Senior Officer, unless the CEO has established a protocol for communications on particular matters to occur directly with specified employees;
 - when entering a Shire business location, Elected Members seek approval from the CEO or relevant Senior Officer before engaging in discussion with employees; and
 - an employee undertakes direct communication with an elected member only when the employee is acting within the functions and responsibilities of their position or is acting under the direction of the CEO or Senior Officer.

8. Principle 3 – Decision-making and management

8.1 Effective decision-making

Decision-making is the most important activity undertaken by the Shire, both by Council and by employees. Effective decision-making processes increase the likelihood that the decisions themselves will be in the best interests of the entire community.

Good processes will also mean that decisions will be owned and that individual Elected Members, even though they may be on the losing side of an issue, should not be able to find fault with the way in which the decision was made.

Good decision-making requires that:

- decisions must be those which the local government can lawfully make;
- decisions must be consistent with and in accordance with legislation;
- relevant Council policy/policies should be considered during the decision-making process;
- Elected Members should have all the relevant information before them in order to make a considered and informed decision;

- Elected Members should be impartial, objective, free from bias and act in the public interest of Shire residents;
- decisions should be made on a reasonable basis.

Decisions made at meetings are recorded in the form of resolutions which are binding on the Council until they are formally amended or repealed. Resolutions, once recorded, take effect immediately.

8.2 Decision-making meetings and processes

8.2.1 Council meetings

The Council meeting is the formal debating and decision-making forum of Council. Elected Members, CEO and Senior Officers attend all Council meetings. Under section 5.23(1) of the Act, Council meetings are required to be open to the public.

5.23. Meetings generally open to public

- (1) Subject to subsection (2), the following are to be open to members of the public —
- all council meetings; and
 - all meetings of any committee to which a local government power or duty has been delegated.

However, when any of the matters listed in section 5.23(2) of the Act are to be considered, Council may resolve to close the meeting and proceed behind closed doors. In order to promote the transparency and accountability required for good governance, the closure of meetings should be applied prudently and as infrequently as possible.

5.23. Meetings generally open to public (continued)

- (2) If a meeting is being held by a council or by a committee referred to in subsection (1)(b), the council or committee may close to members of the public the meeting, or part of the meeting, if the meeting or the part of the meeting deals with any of the following —
- a matter affecting an employee or employees; and
 - the personal affairs of any person; and
 - a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and
 - legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting; and
 - a matter that if disclosed, would reveal —
 - a trade secret; or
 - information that has a commercial value to a person; or
 - information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government; and
 - a matter that if disclosed, could be reasonably expected to —

5.23. Meetings generally open to public (continued)

- (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law; or
 - (ii) endanger the security of the local government's property; or
 - (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
- and
- (g) information which is the subject of a direction given under section 23(1a) of the *Parliamentary Commissioner Act 1971*; and
 - (h) such other matters as may be prescribed.
- (3) A decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting.

Examples of matters that may require the meeting to be closed to the public:

- CEO annual performance reviews, contract renewals, remuneration reviews, (s.5.23(2)(a) a matter affecting an employee or employees);
- Reports discussing legal advice obtained or to be obtained in relation to the subject of the report (s.5.23(2)(d)) legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting);
- Nomination of Elected Members eligible for WALGA Honours (s.5.23(2)(b)) the personal affairs of any person);
- Planning reports that could affect the value of neighbouring properties (s.5.23(2)(e)(ii) a matter that if disclosed would reveal information that has a commercial value to a person).

Good decision-making at a Council meeting is enhanced when the meeting is well run. This requires a clear and informative agenda, good chairing and facilitation and adherence to meeting procedures and to statutory requirements. It is the fundamental statutory obligation and duty of an elected member to vote on every item of business discussed at a Council meeting.

At Council meetings and where Council has granted a Committee delegated authority, Council can make a decision or pass a resolution.

Council has adopted the [Standing Orders Local Law 2008](#) which provides a set of enforceable meeting procedures and rules to –

- ensure better decision-making processes during Council and committee meetings;
- assist in the orderly conduct of meetings dealing with Council business;
- provide a better understanding of the process of conducting meetings; and
- allow a more effective and efficient use of time at meetings.

Shire Council meetings and agenda briefings are livestreamed via YouTube and recorded. The recordings can be accessed from the Shire website almost immediately after the stream of the meeting has ended.

8.2.2 Council meeting schedule

There are no Council Workshops, Agenda Briefings, Council Concept Forums or Ordinary Council Meetings held in January.

The rest of the meeting cycle that Council follows is below:

- First Wednesday of the month: Council Workshops for budget (when required);
- Second Wednesday of the month: Council Workshops for matters due to come onto the Agenda for the Ordinary Council Meeting;
- Third Wednesday of the month: Agenda Briefings followed by a Council Concept Forum; and
- Fourth Wednesday of the month: Ordinary Council Meetings.

In December, there are no Council Workshops as the Agenda Briefing, followed by a Council Concept Forum is held on the second Wednesday of the month and the Ordinary Council Meeting is held on the third Wednesday of the month.

