



## **Governance Framework 2024-2025**

# CONTENTS

Introduction .....	3
Local Government in Context .....	5
Role and Functions of Local Government.....	6
Council represents the community.....	7
Governance in the context of Local Government.....	7
The City’s Governance Framework.....	8
Pillar 1: Culture and Vision.....	9
A charter for the desired culture .....	9
A clear set of codes of conduct.....	10
Our Vision.....	12
Our Values.....	12
Integrated Strategic Planning and Reporting.....	13
Pillar 2: Roles and Relationships .....	14
Roles.....	14
Working relationships .....	19
Elected Member access to information.....	23
Pillar 3: Decision-Making and Management.....	24
Effective decision-making .....	24
Decision-making forums and processes .....	24
Decisions on land use planning and development .....	30
Declarations of interest.....	33
Protection from liability .....	37
Legislative framework.....	38
Business management .....	40
Financial management.....	41
Council Decision-Making Framework .....	43
Pillar 4: Accountability .....	44
Performance management and reporting .....	44
Audits and oversight .....	45
Community consultation and stakeholder engagement .....	46
References .....	49
Appendix 1: Glossary.....	50

## INTRODUCTION

The City of Bunbury Governance Framework provides the principles and mechanism within which the City is able to practice good governance in the provision of its services and facilities. This is enabled through a large suite of processes, systems, roles and corporate relationships by which the City is directed and controlled and by which decisions are made. The City is held to account to the broad range of people who have a stakeholder interest, including residents, commercial and retail business, staff, and local, national and international visitors. Good governance ensures that the City is able to manage its many complex responsibilities effectively and in the best interests of the community.

The purpose of this document is to provide transparency with regards to the major processes, systems, roles and relationships that are involved in governance at the City of Bunbury and to instil confidence in Council's leadership. The Framework also provides the community with an insight into the complexities of local government and the role of Councillors within this environment.

By following this Framework, the City will ensure that:

- *the organisation meets legal and ethical compliance;*
- *decisions are made in the interests of all stakeholders;*
- *the organisation behaves as a good corporate citizen should;*
- *clear guidelines are followed for the roles of the Council, Elected Members and the CEO;*
- *all responsibilities are properly allocated and performance expectations well-understood;*
- *best practices are followed in relation to 'board processes' (which are relevant to the elected Council);*
- *Council and the CEO deliver good governance;*
- *strategic planning is followed in accordance with the Integrated Strategic Planning and Reporting Framework;*
- *there is a point of reference for disputes; and*
- *new Elected Members and employees are aligned with the governance practices of the City.*

This Framework has been produced to set out the roles of Council, Elected Members, Administration and Employees, as well as their interrelationships, along with financial, legal and ethical considerations. The Framework is comprised of four key pillars, with a desired outcome for each as summarised below:

### **Pillar 1**

#### **CULTURE AND VISION**

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

### **Pillar 3:**

#### **DECISION-MAKING AND MANAGEMENT**

There are effective decision-making processes in place that reflect the transparency and accountability which underpin excellence in local government. There is robust and transparent financial management established and maintained to meet the City'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 is established and maintained. Decision-making and Effective delegations are implemented and maintained.

### **Pillar 2:**

#### **ROLES AND RELATIONSHIPS**

There is clarity about the roles within 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 Mayor, Councillors, Chief Executive Officer and Administration.

### **Pillar 4:**

#### **ACCOUNTABILITY**

The City must account for its activities and have systems that support accountability. An active performance management system is in place that enables elected members and management to be openly accountable for their performance. The City has internal structures that provide for independent review of processes and decision-making to assist the Council to meet its accountability to stakeholders. Consultation is undertaken to consider the position and opinion of all stakeholders, and feedback is provided to those who participated.

See the Glossary in Appendix 1 for definitions of words and terms used in this document.

## LOCAL GOVERNMENT IN CONTEXT

Local government in Western Australia is established under the *Local Government Act 1995* and is the third tier of government in Australia, having 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.

Through a cycle of regular elections, the Council is made up of Elected Members who are representatives of the local community. The principles of democracy require that these local representatives have the authority to make decisions on behalf of the whole of the community. Under the Act each local government throughout 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.

A local government consists of:

- *The Council which comprises the Mayor and Councillors (collectively known as the Elected Members)*
- *The Administration which consists of the CEO and employees.*

Elected Members are able to exercise decision-making authority as a member of Council after they have been 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 Council Committees where applicable*). The CEO can also on-delegate decision-making authority to other employees. Not all decisions made by the City require formal delegation.

