



Governance Framework

2023 to 2028



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1. Introduction

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

John McKechnie QC, CCC Commissioner

Good governance is about the processes for making and implementing decisions. It is not about making "correct" decisions, but about 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, service quality processes, council member and employee conduct, role clarification and good working relationships.

This Governance Framework examines the principles and practices of good governance at the Shire of Mundaring which all council members and employees are encouraged to adhere to. This document functions as an overarching framework for good governance. The Governance Framework is endorsed by Council and reinforces and provides context on legislative requirements, Council adopted policies and established practices.

2. Definitions

Term	Meaning
Act	the <i>Local Government Act 1995</i> .
Administration	the operational aspect of the Shire which includes the employees and is headed by the CEO.
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.
community	the entire population within the Shire of Mundaring district. It includes those who work or invest in the district or visit the area for recreational or similar reasons.
committee	a formal committee of the Council established under the Act or any other applicable legislation.
committee member	a member of a committee appointed by the Council. Council members may be appointed as a committee member.
Council	the body constituting of all council members sitting formally as a Council under the Act.

Term	Meaning
council member	a person elected under the Act as a member of Council. The Shire's council members includes the Shire President, Deputy Shire President and Councillors (as defined by the Act).
Councillor	title given to an individual elected representative of the local government as defined by the Act.
Corporate Business Plan	a four year plan (which is reviewed on an annual basis) detailing how the Shire will deliver on the commitments set out in the Strategic Community Plan.
council meeting	a meeting of Council conducted in accordance with the Act.
Director	a senior position in the organisation engaged by and directly responsible to the CEO. Classified as a senior employee under the Act.
district	the area of the State prescribed by legislation that a local government is required to control.
employee	an employee of the Shire including casual or contract employees.
Executive Leadership Team	the CEO and Directors. Abbreviated as ELT.
Integrated Planning and Reporting Framework	a framework for establishing community priorities and linking this information into operational functions. Provides the basis for improving the practice of strategic planning in local government.
local government	a body corporate established under the Act.
Long Term Financial Plan	long-term financial plan summarising the financial impacts of the objectives and strategies in the Strategic Community Plan.
policy	a formal statement or directive, strategic in nature that gives effect to the Shire's legislation and external regulatory requirements. Policies guide decision making and govern the Shire's activities.
Regulations	the <i>Local Government (Administration) Regulations 1996</i> .
Code of Conduct	the Shire's adopted Code of Conduct for Council Members, Committee Members and Candidates as required by the <i>Local Government (Model Code of Conduct) Regulations 2021</i> .
Shire	the local government of Shire of Mundaring. Includes the Council and the Administration.
Shire President	the President of the Shire of Mundaring.
Strategic Community Plan	Strategic Community Plan 2020-2030, the overarching plan that provides strategic direction for all activities and guides the development and provision of the Shire's services and programs
ward	a part of the Shire's district that delineates an electoral boundary.

3. Local Government Defined

Local government in Western Australia is established under the Act and on the national level is the third sphere of government: i.e. federal government, state or territory government and local government. Local governments in Western Australia have a great deal of autonomy, but they can be dissolved, suspended or amalgamated with other councils if the state government regards such measures as appropriate. The state government may also override council decisions.

Local government has legislative responsibility for many functions and activities that are relevant to a local community. As the level of government often seen as the closest to the community, local government activities relate to matters that are fundamental to people's lives and impact strongly on their quality of life.

Under the Act each local government throughout the State is established as a body corporate 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.

A local government consists of a Council, comprised of council members, and the Administration, comprising a CEO and employees.

The Shire President and council members are the Shire's elected representatives that form the Council.

The following principles apply:

- Council 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 formal delegations from Council to the CEO (or a committee). The CEO can sub-delegate their decision-making powers to other employees.

The CEO is the only employee appointed by Council and is accountable to Council. The role of the CEO is detailed in section 5.41 of the Act and includes, but is not limited to:

- advising Council in relation to the functions of the local government;
- implementing Council decisions;
- managing the day-to-day operations of the local government and the services that the local government provides for its community;
- liaising with the Shire President on the local government's affairs and its performance; and
- being responsible for the employment of local government employees.

The Shire employs four Directors who are designated as senior employees for the purpose of section 5.37 of the Act. All employees are accountable to the CEO.

3.1. Functions of Local Government

The general function of local government is prescribed under section 3.1 of the Act as the good government of persons in its district. Other functions of local government include the following:

- Strategic Planning
- Lawmaking and enforcement
- Stewardship of public assets
- Policy development
- Representation
- Advocacy
- Service delivery

3.2. Community Defined

When discussed in connection with good governance “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 Mundaring district consists of a diverse range of communities: 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 so that different and often competing interests are recognised, addressed and managed.

When “community” is referred to in this Framework, it means the many groups, individuals and interests represented within the Shire of Mundaring district.

4. Governance in Local Government

There is not one conclusive definition of governance. The Governance Institute of Australia defines it as:

Governance encompasses the system by which an organisation is controlled and operates, and the mechanisms by which it, and its people, are held to account. Ethics, risk management, compliance and administration are all elements of governance.

Shire of Mundaring plays a key role in leading its community as well as ensuring the delivery 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, it also improves the faith that council members and employees have in their own local government and its decision-making processes.

5. Governance Principles

The CPA Australia publication “Excellence in Governance in Local Government” includes four principles that provide a clear foundation for good governance:

- Culture and vision
- Roles and relationships
- Decision-making and management
- Accountability

These principles provide the foundation for good governance and a means for assessing the extent to which good governance is applied at the Shire. All decisions, policies, plans and strategies should have consideration to the principles. Adherence to the principles is the responsibility of Council, individual council members, the CEO and all employees.

The Governance Framework Overview (Figure 1) demonstrates the connection between the legislative framework all local governments must operate in accordance with, the role of the community in informing and holding the Shire to account and the governance principles.

Figure 1 – Governance Framework Overview



Governance Principles

Culture and Vision (Principle 1)	Roles and Relationships (Principle 2)	Decision Making and Management (Principle 3)	Accountability (Principle 4)
<ul style="list-style-type: none"> • There is a positive culture that promotes respect, integrity, team spirit, openness, honesty and accountability. • There are transparent, responsive and engaged processes for decision making. • There is a clear vision and strategic plan that is produced through a comprehensive and inclusive process which is owned by all sectors of the local government. 	<ul style="list-style-type: none"> • There is clarity about the role of local government. • There is a sophisticated approach to defining and implementing these roles. • There are effective working relationships that are promoted and supported within and between the Shire President, council members, CEO and the Administration. 	<ul style="list-style-type: none"> • There are effective decision-making processes in place that reflect the transparency and accountability which underpin excellence in governance. • There is robust and transparent financial management established and maintained to meet accountability to its stakeholders. • Effective delegations are implemented and maintained. 	<ul style="list-style-type: none"> • Systems and processes support accountability of council members and the Administration. • Internal structures provide for independent review of processes and decision-making. • Consultation is undertaken appropriate to the scope and potential impact of the matter.