8.2.3 Council workshops

These workshops are informal and are to provide information to Councillors in regard to policies and other corporate documents that have been put into the Teams environment for Councillors to access and propose amendments.

Other matters discussed at Council workshops include any matters pertaining to the Annual Budget, Budget Review, and any strategic business planning.

8.2.4 Council agenda briefing

For proper decision making, Councillors must have the opportunity to fully understand any issue that is being presented for decision. While Officers' reports should contain all of the relevant information, the complexity of some issues means that Councillors need to be given the opportunity to ask questions to seek further clarity regarding an agenda item. Managed appropriately, agenda forums are an effective means of achieving this.

It is noted that no debate can be entered into and decisions cannot be made at an agenda forum.

It is advisable that wherever possible, elected member questions are provided in advance of the Council Meeting. This gives Officers an opportunity to research and provide accurate and comprehensive information to assist in Council's effective decision-making process.

8.2.5 Concept Forum

Council Forums provide an opportunity for two-way communication between Elected Members and the CEO on strategic or complex issues. Forums are open to all Elected Members, the CEO, Managers and other employees designated by the CEO as required. No decisions are made at Forums, which are relatively informal and are not open to the public.

At Council Forums Elected Members and staff can propose, discuss, and formulate philosophies, ideas, strategies and concepts for the development of the Shire.

Forums often involve projects that are in the early planning stage and are a while away from being presented to Council for decision. Matters listed on the agenda of the Council meeting are not to be discussed during the Council Forum.

In discussing such issues, employees are looking for guidance from Elected Members to assist in researching the matter and drafting the report. Elected Members and employees are also looking to present ideas and concepts for future consideration.

8.2.6 Committee meetings

To assist with its decision-making responsibilities, Council may establish committees in accordance with section 5.8 of the Act.

When Council establishes a committee, it must determine in clear terms of reference the purpose, reporting and other accountability requirements that will apply in relation to that committee. Committees report to Council and are subject to the requirements of the Act.

5.8. Establishment of committees

A local government may establish* committees of 3 or more persons to assist the council and to exercise the powers and discharge the duties of the local government that can be delegated to committees.

* *Absolute majority required.*

Current committees of Council are listed below:

- Audit and Risk Committee (a requirement under section 7.1A of the *Local Government Act 1995*)
- Bush Fire Advisory Committee (as described under section 67 of the *Bush Fires Act 1954*)
- Local Emergency Management Committee (a requirement under section 38 of the *Emergency Management Act 2005*)
- Environmental Advisory Committee
- Museums Advisory Committee

Committees meet as and when required and make recommendations to Council. However, where a committee has delegated authority for some

of its functions, it is able to make a decision in its own right: Council has not delegated authority to any Committee at the present time.

8.2.7 Avon Regional Organisation of Councils

The Shire President and CEO participate in the Avon Regional Organisation of Councils (AROC) which exists under a Memorandum of Understanding to facilitate member local governments to:

- work together cooperatively to address regional problems, issues or challenges and advance the interests of the region;
- develop and implement resource sharing strategies or regional service delivery models;
- deliver training and development programs for Elected Members and/or staff; and
- undertake joint tendering or purchasing arrangements.

Meetings are held every two months with minutes presented to Council. Current member local governments of AROC are the Shires of Goomalling, Northam, Toodyay, Victoria Plains and York.

8.2.8 Avon Midland Country Zone

The WA Local Government Association (WALGA) is the peak industry body for Local Government in Western Australia, advocating on behalf of WA's 139 Local Governments. WALGA is not a government department or agency.

The WALGA governance structure comprises of the State Council and Zones. Zones are groups of geographically aligned Member Councils who are responsible for direct elections of State Councillors, providing input into policy formulation and providing advice on various matters.

The Avon-Midland Country Zone of WALGA represents the Shires of Chittering, Dalwallinu, Dandaragan, Gingin, Goomalling, Moora, Northam Toodyay, Victoria Plains, Wongan-Ballidu and York.

The Shire President and the CEO attend Zone meetings which are held quarterly.

[View Zones listing and Minutes from past Zone meetings](#)

Minutes from Zone meetings are available at the following link:
<https://walga.asn.au/About-WALGA/Structure/Zones/Avon-Midland-Country-Zone.aspx>

8.2.9 Agendas and minutes

The most important records produced by a local government are the agendas that drive council meetings and the minutes that record the decision-making process and the actual decisions, under the auspices of Part 5 of the *Local Government Act 1995*.

Matters to be considered at meetings of Council or committees are presented in a formal agenda prepared by the CEO. Agendas comprise of reports prepared by Officers. Reports are structured to include information on the background, financial, strategic, legislative, policy, risk and workforce implications of the proposal under consideration. All reports include the professional advice of the officer who has authored the report and contain recommendations as to the most appropriate course of action to take, based on the information presented.