6. PRINCIPLE 1 – VISION AND CULTURE

There is a clear vision and strategic plan that is produced through a comprehensive and inclusive process.

There is a positive culture that promotes respect, integrity, team spirit, openness, honesty and accountability and where there are transparent, responsive and engaged processes for decision making.

6.1. Vision

The Strategic Community Plan articulates the Shire’s community vision as “*the place for sustainable living*” and outlines the strategic direction and priorities for action until 2030.

6.1.1. Integrated Planning Framework

To ensure that the Shire’s vision is embedded throughout the organisation, the Shire has developed an Integrated Planning Framework as required under the Regulations. The Integrated Planning Framework Diagram (figure 2) details the process, time frames and documents.

This approach ensures that the Shire’s planned activities and resourcing requirements over an extended period of time align with the Shire’s vision and strategic priorities.

6.1.2. Strategic Community Plan

Section 5.56 of the Act requires every local government to “*plan for the future*”. Regulation 19C of the Regulations provides that the purpose of the Strategic Community Plan is to clearly define the local government’s strategic priorities, actions and initiatives for the next ten years.

There are three major parties to the development of an integrated strategic plan:

Community	<ul style="list-style-type: none">• participates in a community planning process to determine major vision or intended strategic priorities.• participates in regular reviews of those directions
Council	<ul style="list-style-type: none">• approves the process and structure of the community engagement model• understands community aspirations and desired outcomes• understands the interdependencies between community planning, services, assets and land use• adopts the Strategic Community Plan
Administration	<ul style="list-style-type: none">• facilitates the Strategic Community Plan process by providing the necessary information, plans and strategies• undertakes the required community engagement processes• integrates community aspirations and desired outcomes with community planning, services, assets and land use to develop achievable operational plans, services and issue specific strategies• publishes and distributes the completed document• steers two-yearly desktop reviews and a four-yearly full review of the Plan

6.1.3. Corporate Business Plan

The Shire's Corporate Business Plan is an internal business planning tool that translates Council's priorities into operations within the resources available. The Plan details the services, operations and projects the Shire will deliver within a defined period. It also includes the processes for delivering these and the costs associated.

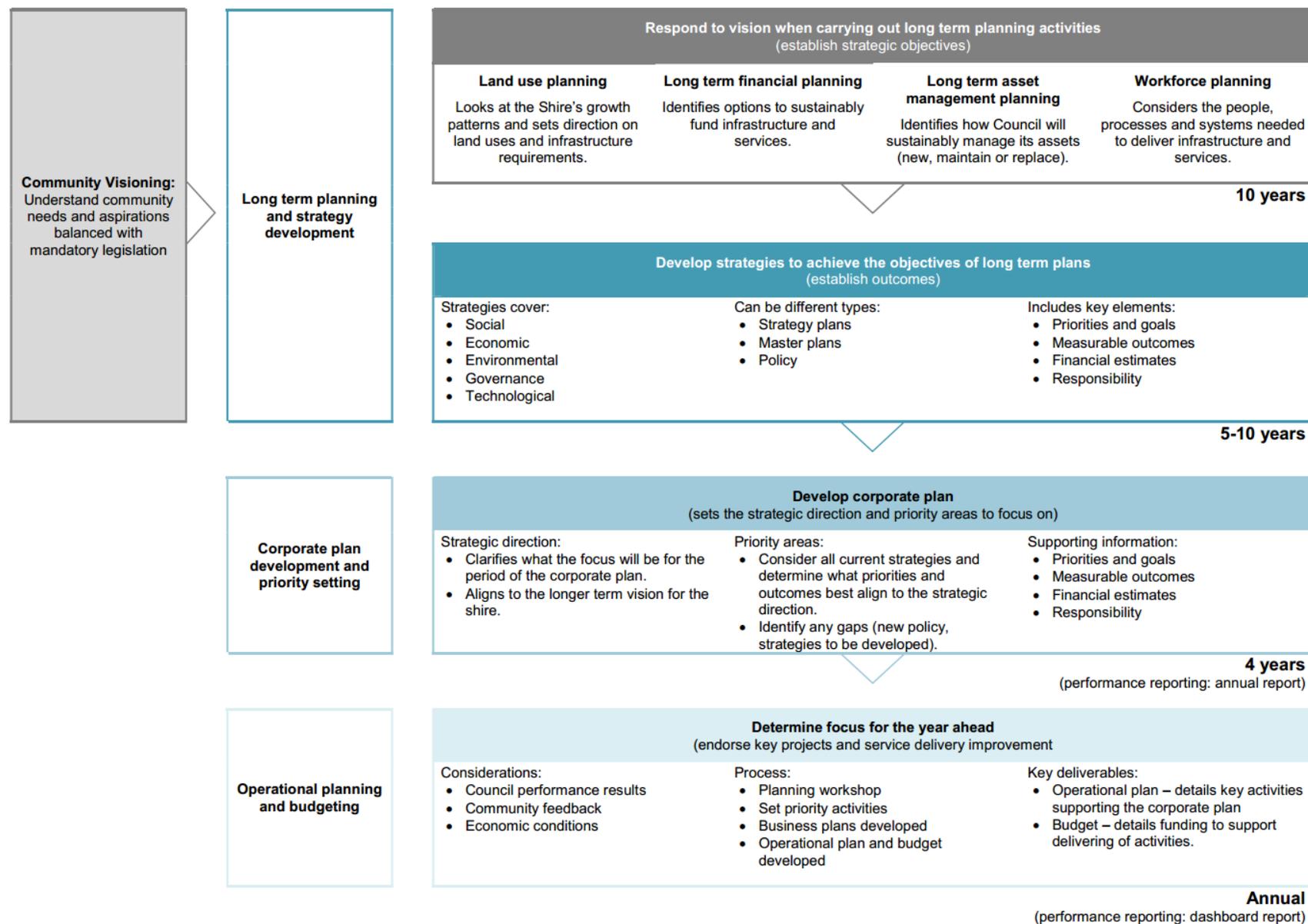
6.1.4. Long Term Financial Plan

The ten-year long-term financial plan is the high-level strategic document that helps align the community aspirations, strategic intent and organisational capacity. The financial modelling provides the Shire with appropriate information to assess the capacity to maintain overall financial sustainability into the long term and ensure that there are necessary funding arrangements in place to support proposed capital replacement programs and new capital projects.

6.1.5. Annual Budget

The Annual Budget is the financial representation of the annual plan (and reflects the financial implications of the first year of the Corporate Business Plan), including detailed statutory financial requirements. The budget addresses all of the local government's operations for the financial year - including services, projects, assets (capital works and ongoing operational) and is supported by detailed financial revenue, expenditure and processes that are informed by the long-term financial plan.

Figure 2 – Integrated Planning Framework Diagram



6.2. Culture

A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues. It assists the organisation in retaining high calibre employees who want to work and participate in the activities of the Shire.