Senior Officers are responsible for authorising the reports from their department. Once finalised, all reports are reviewed by the EMG, and relevant staff during the Agenda Settlement Meeting two weeks prior to the Council meeting. Agenda Settlement Meetings are convened to provide an opportunity for the authors of reports to answer questions from the EMG, provide technical or specialist information and incorporate suggestions from those in attendance to improve the accuracy, clarity or accessibility of the report prior to distribution of the agenda to Elected Members and the public. As a result of the Agenda Settlement Meeting the CEO should be satisfied and confident that all aspects of the matter which is the subject of a report have been suitably covered in such a way that the report can be included in the agenda and released to Elected Members and the public.

The agenda for Ordinary Council Meetings is posted on the Shire's website two weekends before the Council meeting. A link to the agenda is emailed to Elected Members, EMG, and other relevant employees. The agenda is also placed on the Council Hub for Elected Members to access.

The minutes of a meeting comprise all reports considered at the meeting and also include attendance, all motions, movers and seconders, the results of the motions and the decisions that have been made.

Unconfirmed Council minutes must be made available for public inspection no later than fourteen working days after the meeting (seven working days for committee meeting minutes). At the next meeting of Council or a committee these minutes will be confirmed as a correct and accurate record of the proceedings. Minutes may be amended to correct any identified inaccuracy prior to being confirmed.

8.2.10 Elected Members' meeting preparation

Preparation before attending a meeting is critical: all reports should be read carefully, and the main points understood. If something is unclear, the elected member can request further clarification and raise concerns with the CEO or the responsible Manager, preferably well in advance of a meeting. Asking questions of a complex or technical nature at a Council meeting is to be avoided, as employees present may not be able to adequately respond spontaneously; there is a risk of a factually incorrect answer being given or the question may have to be taken on

notice.

Reports affecting Shire planning, finance or legal matters can be quite complex and clarification of points prior to the meeting is essential. The CEO or relevant Manager should be emailed at the earliest opportunity to allow a written response before the meeting. This response will be provided to all Elected Members, not just to the enquiring elected member.

The decision to adopt, amend, or reject a recommendation, rests with Council. Where a Council decision is different to the recommendation, reasons for that decision must be stated and recorded in the minutes.

A decision to defer a matter should be seen as a last resort and occur only where it is clear that additional information is required or where circumstances have come to light after distribution of the agenda. Failure to consult the community or key stakeholders may also give cause to defer a matter.

8.3 Decisions on land use planning and development

8.3.1 Quasi-judicial role

Quasi-judicial functions are those which involve the making of a decision by Council in the exercise of a discretionary power. Elected Members (and employees when acting under delegated authority) perform quasi-judicial functions when deciding to approve or refuse applications for planning or development approval and for other approvals, licences, consents and permits. They must therefore act in a judicial manner (“judge-like”).

To act in a quasi-judicial manner, Elected Members must apply the principles of natural justice and without bias or conflict of interest, make decisions in a judicial manner based on:

- the law and the relevant Shire policies as they exist, specifically the Shire’s Local Planning Scheme and Planning Policies; and
- the facts and merits of the case.

Applicants submitting documents for approval may attempt to persuade individual Elected Members in favour of their proposals; however Elected Members must remain objective and deal impartially with applicants or affected persons.

Determination of applications must be based on sound legislative rationale and not on specific public perception. The role of an Elected Member in the decision-making process is to determine the application on the information and recommendation provided by the Shire’s employees. The role of the employee is to assess the application and provide an impartial, professional opinion and recommendation to

Elected Members. To avoid prejudicing the eventual decision, Elected Members must not make up their minds about a development application until they have read the employee's report, clearly understood the relevant facts and law, and have heard any debate at the meeting.

Elected Members must not lose sight of the fact that when making decisions on development applications they have to apply the rules and discretions as they exist, not as they might want them to be.

Elected Members must be aware of the Shire's adopted procedures for dealing with a development application to ensure a clear distinction between the role of the employee assessing the application and the role of Council determining the application. There should be no opportunity for the two roles to be confused and no opportunity for those determining applications to unduly influence those carrying out the assessment and vice versa.

An elected member acting when biased and without disclosing an interest affecting impartiality may breach the Rules of Conduct Regulations. Non-compliance with quasi-judicial principles could result in Council decisions being invalidated.

8.4 Conflict of interest

Conflict of interest is about being transparent. Understanding what this means in the context of local government is essential to good governance.

The Act defines the specific circumstances that lead to a conflict of interest and describes what Elected Members and employees must do if they believe there is a conflict. This includes direct and indirect interests, disclosure requirements, exemptions, provision of advice and registers of interest.

8.4.1 Conflict of interest in local government

Elected Members and employees should always be aware of the potential for conflict of interest. They have been entrusted to govern on behalf of the community and as such they must ensure that they do not gain personal benefit from their position with the Shire.

If they have personal interests in any of the decisions that they are part of, they must declare their interests and withdraw, if necessary, from the decision-making process. It is very important for Elected Members and employees to understand and adhere to the legislative requirements (sections 5.59 to 5.73 of the Act).