6.2.1. Values

The Shire's culture is captured in its shared values. Good governance is achieved when council members and employees show leadership and reflect the values.

The Strategic Community Plan provides what is valued the most by the community:

- Protection of the natural environment
- Peaceful lifestyle
- Safe and inclusive community.

The organisational values of the Shire are:

Respect	Respect yourself and others whilst supporting diversity of skills, backgrounds and perspectives.
Integrity	Be who you say you are, tell the truth and be consistent and reliable.
Team spirit	Help others, share knowledge, celebrate milestones and work towards a common goal.
Continuous improvement	Display a continuous openness to learning, sharing, reflecting and improving the way things are done.
Innovation	Be willing to seek ideas, share knowledge and remain flexible to new ways of doing things. It also means taking risks, making mistakes and making time to reflect to allow new solutions to surface.
Excellence in customer service	Commit totally to informing, educating, consulting and responding to customer needs in a respectful and professional way.

6.2.2. Ethical Standards and Conduct

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

The Act requires that every local government adopts a "Code of Conduct for Council Members, Committee Members and Candidates" (Code of Conduct) to set out acceptable standards of ethical and professional behaviour

The Code of Conduct is based on the *Local Government (Model Code of Conduct) Regulations 2021* and includes:

- general principles to guide behaviour
- certain requirements relating to behaviour (which if breached are investigated by the Shire in accordance with the *Local Government (Model Code of Conduct) Regulations 2021*, Code of Conduct and any relevant Shire of Mundaring document adopted by Council)
- provisions specified to be rules of conduct (which if breached are to be reported to the Department of Local Government).

The Act also requires that every local government prepares a Code of Conduct for employees (Employee Code of Conduct) including the CEO that outlines the

principles, values and behaviours that the community is entitled to expect of all employees. Its intent is to document expected standards of conduct, not to control or prohibit any behaviour.

The Employee Code of Conduct features the following guiding principles:

- the behaviours expected of employees in relation, but not limited to:
 - the performance of an employee's duties
 - dealings with other employees and the broader community
 - the use and disclosure of information
 - the use of Shire resources and Shire finances
- how records are to be kept
- gifts and other disclosures
- reporting mechanisms and management of suspected breaches of the code and suspected unethical, fraudulent, dishonest, illegal or corrupt behaviour

In addition to adhering to the Employee Code of Conduct, the CEO is to have their performance review conducted in accordance with "Standards for CEO Recruitment, Performance and Termination Policy" with performance criteria set and agreed upon in writing by the CEO and Council. The Act prescribes that standards are to be adopted for CEO recruitment, performance and termination.

6.2.3. Fraud, Misconduct and Corruption

The Shire expects council members, committee members and employees to act in accordance with the applicable codes of conduct and behave ethically and honestly when performing their functions and during their interactions with each other, the community and all stakeholders of the Shire.

The Shire has adopted a "Fraud and Corruption Control Policy" that articulates the Shire's commitment to a zero tolerance attitude to fraud and corrupt conduct in the performance of its functions

6.2.4. Confidentiality

Local government business involves significant amounts of confidential information being supplied or maintained. This information could be about commercial matters, individuals or businesses or legal issues. The Act, Regulations, Code of Conduct and Employee Code of Conduct details how general information and confidential information is to be treated, accessed and used by council members and employees.

Council members, committee members and employees must not make improper use of information in the performance of their duties to gain directly or indirectly an advantage for themselves or another person, or to cause detriment to the Shire. Confidential information, or information that is deemed confidential by the CEO must not be disclosed, unless authorised by law or the respective Code of Conduct.

6.2.5. Council Member Inductions and Learning and Training Opportunities

The Act provides that policies be adopted relating to council member continuing professional development and the attendance at conferences and events. In addition, the Act requires that all council members undertake compulsory training.

The "Council Member Continuing Professional Development, Training and Professional Membership Policy" (CPD Policy) provides that the Shire is committed to supporting council members to fulfil their role as leaders and enable them to comply with relevant legislation that prescribes training requirements.

The knowledge, skills and experiences that council members bring to their role when elected, which are enhanced during an induction program, will generally need to be supplemented with ongoing knowledge and skills development relevant to their complex and significant role as leaders in the community.

The CPD Policy provides a structured approach to continuing professional development, compulsory training and professional memberships whilst maintaining the flexibility to enable council members to tailor to their individual needs.

7. PRINCIPLE 2 – ROLES AND RELATIONSHIPS

The Act provides details of the various roles within local government. Effective working relationships are promoted and supported within and between the Shire President, council members, CEO and the Administration.

7.1. Roles

An understanding and acceptance of the different roles of Council, the Shire President, council members, the CEO and employees, together with strong cooperation between all parties, underpins good governance at the Shire.

The relationship between council members and the CEO respects diversity of opinion and the right that all points of view be heard with courtesy and respect.

While council 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, council 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 council members' roles, the CEO and employees should be consulted and offer advice when policy or strategy is being developed.

The Roles, Responsibilities and Separation of Duties Overview (figure 3) provides details of the role Council, council members, the Shire President and the CEO in accordance with the Act and indicates the separation of roles between Council and the Administration.

7.1.1. Council

Under the Act the Council is to:

- govern the Shire's affairs
- be responsible for the performance of the Shire's functions
- oversee the allocation of finances and resources
- determine the Shire's policies

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.

7.1.2. Shire President

While there are a number of provisions in the Act outlining the role and functions of the Shire President it should be understood that the Shire President is the key civic leader of the community and performs an important function in the pursuit of good governance.

The Shire President is elected to represent and advocate the views and decisions of Council and speak on behalf of the Shire. When doing so, the Shire President should set aside personal views and articulate the views and decisions of Council.

Although the Shire President has no statutory authority over other council members in such areas as behaviour or adherence to Council policy, the Shire President is to ensure that all council members are part of the decision-making process and are well and equally informed. The Shire President must reinforce the need for council members to represent the interests of the whole community, not just their ward constituents.

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 unable or unwilling to perform the functions of Shire President.

7.1.3. Council Members

It is necessary to understand the legislative framework within which council members operate and from where they derive specific details of their roles and responsibilities. Council members have duty to act with fidelity, trust and in the interests of the Shire and the overall community, not for themselves or other third parties.

An individual council member has no authority to make decisions or to participate in the day to day management or operations of the Shire or from undertaking tasks that contribute to the Administration. This includes making any form or representation on behalf of the Council or Shire unless specifically authorised by Council to do so.

7.1.4. 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.

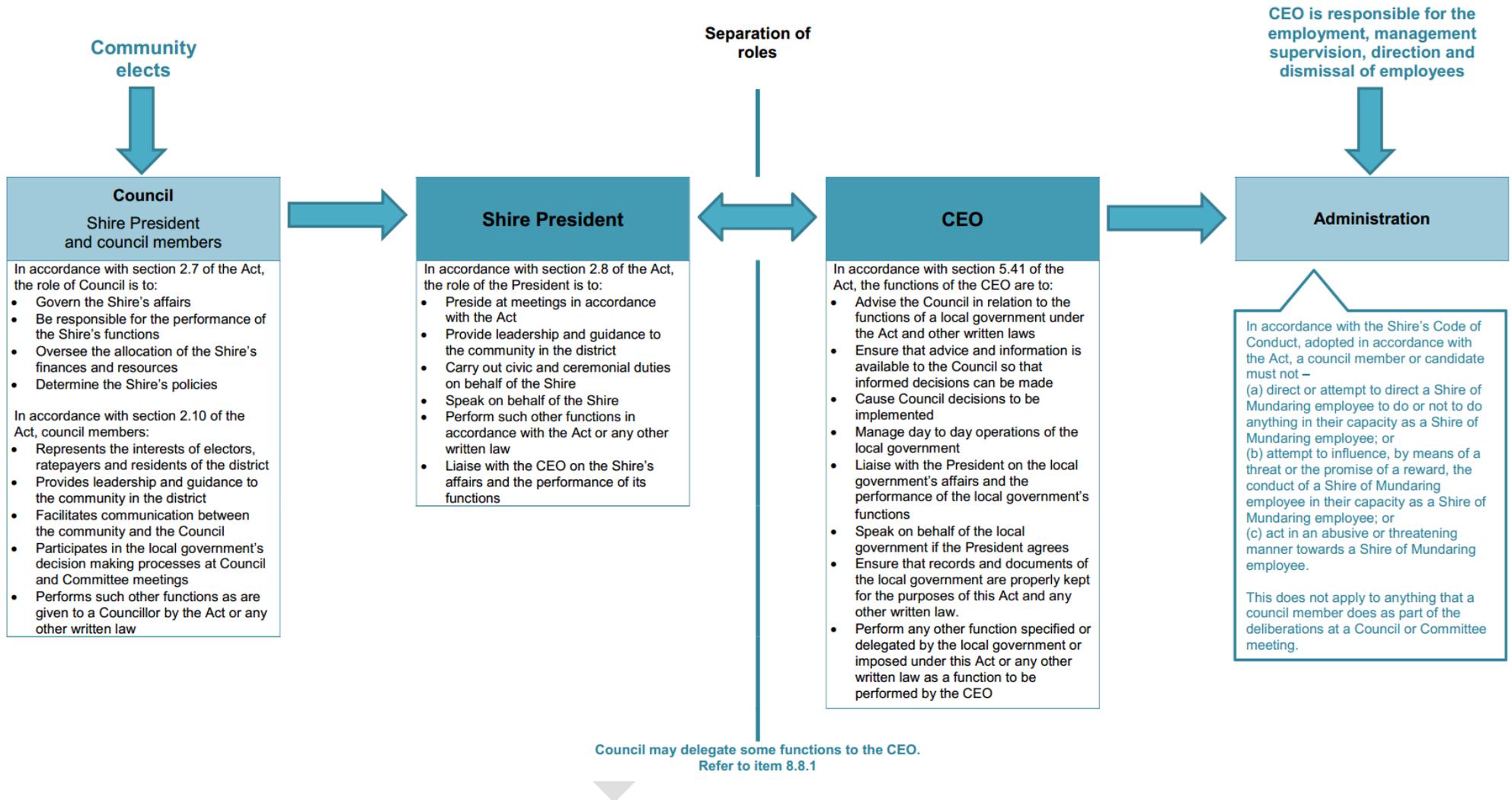
The CEO plays a critical role in promoting good governance through the development of a culture that sees Council as the peak decision-making body, supported and advised by the Administration. The CEO's promotion and personal adoption of the Shire's culture and vision set the standards which permeate 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 further outlined in the Act.

7.1.5. Employees

Good governance requires all employees to carefully consider their decisions and actions, to be interested and to be active participants in the Shire's management and outcomes. Every element that forms part of the Shire is responsible for good governance, not just Council and the CEO. The quality of the Shire's governance heavily relies on each employee taking individual responsibility as well as being part of a collective team effort.

Figure 3 – Roles, Responsibilities and Separation of Duties Overview



7.2. Working Relationships

7.2.1. Working Relationship between Shire President and Council Members

The working relationships between the Shire President and council members is critical to good governance and effective relationships will help achieve the outcomes of the Strategic Community Plan. It is important that the working relationship between the Shire President and council members is based on mutual respect. Other aspects of an effective working relationship include:

- The Shire President should facilitate an inclusive approach to decision-making and involvement in Council activities, ensuring that each council member has access to the same information prior to making their decision.
- The Shire President should assist council members to have their issues considered by Council.
- The Shire President should take some responsibility for council member training and development and should work with the CEO to ensure that council members receive appropriate training opportunities.
- The Shire President is responsible for facilitating resolution of conflicts between council members.

7.2.2. Working Relationship between Shire President and CEO

The essential principles for an effective working relationship between the Shire President and the CEO are communication and role clarity.

The Shire President and CEO work closely together and the relationship should be characterised by openness and good communication, with each keeping the other informed about important and relevant issues. The Shire President and CEO communicate on a regular basis, at least weekly or more frequently depending on emerging issues, either in person, by phone or email.

Both the Shire President and the CEO have a role in liaising with each other on the Shire's affairs and the performance of the Shire's functions. However this liaison is qualified in that any liaison between the Shire President and the CEO is only relevant to those matters that enable each party to perform their statutory role.

Both parties have a crossover of responsibilities in speaking on behalf of the Shire. While this right rests with the Shire President there are occasions when it is considered prudent and more applicable for this function to be undertaken by the CEO. As such these matters involve the development of a clear relationship and an understanding of the limits of each other's authority.

While the Act does not detail how the liaison is to occur, this liaison function should be seen in the context of the separation of powers described in the Act, between the governing role of Council and the managing role of the CEO. The Shire President and the CEO are to adopt an approach that suits their particular circumstances and needs.

Other aspects of an effective working relationship between the Shire President and the CEO that results in good governance include:

- 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 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.
- 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.
- The relationship is symbiotic. The Shire President and the CEO put conscientious effort into making the relationship successful for the good of the Council, Shire and District.
- The relationship between the Shire President and the CEO aims to facilitate involvement and inclusion amongst council members and Administration rather than concentrating power in the relationship.

7.2.3. Working Relationship between Council Members

Council members are part of a team (Council), elected by constituents to work collectively in the interests of the community. Good governance is dependent on a mature and constructive working relationship between council members.

Council members should behave in a manner that generates community trust and confidence in them as individual council members and enhances the role and image of both the Council and the Shire.

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

Other aspects of effective working relationships between council members include:

- Council members treat each other with respect and courtesy, even if there are differing views.
- Disagreements are expressed in ways that are not personal attacks and do not cause detriment to individual council members or Council as a whole.
- Council members are not to undermine each other, either within the Shire or in public.
- Council members are to have effective working relationships in order to succeed individually and collectively.

7.2.4. Working Relationship between Council Members and CEO

The relationship between council members and CEO is critical to good governance.