8.4.2 Good governance and conflict of interest

The following points are important for good governance.

Individuals must make their own decisions

Elected Members and employees must individually take responsibility for assessing whether they have conflicts of interest in any matter relating to their formal roles. If the answer is yes, then they must act appropriately. This includes making a proper disclosure and not participating in the relevant decision-making process.

Seeking advice is appropriate

Elected Members and employees should seek assistance or advice from the CEO, Shire President or fellow Elected Members when they think they may have a conflict of interest. In some circumstances Elected Members may need to obtain their own independent legal advice.

Individuals are accountable

Elected Members or employees must ultimately assess whether they have a conflict of interest. Each elected member or employee is accountable for that assessment and the obligation to make the relevant declaration. This is regardless of any assistance or advice they may have received.

Conflict of interest is not a political weapon

Elected Members should not use conflict of interest as a weapon against each other. No elected member can determine that another elected member has a conflict of interest. That is for the individual alone to decide. Using conflict of interest inappropriately compromises its importance as a principle of good conduct and natural justice.

8.4.3 Conflict of interest and community representation

Sometimes Elected Members will be in a position where they are required to declare a conflict of interest even though their community expects them to participate in a decision. For example, an elected member may have a conflict of interest in a local planning decision which the community feels strongly about.

Because conflict of interest can impact on governance and perceptions of governance, it is important that –

- Elected Members ensure they thoroughly analyse the situation (and seek appropriate advice) to determine what is required by the legislation;
- Elected Members clearly explain the situation to their community; and
- Council and administration provide support to Elected Members, when required, to explain conflict of interest requirements to the community.

Elected Members should not, however, hide behind conflict of interest as

a way of avoiding a vote on difficult issues in which they don't have a conflict.

8.4.4 Protection from liability

Elected Members, unlike state and federal members of parliament do not have parliamentary privilege. An elected member can be subject to civil action by a person who considers that the elected member has defamed them or has acted in a way that improperly harms them, whether this occurs in the council chamber or not.

Section 9.56 of the Act protects Elected Members, committee members and employees for any actions that they have, in good faith, done in the performance or purported performance of a function under the Act or under any other written law. This however does not relieve the Shire of liability for the actions of Elected Members, committee members and employees.

Elected Members should be careful, especially in the heat of a Council debate, not to make defamatory statements which could give rise to a civil action.

If an elected member is subject to civil action, they will have to deal with the matter as an individual, even if the Shire is paying the legal costs. In some cases, the Shire's insurers may refuse to provide indemnity for the elected member's actions or statement if it is considered not to have occurred in the course of performing a council duty or to be done in good faith.

For further guidance, please refer to Shire's policy [Legal Representation Costs](#) Indemnification.

8.4.5 Decisions by delegation

Delegations are part of the Shire's decision-making approach. Delegations entrust certain types of decisions to the CEO, employees or committees. The delegates exercise the delegated decision-making function in their own right; in other words, they have discretionary decision-making powers.

The use of delegated authority means that a large volume of routine work can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community. Delegated authority allows Council to concentrate on policy development, representation, strategic planning and community leadership.

The Shire's [Delegations Register](#) contains all current delegations from Council to the CEO and committees and from the CEO to employees. It sets out unequivocally which statutory power and function are delegated,

which part of the legislation allows such delegation and what the conditions and policy compliance requirements are.

Section 5.43 of the Act outlines those powers or duties that may not be delegated to the CEO. The Shire's Delegations Register is reviewed by Council on an annual basis.

5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties —

- (a) any power or duty that requires a decision of an absolute majority of the council;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (h) any power or duty that requires the approval of the Minister or the Governor;
 - (i) such other powers or duties as may be prescribed.

8.5 Financial management

8.5.1 Role of the CEO

The CEO is accountable to Council for the financial performance of the Shire and must ensure that certain fundamentals are in place, including but not limited to:

- appropriate financial systems, plans, strategies and protocols;
- adequate resources to support the Shire's activities and financial monitoring and performance;
- suitable internal review and audit mechanisms;
- an organisational culture where responsibility and accountability are clearly delineated and understood; and
- adherence to and compliance with legislative provisions.

8.5.2 Financial management planning and principles

Council is ultimately responsible for the financial management of the Shire. Good financial management requires both Council and the administration to play their role.

As part of the Integrated Planning Framework, the Shire develops a Long Term Financial Plan. The Plan is consistent with the strategic initiatives in the [Council Plan](#) and includes:

- projected income and expenditure, balance sheet and cash flow statements;
- planning assumptions underlying the plan;
- an analysis of the factors and/or assumptions that are most likely to affect the plan;
- modelling for alternative financial scenarios; and
- methods of monitoring financial performance.

The Council Plan outlines the Shire's approach to delivering infrastructure and services to the community in a financially sustainable way that minimises the financial impact on the Shire's ratepayers. It is the primary planning tool for future Shire budgets.