Council members need support to manage pressures in such a way that their constituents feel their issues or concerns are being heard, but also need to 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.

Council 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. There may be some functions delegated to the CEO. The CEO is

accountable to council members when they sit as Council. Council members, sitting as Council, are responsible for the performance management of the CEO.

The CEO and council members are likely to be in regular contact about issues, concerns and information. As with the working relationship between the Shire President and the CEO, a level of trust needs to be fostered which in turn, is based on good communication and understanding of each other's role and function.

A number of factors contribute to an effective working relationship between council members and the CEO including:

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

7.2.5. Working Relationship between Council Members and Employees

The fundamental role difference between Council and the Administration underpins this relationship. Council members should focus on strategy, policy and outcomes, while the administration's role is to focus on advice, implementation and operations. Some issues to consider for an effective working relationships between council members and employees include:

- Council members need to understand that advice needs to be sought through the appropriate process.
- Employees are accountable to the CEO. They are not accountable to council members and are not required to take direction from them, nor should council members attempt to give direction to employees.

8. 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 local government'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, reviewed and maintained.

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 interest of the entire community.

Council can only make decisions by resolution considered at a formal meeting and passed by the required majority vote. Resolutions are binding on Council until they are formally amended or repealed. Upon the conclusion of the meeting, resolutions, once recorded, will take effect midday the following day consistent with the *Meeting Procedures Local Law 2015*. Good processes mean that decisions are 'owned' by all council members. Even if the council member doesn't

agree with a decision made regarding an issue, fault should not be found with the way in which the decision was made.

8.2. Role of Community in Decision Making

Community members are encouraged to make their views known to inform decision making. The Shire engages with the community in keeping with the principles of the International Association for Public Participation (IAP2) as outlined in the “Community Engagement Policy”. There are also means of public participation at council meetings.

It is important to understand that while council members wish to hear from a wide variety of people to inform decision making; council members are representatives elected by the community who are required to exercise their vote after debate according to their own judgment about an issue. In reaching that judgment they appropriately weigh up all the information available to them. This includes, but is not limited to, the views expressed by individuals or community groups.

8.3. Role of Individual Council Members in Decision Making

Council members must act in accordance with legislation, have due consideration of Shire policies, including the Code of Conduct, and not bring the Shire into disrepute. However, as individuals active in the community, there may be instances in which council members wish to participate in community engagement processes or provide a submission in response to a consultation process.

8.3.1. Individual Council Member Involvement in External Engagement or Consultation

Organisations and bodies external to the Shire may undertake engagement or consultation processes on specific matters which may impact residents in the Shire or council members individually. This may include the Western Australia Planning Commission, Department of Local Government and neighbouring local governments.

Individual council members may provide submissions in their capacity as a community member. However, if an item is presented to Council on a matter that an individual council member has provided a submission to, they should declare an interest (this may be a financial, proximity or impartiality interest depending on the circumstances, refer to item 8.7). Additionally, when being considered by Council (or an external body that the council member is a member of, e.g. Joint Development Assessment Panel), individual council members should be impartial, objective, free from bias and act in the public interest of all residents.

Where individual council members have been appointed to external committees, boards and groups, their involvement should be considered in conjunction with item 8.4.7.

This information is to be used as a guide only. Circumstances should be considered on a case by case basis and in conjunction with provisions regarding disclosure of interest (refer to item 8.7).

8.3.2. Individual Council Member Involvement in Shire led Engagement or Consultation

The Shire undertakes engagement or consultation processes on specific matters in accordance with the “Community Engagement Policy”.

Individual council members should not provide submissions in their capacity as a community member. Individual council members may attend community meetings, focus groups or engagement forums as an observer but should not actively participate in the engagement or consultation processes.

The exception to this may be where an individual council member has been appointed to a committee, advisory group or representatives meeting for the purpose of a Shire led engagement process.

This information is to be used as a guide only. Circumstances should be considered on a case by case basis.

8.4. Decision Making Meetings and Processes

Council has authority or discretion to make decisions relating to:

Advocacy	when Council advocates on its own behalf or on behalf of our community to another level of government/body/ agency.
Executive	when Council sets direction and includes oversight e.g. adopting plans and reports, accepting tenders, determining service levels, setting and amending budgets.
Legislative	when Council adopts local laws, local planning schemes and policies. The Council is required to review each local law within eight years from the time of its creation but may do so sooner.
Quasi-Judicial (see also 8.5.1)	when Council determines an application/matter that directly affects a person's rights or interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial decisions include development applications, building permits, applications for other permits/licences (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

8.4.1. Council Meetings

The Council meeting is the formal debating and decision making forum of Council. Under the *Local Government Act 1995* Council meetings are required to be open to the public. 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.

Examples of matters that may require the meeting to be closed to the public include, but are not limited to:

- CEO annual performance reviews, contract renewals, remuneration reviews (section 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 (section 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 an individual for a Celebrating Community or Citizen award (section. 5.23(2)(b) "*the personal affairs of any person*");
- Planning reports that could affect the value of neighbouring properties (section. 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 a council member to vote on every item of business discussed at a Council meeting.

Council has adopted the *Meeting Procedures Local Law 2015* which provides enforceable meeting procedures and rules including the conduct of members and preserving order.

The Code of Conduct sets out the standards of ethical and professional behaviour expected of Shire of Mundaring council members, committee members and election candidates including expected standards of behaviours at Council meetings.

Council meetings are video recorded and streamed live in accordance with the "Live Streaming and Recording of Minutes Policy".

Council members, CEO and Directors attend all Council meetings.

8.4.2. Council Forum

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

At Council Forums council members and employees can propose, discuss and formulate philosophies, ideas, strategies and concepts. Council Forums often involve projects that are in the early planning stage and are sometime away from being presented to Council for decision. Presentations may also be made by external parties.

In discussing such issues, employees are looking for guidance from council members to assist in researching matters, or present ideas and concepts which may be presented in future reports or deliberations.

8.4.3. Meeting Schedule – Council Meetings and Council Forums

Council has adopted the "Ordinary Council Meetings and Forums Schedule Policy".

This policy provides that ordinary meetings councils are scheduled every second Tuesday of the month (with the exception of January when the ordinary meeting of council is held on the fourth Tuesday of the month).

Council Forums are scheduled for the third Monday of the month (with the exception of December and January and October in an election year).

8.4.4. Electronic Meetings

In certain circumstances, it may be necessary for Council and committee meetings to be conducted by electronic means. Electronic meetings pose a range of challenges in terms of public participation and governance arrangements. Meeting procedures may be amended to support all aspects of decision-making in this environment and to ensure overall good governance is implemented and maintained.

Further information is included in the "Conducting Electronic Meetings and Attendance by Electronic Means Policy".

8.4.5. Committee Meetings

To assist with its decision making responsibilities, Council has established committees in accordance with the Act.

Further information on committees will be included in the “Committees and Advisory Groups/Representatives Meetings Policy”, expected to be adopted in August 2023.

8.4.6. Advisory Groups and Representatives Meetings

Council has established a number of advisory groups and representatives meetings as a mechanism for facilitating and improving community participation in the Shire’s decision-making processes.

While not formally established under legislation, these groups provide an opportunity for the Shire to obtain the views of community representatives as well as enabling networking opportunities for council members on issues of common interest. This may assist council members and Council to address strategic issues and priorities.

Further information on advisory groups and representatives meetings will be included in the “Committees and Advisory Groups/Representatives Meetings Policy”, expected to be adopted in August 2023.

8.4.7. External Committees, Boards and Groups

Council members are often appointed to represent the Shire on various external committees, boards and groups. Their role is generally to provide advice, identify strategic opportunities and act as a conduit with the Shire and the community.

Although representative of the Shire, and therefore, the Shire’s or Council’s position should be taken into account, their appointment often requires them to act independently and to represent the interests of the committee, board or group which they are appointed to.

External committees, boards and groups will often have constitutions, terms of reference or charters which outline their purpose.

Members are appointed to committees by Council resolution (by absolute majority) following the local government ordinary election. The process for appointment of a council member to an external committee or board may also require a nomination process.

8.4.8. 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 (resolutions).

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 the administration. Reports are structured to include information on the background, financial, sustainability and risk implications of the proposal under consideration. All reports include the professional advice of the employee who has authored the report and contain recommendations as to the most appropriate course of action to take, based on the information presented.

Council agendas are available on the Shire’s website two weekends prior to an Ordinary Council Meeting and as soon as practicable prior to a Special Council Meeting. Committee agendas for meetings that are open to the public are available on the Shire’s website prior to the meeting in accordance with the Act.

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, the decisions that have been made and reasons that a decision is different to what was recommended.

Unconfirmed Council and committee minutes are made available for public inspection in accordance with the Act. At the next meeting of Council or a committee these minutes will be confirmed as a correct and accurate record of the proceedings.

8.4.9. Council Members' Meeting Preparation

Preparation before attending a meeting is critical: all reports should be read thoroughly and the main points well understood. If anything is not clear, the council member may seek further clarification and raise any concerns with the CEO or the responsible Director, 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 respond adequately without prior notice, as 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 Director should be emailed at the earliest opportunity to enable a written reply to be provided in advance of the meeting. Where deemed appropriate, this reply will be provided to all council members, not just to the enquiring council member.

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 the agenda was distributed. A failure to consult with the community or key stakeholders may also give cause to defer a matter.

8.4.10. Council Members' Attendance at Meetings

An important function of a council member is to attend and participate in the decision-making processes at meetings. There are provisions regarding the attendance of Council meetings under the Act.

Council members who are going to be absent from a meeting of Council or a committee should submit an apology to the Shire President and CEO. For extended periods of absence, council members should submit the request to the Shire President and CEO to then be considered by Council to grant a leave of absence.

As outlined in the Act, a council member who is absent, without first obtaining leave of the Council, throughout three consecutive ordinary meetings of the Council is disqualified from continuing on Council.

8.4.11. Lobbying and meetings with external parties

Lobbying provides an opportunity for stakeholders to communicate with council members and employees as part of society's democratic and accessible system of government. However, problems can arise when a council member or employee is lobbied to consider factors, other than the relevant facts, they should appropriately consider when determining any matter as a decision-maker.

Council members and employees are to recognise the difference between appropriate and inappropriate lobbying and the risks associated if they fail to resist inappropriate lobbying. Council members may offer understanding but must not, when lobbied, commit or indicate (or give the impression of) their vote on a matter that is before Council, or intended to be considered by Council. As decision makers council members are obliged to consider all relevant facts detailed in a report within an agenda, including the debate at the meeting, prior to making their decision. Similarly, employees are not to indicate their approval or otherwise on a proposal or application put forward to the Shire, until such time as an assessment

and/or consideration of a proposal or application is formally undertaken by the Shire.

Council members, who commit their vote outside of the Council meeting process, may be faced with claims of perceived or prejudicial bias and could compromise the final decision of Council. Ultimately the community must have trust in the elected body and in the ability of Council to make decisions free of influence or the perception of influence.

If a council member attends any meetings outside the formal decision-making processes of Council, they must make clear their role at the meeting and outline the boundaries of their attendance. Stakeholders at these meetings should accept this and should there be discomfort in discussion, council members should excuse themselves from the proceedings or preferably politely decline the invitation in the first instance if they are uncomfortable in attending the meeting.

8.5. Decisions on Land Use Planning and Development

8.5.1. Quasi-judicial role

Quasi-judicial functions are those which involve the making of a decision by Council in the exercise of a discretionary power. Council 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, council 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 No. 4 and Planning Policies; and
- The facts and merits of the case.

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

Determining applications must be based on sound legislative rationale and not on specific public perception. The role of a council 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 council members. To avoid prejudicing the eventual decision, council 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 heard all the meeting debate.

Council 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.

Council 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.

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

8.5.2. State Administrative Tribunal

In certain circumstances applicants have rights of appeal to challenge a planning related decision of Council or an employee. It is therefore important for council members to gain a full understanding of the issues and follow proper process before reaching a decision. The State Administrative Tribunal (SAT) reviews decisions made by local governments regarding a range of matters including town planning and building approvals. Applications can be made to the SAT for a review of decisions made by local governments under a range of enabling laws.

8.5.3. Planning Delegations

The Shire's planning scheme and State planning legislation permits Council to delegate its decision making powers to certain qualified persons, subject to conditions. This is important in terms of allowing those applications that meet certain criteria to be determined by employees. The criteria used for determining the types of development that can be decided by employees is set out in a Delegation, which is regularly reviewed. All decisions made under delegated authority are binding and represent a 'Council decision'.

Delegations are necessary for good governance in order to permit:

- Council to focus on strategic matters and major developments that are beyond the Notice of Delegation
- The large volume of development applications received by the Shire to be dealt with in an efficient and effective manner.

8.5.4. Development Assessment Panels

Development Assessment Panels are the decision making body for a certain type, class and/or value of planning applications the Shire receives from time to time. Development Assessment Panels consist of three specialist members, one of which is the presiding member, and two local members (council members), nominated by the local government.

Development Assessment Panels are not managed by the Shire but by the State Government's Department of Planning, Lands and Heritage, with certain resources being provided by the City. Development Assessment Panels have their own meeting procedures and a Code of Conduct and all members of the panel are to abide by that Code of Conduct. Only the Presiding Member of the panel is able to speak on decisions or matters that concern the panel.

The Shire's planning officers provide technical reports to the Department of Planning, Lands and Heritage, who in turn refer this report and any other information to the Development Assessment Panel, which will make a determination on the planning matter.

Shire of Mundaring forms part of the Metro Outer Joint Development Assessment Panel.

8.5.5. Managing Conflicts of Interest for Council-Related Development

Council as both the Developer and Consenting Authority

The Shire, as with other local governments, is required through legislation to assess and determine its own property development applications. This includes the process of acquiring, improving, and managing real estate with the aim of generating financial returns through rental income, resale, or increased property value.