8.5.3 Annual budget

One of the responsibilities of Council under section 6.2 of the Act is to prepare, set and adopt the Shire's [Annual Budget](#) no later than 31 August each year. Based on the leadership of Council, it determines the Shire's priorities for the year ahead and the allocation of resources to achieve those priorities.

The annual budget must be reviewed before 31 March each year, taking into account changes in the operating environment since the beginning of the financial year with a view to forecasting the financial impacts likely to arise for the remainder of the year.

6.2. Local government to prepare annual budget

- (1) During the period from 1 June in a financial year to 31 August in the next financial year, or such extended time as the Minister allows, each local government is to prepare and adopt*, in the form and manner prescribed, a budget for its municipal fund for the financial year ending on the 30 June next following that 31 August.

** Absolute majority required.*

- (2) In the preparation of the annual budget the local government is to have regard to the contents of the plan for the future of the district made in accordance with section 5.56 and to prepare a detailed estimate for the current year of —

- (a) the expenditure by the local government; and
- (b) the revenue and income, independent of general rates, of the local government; and
- (c) the amount required to make up the deficiency, if any, shown by comparing the estimated expenditure with the estimated revenue and income.

- (3) For the purposes of subsections (2)(a) and (b) all expenditure, revenue and income of the local government is to be taken into account unless otherwise prescribed.

- (4) The annual budget is to incorporate —

6.2. Local government to prepare annual budget

- (a) particulars of the estimated expenditure proposed to be incurred by the local government; and
 - (b) detailed information relating to the rates and service charges which will apply to land within the district including —
 - (i) the amount it is estimated will be yielded by the general rate; and
 - (ii) the rate of interest (if any) to be charged by the local government on unpaid rates and service charges;and
 - (c) the fees and charges proposed to be imposed by the local government; and
 - (d) the particulars of borrowings and other financial accommodation proposed to be entered into by the local government; and
 - (e) details of the amounts to be set aside in, or used from, reserve accounts and of the purpose for which they are to be set aside or used; and
 - (f) particulars of proposed land transactions and trading undertakings (as those terms are defined in and for the purpose of section 3.59) of the local government; and
 - (g) such other matters as are prescribed.
- (5) Regulations may provide for —
- (a) the form of the annual budget; and
 - (b) the contents of the annual budget; and
 - (c) the information to be contained in or to accompany the annual budget.

8.5.4 Other management plans

[Asset Management Plans](#) provide strategic direction in the management of Shire assets. Good governance requires the Shire to manage its assets in a financially viable, efficient and sustainable manner.

The **Workforce Plan** is developed to provide a strategic framework for organisational workforce planning and management. It guides the Shire in attracting and retaining a suitable, committed and professional labour force that is structured to achieve the priorities of the Council Plan and to deliver quality services to the community.

The **Recordkeeping Plan** sets out the matters about which records are to be created and how the Shire must keep and maintain its records in accordance with the *State Records Act 2000*. It applies to Elected Members, employees and contractors.

The **Risk Management Framework** contains practical guidelines to develop the Shire's capacity to appropriately manage risk. Risk management is critical to the organisation's ability to achieve the strategic objectives contained in the Shire's Council Plan. By fostering a dynamic risk management culture that encourages all employees to systematically apply the procedures outlined in this framework, the Shire seeks to

minimise resource waste and ensure that all Shire events, activities and projects are undertaken with properly managed risk to employees and the general community.

9. Principle 4 - Accountability

9.1 Accountability

Excellence in governance is based on the principle that those who are involved in governance, both Elected Members and employees, are held to account for what they do, the decisions they make and their performance in undertaking their role. The public trust that Elected Members and Officers act in the public interest.

Accountability systems that provide disclosure and review of decision-making processes are integral to good governance and are reflected through –

- Open and transparent government, so that the community can follow decision making processes and outcomes;
- Consultation and engagement, so that the community has confidence that it is being heard; and
- Good communication processes so that the community is kept informed.

The fundamental importance of accountability though comes from the fact that the Shire exists to govern for and on behalf of its community. Systems and values must reflect this accountability. Key systems are outlined in the following sections.

9.1.1 Performance management

Council is accountable for monitoring the Shire's performance in the achievement of its strategic direction, goals and financial outcomes, which are set through the Shire's Council Plan, Long Term Financial Plan and Annual Budget. Managing and reporting the Shire's performance is achieved in the following ways:

(a) Strategic reporting

Key performance indicators, derived from the Shire's Council Plan. The Shire's Corporate Planning System captures all Council Plan projects.

Performance against each of the strategic themes in the Shire's Council Plan is reported in the Annual Report.

(b) Financial reporting

The Shire undertakes its financial reporting as follows:

- The monthly Financial Activity Statement and List of Payments

are prepared and presented to Council; and

- The audited Annual Financial Report is considered by the Audit and Risk Committee before being submitted to Council for adoption and inclusion in the Annual Report.

9.1.2 Annual Report

The Shire's [Annual Report](#) provides detailed information to the community and the Shire's stakeholders about how the Shire intends to operate in a sustainable manner whilst addressing the many challenges it faces. The report reviews the Shire's key achievements and progress made against the many initiatives outlined in the Council Plan.