Reasonable Steps to be Taken to Minimise Risk

The Shire must take every reasonable step to ensure that conflicts of interest that exist when preparing, assessing and determining its own applications are separated to the greatest extent possible.

Minimum Requirements

- **Employees**
The minimum requirements for achieving separation would be that the employee responsible for managing a project would not be the same employee assessing the application and making a recommendation to Council.
This ensures that process is both open and transparent.
- **Council**
The minimum requirements to address the issue of a real or perceived conflict of interest when assessing and determining its own applications would be that council members must disclose an impartiality interest in the matter consistent with clause 22 of the “Code of Conduct for Council Members, Committee Members and Candidate” (1.1).

Consider External Advice when Appropriate

Having regard to the cost of the project and the public interest in the matter, achieving such a level of separation may require the engagement of a suitable independent expert to undertake the assessment.

8.6. Informing Documents

There are a number of documents utilised by council members and employees to inform decision making.

The Document Hierarchy (figure 4) details the purpose, hierarchy and adoption or approval process of these documents.

Figure 4 – Document Hierarchy



8.6.1. Local Laws

Local laws can only be made when authorised by the Act or other written laws, but cannot be inconsistent with any State or federal law.

Local laws are to be drafted or reviewed in accordance with the Act which includes consultation with relevant stakeholders seeking submissions on the draft local law. A recommendation that the local law be adopted along with any submissions are to be presented to Council for endorsement and gazettal.

Once a local law is gazetted, it is referred to the Joint Standing Committee on Delegated Legislation to consider under its terms of reference. The Joint Standing Committee on Delegated Legislation is a committee of the Western Australian Parliament consisting of eight members, with equal representation from the Legislative Council and Legislative Assembly.

8.6.2. Council Adopted Strategies, Frameworks and Plans

Strategies set out how the Shire will deliver on the priorities of the Strategic Community Plan to achieve the community vision.

Frameworks provide the overarching structure of how the Shire will approach complex issue. This may be a suite of documents or a key document underpinned by Council adopted policies, CEO policies and/or procedures.

Plans list what is required to deliver a strategy or implement high level and/or externally focussed policy position. Other legislation sets out Plans that may be required.

When drafted or reviewed, these documents are presented to Council to seek feedback. Relevant statutory and regulatory agencies, and any other key stakeholders that may be impacted by the proposed document will be consulted.

Any feedback received will be considered prior to being presented to Council for adoption or endorsement.

8.6.3. Council Adopted Policies

Section 2.7(2)(b) of the Act states that the Council is to “*determine the local government’s policies*”.

Council adopted policies establish the Shire’s objectives or agenda on strategic issues or provide guidance in respect to a legislative requirement. Policies should result in clarity, consistency and impartiality in decision making, improved efficiency and effectiveness and/or improved customer and community outcomes.

Policies may result from the Shire forming and documenting an objective or agenda position due to:

- legislative requirement;
- new or changing industry standards;
- to meet the Shire’s strategic objectives;
- a community need or expectation; or
- a Council resolution.

Further information on council adopted policies and the process used to develop and review is included in the “Policy Development and Review Policy”.

8.6.4. CEO Approved Documents

CEO approved documents include frameworks, policies, guidelines and procedures. These documents often underpin Council adopted documents and provide information and direction for consistency of operational decisions.

8.7. Disclosure of Interest

Disclosing interests 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 council members and employees must do if they believe there is a conflict and how these interests are disclosed.

Interests can be categorised as being:

- financial interests;
- proximity interests; or
- interests that may affect impartiality.

It is the responsibility of the council member or employee to decide whether or not to declare an interest.

8.7.1. Conflict and Disclosure of Interest in Local Government

Council 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 disclose their interests and withdraw from the decision making process. It is very important for council members and employees to understand and adhere to the legislative requirements (sections 5.59 to 5.73 of the Act).

	Council Members	Employees
Financial Interest	Must disclose the nature of their financial interest in matters to be discussed at the meeting (Part 5 Division 6 of the Act)	Must disclose the nature of their financial interest in reports or advice when giving the report or advice to the meeting (Sections 5.70 and 5.71 of the Act).
Proximity Interest	Must disclose the nature of their proximity interest in matters to be discussed at the meeting (Part 5 Division 6 of the Act)	Must disclose the nature of their proximity interest in reports or advice when giving the report or advice to the meeting (Sections 5.70 and 5.71 of the Act).
Impartiality Interest	Must disclose the nature of their impartiality interest in matters to be discussed at the meeting (Regulation 34C, of the Regulations, Code of Conduct).	Must disclose the nature of their impartiality interest in matters to be discussed at the meeting (Regulation 34C, of the Regulations, Code of Conduct).

8.7.2. Good Governance and Conflict of Interest

The following points are important for good governance.

Individuals must make their own decisions

Council 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

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

Individuals are accountable

As noted above, council members or employees must ultimately assess whether they have a conflict of interest. Each council member or employee is accountable for that assessment and the obligation to make the relevant disclosure. This is regardless of any assistance or advice they may have received.

Conflict of interest is not a political weapon

Council members should not use conflict of interest as a weapon against one another. No council member can determine that another council member has a conflict of interest. That is for the individual alone to decide. Using conflict of interest as a political weapon compromises its importance as a principle of good conduct and natural justice.

8.7.3. Conflict of interest and community representation

Sometimes council 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, a council 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:

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

8.7.4. Primary Returns and Annual Returns

Section 5.75 of the Act requires council members and certain employees (relevant persons) complete a Primary Return within three months of commencing in Office or being employed at the Shire.

A Primary Return can best be described as a snapshot of personal information and certain financial interests a person has at a particular point in time.

At the end of each respective financial year, relevant persons must complete an Annual Return, which discloses any changes to the information previously

disclosed in their Primary Return or new interests that have accumulated since completing their Primary Return or last Annual Return.

Primary Returns and Annual Returns assist with the decision-making process as they highlight an individual's interests at a particular point in time, thereby clarifying whether a conflict of interest may arise.

8.7.5. Related Party Disclosures

The Shire is committed to complying with the disclosure requirements for related party transactions under the Australian Accounting Standards. Disclosure of relevant related party information will provide greater transparency and improve the quality of the financial reporting process. A system has been implemented to identify, monitor and disclose related party transactions to manage the risk of non-compliance with the related party disclosure objectives of the Australian Accounting Standards which is captured in the "Related Party Disclosures Policy".

8.7.6. Protection from Liability

Council members, unlike state and federal members of parliament, do not operate under the provisions of parliamentary privilege. A council member can be subject to civil action by a person who considers that the council 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 council 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 council members, committee members and employees.

Council 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 a council 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 council member's actions or statement. This is because the council member's action or statement was considered not to have occurred in the course of performing a council duty or to be done in good faith.

The "Provision of Financial Assistance for Legal Services for Elected Members and Employees Policy" provides the circumstances in which the Shire will provide financial assistance who require legal services in the course of or arising out of the performance of their official functions and the procedure for making and dealing with applications.