The Annual Report is reviewed by Elected Members at a workshop before being adopted by Council for presentation to the electors of the Shire at the Annual Electors' Meeting.

9.1.3 CEO performance review

Council is accountable for managing the CEO's performance and is responsible for setting the CEO's performance plan and monitoring the CEO's performance. Council is to communicate its expectations to the CEO and is required to seek independent professional advice when undertaking the annual performance evaluation of the CEO.

9.1.4 Employee performance review

In accordance with the Act the performance of all employees must be reviewed at least once a year.

5.38. Annual review of employees' performance

- (1) A local government must review the performance of the CEO if the CEO is employed for a term of more than 1 year.
- (2) The CEO must ensure that the performance of each other employee who is employed for more than 1 year is reviewed.
- (3) A review under subsection (1) or (2) must be conducted at least once in relation to each year of the person's employment.

Individual performance reviews and identification of development needs are formally carried out in August each year. The process involves a review of progress against the previous year's targets and plans the setting of new ones for the coming year.

During each performance review, recommendations for training and development programs to either complement existing skills or to develop new skills will be made. In addition, staff will have performance indicators set during the first few months of employment to monitor progress against goals and objectives. Council has adopted policy [Standards for CEO Recruitment, selection, performance, and termination](#).

9.1.5 Compliance Audit Return

Regulation 14 of the *Local Government (Audit) Regulations 1996* that the Shire conducts an annual audit of its compliance with statutory requirements and responsibilities placed on it under the Act.

r.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) recorded in the minutes of the meeting at which it is adopted.

The Department of Local Government's Compliance Audit Return (CAR) comprises a checklist of the Shire's statutory obligations in areas such as local laws, tenders, meeting procedures, disclosures of financial interests and financial management.

The CAR is completed by the Shire's Governance Officer with input from the Executive Management Group (EMG). The completed return is then reviewed by the Audit and Risk Committee and presented for adoption by Council. A certified copy must be forwarded to the Department no later than 31 March of each year.

9.1.6 Audit and Risk Committee

The Act requires Council to establish an Audit Committee to guide and assist Council on matters of internal and external audit, risk management and the Shire's compliance functions. The Shire's Audit and Risk Committee meets at least four times per year and its functions are in accordance with regulation 16 of the *Local Government (Audit) Regulations 1996*.

r.16. Functions of audit committee

An audit committee has the following functions —

- (a) to guide and assist the local government in carrying out —
 - (i) its functions under Part 6 of the Act; and
 - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- (c) to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is

r.16. Functions of audit committee

to —

- (i) report to the council the results of that review; and
 - (ii) give a copy of the CEO's report to the council;
- (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under —
- (i) regulation 17(1); and
 - (ii) the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (e) to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- (f) to oversee the implementation of any action that the local government —
- (i) is required to take by section 7.12A(3); and
 - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
 - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
 - (iv) has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (g) to perform any other function conferred on the audit committee by these regulations or another written law.

Council has adopted an [Audit and Risk Committee Charter](#) which guides the operation and responsibilities of the Audit and Risk Committee.

9.1.7 Community consultation and engagement

A Council policy [Community Consultation and Engagement](#) has been developed which formalises the Shire's approach to engagement and affirms its commitment to delivering meaningful, best practice community engagement as an integral part of its strategic priorities.

9.1.8 Customer Service Charter

Council has adopted a [Customer Service Charter](#) which outlines the customer service standards the community can expect from the Shire.

9.1.9 Statement of Business Ethics

A [Statement of Business Ethics](#) has been adopted which outlines what the Shire expects from its suppliers and what its suppliers can expect from the Shire.

9.1.10 Complaints Management

Council has adopted a [Community Complaints](#) policy to provide a framework and basis for all complaints relating to Shire services,

processes or decisions to be resolved in a consistent, fair, and structured manner.

9.1.11 Access to information

Under section 5.94 of the Act any member of the public can access certain information held by the Shire. Other documents – subject to their sensitivity – may be obtained through the Freedom of Information (FOI) process under the provisions of the *Freedom of Information Act 1992*.

Refer to the document access table contained within the Shire's [FOI Information Statement](#).

5.94. Public can inspect certain local government information

A person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection —

- (a) any code of conduct;
- [(aa) deleted]
- (ab) any register of complaints referred to in section 5.121;
- (b) any register of financial interests;
- (ba) any register of gifts;
- (c) any annual report;
- (d) any annual budget;
- (e) any list of fees and charges imposed under section 6.16;
- (f) any plan for the future of the district made in accordance with section 5.56;
- (g) any proposed local law of which the local government has given local public notice under section 3.12(3);
- (h) any local law made by the local government in accordance with section 3.12;
- (i) any regulations made by the Governor under section 9.60 that operate as if they were local laws of the local government;
- (j) any text that —
 - (i) is adopted (whether directly or indirectly) by a local law of the local government or by a regulation that is to operate as if it were a local law of the local government; or
 - (ii) would be adopted by a proposed local law of which the local government has given local public notice under section 3.12(3);
- (k) any subsidiary legislation made or adopted by the local government under any written law other than under this Act;
- (l) any written law having a provision in respect of which the local government has a