8.8. Decision Making Powers Assigned to Others

8.8.1. Delegations

Delegations form part of the Shire's decision making approach. Delegations entrust certain types of decisions to the CEO, employees or committees. 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.

The Shire's delegations register is reviewed by Council on an annual basis. This is a requirement of the Act (section 5.46).

8.8.2. Acting Through

The delegation powers under the Act do not prevent the Council or the CEO from performing any of their functions by 'acting through' another person. Generally, this enables the Council or the CEO to authorise another person to take administrative actions on their behalf; such as communicating to a third party a decision made by the Council or CEO.

The key difference between a delegation and the concept of 'acting through' is that a delegate exercises the delegated decision-making function in their own right. Where a person has no discretion in carrying out a function, then that function may be undertaken through the 'acting through' concept. Alternatively, where the decision allows for discretion on the part of the decision maker, then that function needs to be delegated for another person to have that authority.

8.8.3. Authorised Persons

Under legislation, Council or the CEO (with delegated authority) can 'appoint' persons or classes of persons to perform particular functions. These persons are generally termed 'authorised persons'. Legislation or local laws may specify that an authorised person can perform a particular function and those functions or duties are normally specified in the applicable provision.

An appointment is made, as the case requires, by either a formal resolution of the Council, or a written appointment by the CEO (with delegated authority or other employee with delegated authority), or as detailed in the specific legislation. Authorised persons are not necessarily employees with delegated authority.

Employees appointed as authorised persons are required to have a certificate of appointment or some other form of identification to confirm their appointment and to demonstrate their ability to perform that function.

8.9. Financial management

8.9.1. 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.

8.9.2. 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.

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

As part of the Integrated Planning Framework, the Shire develops and reviews (annually) its Long Term Financial Plan. The Long Term Financial Plan is consistent with the strategic initiatives in the Strategic Community 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 Long Term Financial 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.

8.9.3. Annual budget

One of the responsibilities of Council under the Act is to prepare, set and adopt the Shire's annual budget. 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.

8.10. Other management plans

There are a number of management plans utilised to inform decision making which are regularly reviewed to capture the current state of the Shire.

Some of the plans utilised by the Shire includes (this is not an exhaustive list):

- Disability Access and Inclusion Plan
- Information and Communication Technology Plan
- Recordkeeping Plan
- Reconciliation Action Plan

9. PRINCIPLE 4 - ACCOUNTABILITY

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

There should be active performance management systems 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.

9.1. Accountability

Excellence in governance is based on the principle that those who are involved in governance, both council 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 Council, council members and the Administration 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.

The standard of good governance at the Shire may be judged by reference to a number of independent outside authorities and to whom the Council is accountable.

Electors	The community will judge the performance of the Council and individual council members at each election.
State Government	The Director General of the Department of Local Government may undertake an Authorised Inquiry into local governments and aspects of their operations and affairs, usually in response to a specific matter. If the findings warrant this, the Minister may suspend a Council and order that further inquiry is initiated. The Minister may dismiss a Council for not providing good government and install a Commissioner until new elections can be held.
State Administrative Tribunal	Decisions made by a local government may be subject to review by the State Administrative Tribunal (SAT) for example where applicants are aggrieved by a decision that is covered by SAT jurisdiction (e.g. Development Applications). The SAT may hear complaints against individual Councillors when referred by the Director General of the Department of Local Government.
Ombudsman	The Ombudsman is an independent officer of Parliament with responsibility to investigate decisions, actions or inaction and the decision making practices of public authorities providing services to the public within the Ombudsman's jurisdiction including local governments.
Disabilities Services Commissioner	People with disabilities have the same right as other members of society to services and to participate in decisions affecting their lives. A complaint can be lodged under the <i>Disability Services Act 1993</i> about public service providers, including local governments.

<p>Equal Opportunity Commissioner and Tribunal</p>	<p>Most commonly thought of as relating to discrimination in the workplace, the Act also covers access to public places and provision of goods and services. The Commissioner has extensive powers to pursue a complaint. In addition the Tribunal has the power to award damages for compensation to a complainant if a complaint is substantiated.</p>
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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 Strategic Community Plan, Corporate Business Plan, Long Term Financial Plan and Annual Budget.

Managing and reporting the Shire’s performance is achieved in several ways:

Strategic reporting

Key performance indicators, derived from the Strategic Community Plan, help drive the Corporate Business Plan. The Shire’s Corporate Planning System captures all Corporate Business Plan projects.

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.

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 Strategic Community Plan.

The Annual Report is presented to electors of the Shire at the annual Electors’ Meeting.

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 performance evaluation of the CEO.

The CEO Performance Review Committee has been established to assist Council with the review of the CEO’s performance. It conducts the annual performance review as required by the Act.

Employee performance review

In accordance with the Act the performance of all employees must be reviewed at least once a 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 employees have performance indicators set during the first few months of employment to monitor progress against goals and objectives.

9.1.2. Compliance Audit Return

It is a requirement of the Act that the Shire conducts an annual audit of its compliance with statutory requirements and responsibilities placed on it under the Act.

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 completed return is 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.

9.1.3. 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 objective of the Audit and Risk Committee is to assist Council in providing a transparent and independent process in its audit, risk and governance management, to ensure accountability to the community in the governance and compliance framework and its financial and risk management responsibilities.

Reports from the Committee will assist Council in discharging its legislative responsibilities of controlling the Shire's affairs, determining the Shire's policies and overseeing the allocation of the Shire's finances and resources.

The Committee will ensure openness in the Shire's financial reporting and will liaise with the CEO to ensure the effective and efficient management of the Shire's financial accounting systems, risk management framework, and compliance with legislation.

9.1.4. Community Consultation and Engagement

In 2022 Council adopted an updated "Community Engagement Framework" 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. It articulates the Shire's commitment to building the capacity of council members, employees and the community to undertake and participate in engagement projects.

9.1.5. Customer Service Charter

The Shire has adopted a "Complaint Management Policy" which has an accompanying "Customer Service Charter" and "Customer Guide". These documents outlines the customer service standards the community can expect from the Shire.

9.1.6. Access to Information

Freedom of Information

Under section 5.94 of the Act any member of the public can access certain information held by the Shire. The Shire has published an Information Statement as required by the *Freedom of Information Act 1992* which outlines what documents may be obtained that are held by the Shire.

All council members and employees should be aware of the implications of the *Freedom of Information Act 1992* when creating internal or external documents.

As a general rule any written material generated by council members or employees may become public knowledge and may become the subject of a Freedom of Information request.

Requests for Property Owner Details

Members of the community can request details of another person who owns property in the Shire (generally requests for neighbour details). Details will not be provided for commercial purposes.

Only the name and postal address linked to the rates database will be provided. Mobile numbers and email addresses will not be provided. A completed "Application for Property Owner Details" form can be requested and submitted to the Shire. As a statutory declaration, an authorised witness must sign the form.