5.94. Public can inspect certain local government information

power or duty to enforce;

- (m) any rate record;
- (n) any confirmed minutes of council or committee meetings;
- (o) any minutes of electors' meetings;
- (p) any notice papers and agenda relating to any council or committee meeting and reports and other documents that have been —
 - (i) tabled at a council or committee meeting; or
 - (ii) produced by the local government or a committee for presentation at a council or committee meeting and which have been presented at the meeting;
- (q) any report of a review of a local law prepared under section 3.16(3);
- (r) any business plan prepared under section 3.59;
- (s) any register of owners and occupiers under section 4.32(6) and electoral rolls;
- [(t) deleted]
- (ta) a report on a supplementary audit prepared under section 7.12AH(1);
- (u) such other information relating to the local government —
 - (i) required by a provision of this Act to be available for public inspection; or
 - (ii) as may be prescribed.

All Elected Members and staff should be aware of the FOI implications when creating internal or external documents. As a general rule, any written material generated by Elected Members or employees may become public knowledge and may become the subject of an FOI request.

10. Council and Elected Member Self-Assessment

10.1 Council self-assessment and evaluation

To assess whether the governance principles are being enacted, a self-assessment tool has been included in the Governance Framework. The questionnaire was originally developed by WALGA for use by the WALGA State Council. Permission has been granted for the Shire to use the self-assessment tool to assess the Council's and individual Elected Member's performance against the governance principles. It is intended that the results are used to develop action plans to improve governance performance.

The self-assessment aims to:

- assess what level of performance has been achieved in the period under review;

- 
- assist in the development of a better understanding of individual Elected Member performance and the Council's objectives;
 - focus on strategic goals;
 - assist in the developing of a better understanding of performance orientated relationships;
 - develop an action plan for improvement;
 - encourage a program of ongoing personal and professional development for Elected Members.

The self-assessment tool has two components, being:

1. The Council Self-Assessment
2. Elected Member Self-Assessment.

Elected Members as a group should complete the Council Self-Assessment annually in September/October and the results used to assess the Council's performance as a whole against the governance principles. This should assist the Council in developing an action plan to improve performance (including the ongoing training and development program for Council).

The Elected Member Self-Assessment should also be completed by individual Elected Members to provide an assessment of that individual's contribution to good governance and assist in the development of an individualised training and development program.

10.2 Council Performance Assessment Questionnaire

Please circle your responses as per the following scale:

- 1 Strongly Disagree
- 2 Disagree
- 3 Unsure
- 4 Agree
- 5 Strongly Agree

Question	Rating				
1. The Council has been effective in setting the overall direction of the Shire to achieve the objects and purpose of the Shire	1	2	3	4	5
2. The Council is effective in considering and determining all major policy issues	1	2	3	4	5
3. The Council monitors appropriate financial and non-financial performance indicators	1	2	3	4	5
4. The Council has a clear understanding of business risk	1	2	3	4	5
5. The Council does not become drawn into operational management matters	1	2	3	4	5
6. Roles of the Shire President, Councillors and the CEO are clearly defined and understood	1	2	3	4	5
7. The Council understands the Shire's vision, mission, values, philosophy and plans	1	2	3	4	5
8. The Council regularly inputs into strategy development and review	1	2	3	4	5
9. The CEO and employees have commitment, capacity and enthusiasm	1	2	3	4	5
10. The Shire has relevant and reliable internal reporting and compliance systems	1	2	3	4	5
11. Elected Members are aware of the Shire's responsibilities to regulators and external stakeholders	1	2	3	4	5
12. The Council communicates effectively with its community	1	2	3	4	5
13. Elected Members bring valuable experience and skills to the Council	1	2	3	4	5
14. The Council has legitimacy and retains confidence in the eyes of the community	1	2	3	4	5

Question	Rating				
15. The Shire President ensures that meetings are chaired and matters are discussed / debated in a structured and effective way	1	2	3	4	5
16. The Shire President makes sure that the Council addresses all of the appropriate strategic issues	1	2	3	4	5
17. The Shire President makes sure there is sufficient time to discuss the important issues on the agenda	1	2	3	4	5
18. The Shire President encourages contributions by Elected Members to get the best out of them	1	2	3	4	5
19. The Shire President liaises effectively with the CEO	1	2	3	4	5
20. The CEO is receptive to the Council's input	1	2	3	4	5
21. The CEO assists Elected Members in meeting their governance obligations	1	2	3	4	5
22. The Council is effective in monitoring and evaluating the performance of the CEO	1	2	3	4	5
23. The Council papers, including agenda, minutes and briefing notes are timely, accurate and informative	1	2	3	4	5
24. The Council meetings address the key issues facing the community	1	2	3	4	5
25. The duration of meetings of the Council are appropriate	1	2	3	4	5
26. Elected Members come to meetings well prepared and participate effectively in debate and discussions	1	2	3	4	5
27. The Council adheres to effective governance practices	1	2	3	4	5
28. Appropriate records from Council meetings are documented in Minutes	1	2	3	4	5
29. The relationship between the Shire President and Elected Members is effective in enabling the Council to fulfil its duties and responsibilities	1	2	3	4	5
30. The relationship between the Council and the CEO is effective in enabling Council to fulfil its duties and responsibilities	1	2	3	4	5

Question	Rating				
Additional comments on the performance of the Council?					

Thank you for completing this questionnaire.

The information provided will not identify your individual response, but it will be used to assist Council to identify areas and actions for improvement and the priorities for training and ongoing development. Individual questionnaires will be treated in the strictest of confidence and will be destroyed once the information has been aggregated.

10.3 Elected Member Performance Assessment Questionnaire

Please circle your responses as per the following scale:

- 1 Strongly Disagree
- 2 Disagree
- 3 Unsure
- 4 Agree
- 5 Strongly Agree

Question		Rating				
1.	I understand my roles, duties and responsibilities as an Elected Member of the Shire of Toodyay	1	2	3	4	5
2.	I come to the Council meetings fully prepared	1	2	3	4	5
3.	I understand the mission, vision, values, philosophy and strategy of the Shire	1	2	3	4	5
4.	I participate in and enhance discussion and debate at the Council meetings	1	2	3	4	5
5.	I have made a significant personal contribution to the Council achieving the objects for the Shire	1	2	3	4	5
6.	I encourage openness and candour and ensure that others have a reasonable opportunity to put forward their views	1	2	3	4	5
7.	I challenge those who side-track discussions or dwell on minutiae	1	2	3	4	5
8.	I am a team player	1	2	3	4	5
9.	I listen to and consider other people's views on issues	1	2	3	4	5
10.	I am open and willing to change my views	1	2	3	4	5
11.	I accept challenge from others without being defensive	1	2	3	4	5
12.	I have the courage to say what is on my mind	1	2	3	4	5
13.	I keep myself free from conflicts of interest and understand when a conflict may arise	1	2	3	4	5
14.	The Council has legitimacy and retains confidence in the eyes of the community	1	2	3	4	5
15.	I exercise independent judgement when considering or voting on any matter	1	2	3	4	5

Question	Rating				
16. I am responsive to requests from the Presiding Member that aim to ensure the orderly and good-spirited conduct of meetings	1	2	3	4	5
17. I understand and focus on the key issues of the Shire's business	1	2	3	4	5
18. I consider the viewpoints of all stakeholders in forming a position on an issue	1	2	3	4	5
19. I carry a fair workload when compared with my fellow Elected Members	1	2	3	4	5
20. I regularly liaise with the Shire President and other Elected Members of the Council outside of Council meetings	1	2	3	4	5
21. I regularly liaise with the CEO and senior employees outside Council meetings	1	2	3	4	5
22. I have adhered to all of the behavioural and ethical requirements of the Council Code of Conduct	1	2	3	4	5
23. Outside the Council meeting and when acting in my capacity as an Elected Member, I support Council decisions that have been made	1	2	3	4	5
24. Are you satisfied with the level of support you are provided in undertaking your role as an Elected Member of the Shire of Toodyay?	1	2	3	4	5
Are there any areas that can be improved?					
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/>					

Question	Rating				
<p>Are there any specific areas in which you would like professional development to enhance your effectiveness as an Elected Member of the Shire of Toodyay?</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>					
<p>Are you satisfied with the process of evaluating performance as an Elected Member of the Shire of Toodyay? Are there improvements you consider could be made?</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>					

Thank you for completing this questionnaire

The information provided will not identify your individual responses, but it will be used to assist Council to identify areas and actions for improvement and the priorities for training and ongoing development. Individual questionnaires will be treated in the strictest of confidence and will be destroyed once the information has been aggregated.

11. Sources and References

This Governance Framework has been compiled with reference to documents previously produced regarding the concept and practice of good governance. The following documents have been used in the development of the Shire of Toodyay Governance Framework.

Governance Framework – Shire of Mundaring 2019

City of Joondalup Governance Framework 2020

City of South Perth Governance Framework 2016

A Guide to Meetings – Department of Local Government and Communities WA 2013.

Council Members' Self-Assessment Tool – Local Government Association of SA 2004.

Excellence in Governance for Local Government – CPA Australia 2007.

Good Governance Guide – Municipal Association of Victoria (MAV) 2012.

Local Government Operational Guidelines – Department of Local Government WA.

Public Sector Governance Better Practice Guide – Australian National Audit Office 2014.

State Council performance assessment questionnaire – WA Local Government Association

12. Version Control Information

Version No.	Issue Date	Nature of amendment	Developed By	Approved By
V0	07/07/2021	Initial	CEO	N/A
V1	08/08/2021	Amended following workshop	CEO	Council
V2	27/09/2023	Executive Services review	CEO	Council

13. Document Control Information

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