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

- *advising the Council in relation to the functions of the local government*
- *implementing Council's 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 Mayor on the local government's affairs and its performance*
- *being responsible for the employment of the local government's employees. The City's directors are designated as senior employees for the purposes of section 5.37 of the Act. All City employees are accountable to the CEO.*



# ROLE AND FUNCTIONS OF LOCAL GOVERNMENT

The functions of local government include the following:

## Planning and monitoring achievement

The Act requires local governments to develop and adopt a 'plan for the future', which sets overall direction for the City through long-term planning. Strategic long term plans that are required include a 10 Year Strategic Community Plan, a 10 Year Long Term Financial Plan and a 4 Year Corporate Business Plan. The City's Integrated Strategic Planning and Reporting Framework is to provide the direction for the ongoing management and reporting of the City's activities.

## Lawmaking and enforcement

A local government makes decisions in areas over which it has legislative authority but cannot duplicate or contradict federal or state 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 facilities and infrastructure. Local laws are enforced by employees. A local government is also responsible for enforcing the local laws and other legislation under which it has authority.

## Administrative

The City has a range of responsibilities under state legislation and administers laws that affect a person's rights and interests. Decisions made by local governments must be based on relevant considerations and facts, be procedurally fair and follow the principles of natural justice.

## Policy development

A Council makes policy decisions on behalf of the community. 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 Council policy is a decision of Council and sets out agreed views and direction concerning a particular area of responsibility. Council policies provide the Administration with guidance on the implementation of its duties and processes.

## Representation

Council represents the views of the local government constituents on matters of concern to the community. Elected Members represent the interests of electors, ratepayers and residents of the district.

## Advocacy

Local governments have a role advocating on behalf of their community to other spheres 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 (section 2.7(2)(b)) provides a degree of autonomy to local governments to determine policies, in consultation with their communities, about the nature and level of services provided. A local government should ensure the delivery of quality services for which it has responsibility.

## COUNCIL REPRESENTS THE COMMUNITY

When used in relation to governance, the collective term community does not refer to one single entity. Within the City of Bunbury there are many different communities and subsets within them. These can be identified through factors such as neighbourhoods or people with interests in common, lifestyle, sport, business, educational institutions, developers, industry and such things as social values. Often such diverse communities do not share the same aspirations and goals as the needs and desires of people evolve and change. A challenge for the Council is to govern so that the different and sometimes competing interests of the community can be recognised and taken into account.

Community members are encouraged to make their views known and at the same time to understand the Council wish to hear from a wide variety of people. Because of this Elected Members are not 'delegates' in the sense that they must act on instructions from ratepayers because of the possibility of widely divergent views. Instead, Elected Members are representatives who are required to exercise their vote after debate according to their own judgment about an issue. In reaching that judgment they seriously weigh in the balance all the information available to them. This includes, but is not limited to, the views expressed by individuals or community groups.

## GOVERNANCE IN THE CONTEXT OF LOCAL GOVERNMENT

Good democratic governance exists when a government governs as a result of being elected by the community to act for and on behalf of this community as a whole. Good governance in local government requires that:

- Elected members act as representatives of the community and are held accountable to the community
- Elected members make decisions in the best interests of the residents of the City as a whole
- Policies and programs reflect the mandate a Council has been given by its electors
- Policy enactment arises from the Strategic Community Plan with appropriate performance management to assess the Council's progress
- The community participates in governance
- The Mayor and Councillors provide leadership to the community and reflect the community's collective aspirations
- A management structure is established that implements the Council's goals in accordance its priorities and approved budget
- Services are provided which meet the community's needs (*sometimes in partnership with other levels of government, business or community organisations*)
- Co-operation exists between local governments.

Governance encompasses authority, accountability, stewardship, leadership, ethics and culture, and is the process by which:

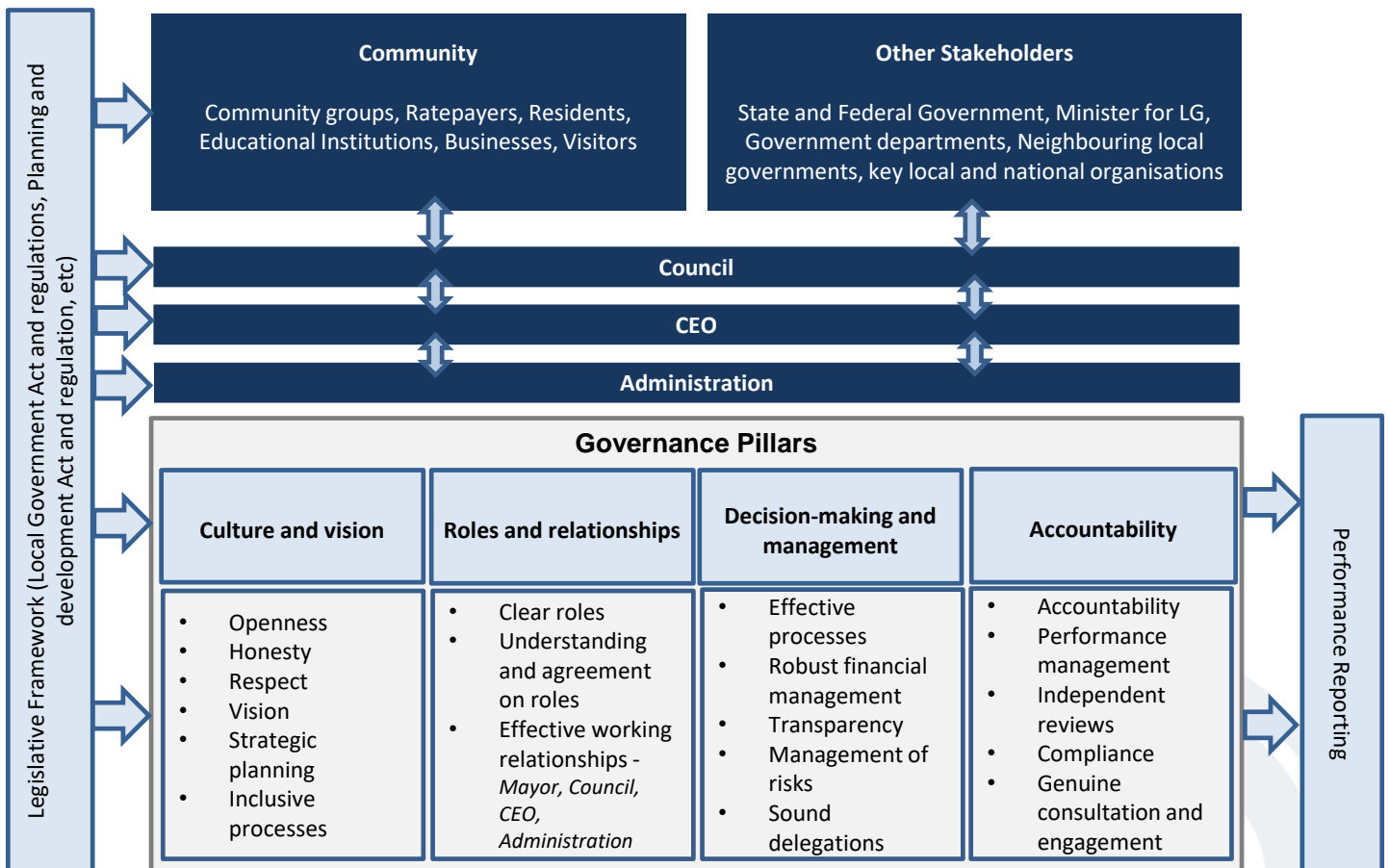
- *decisions are taken and implemented*
- *organisations go about achieving their goals and producing their outputs and*
- *organisations are directed, controlled and held to account.*

Good governance needs to be practised internally, within the local government, as well as externally, between the local government, the community and other spheres of government.



## THE CITY'S GOVERNANCE FRAMEWORK

The Governance structure that is entrenched throughout the City, considers the key influencers within the context of the four pillars.





# PILLAR 1: CULTURE AND VISION

A charter for the desired culture

A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues. It is also more likely that the organisation will retain high calibre employees who want to work and participate in the activities of the City. The Charter below commits the Elected Members and the Leadership Team to a set of practices on how to achieve the desired culture.

## **Frankness, honesty and questioning**

Elected Members are to debate issues openly and honestly. Employees are to provide frank and timely advice to the CEO and Executive Leadership Team. The CEO and Executive Leadership Team provide sound and frank advice to Council and Elected Members.

## **Ethical Behaviour**

Elected Members and staff will behave in a way that generates community trust and confidence in them as individuals and enhances the role and image of both the Council and Local Government generally. Elected Members and staff are expected to own and adhere to the principles contained in their respective Codes of Conduct.

## **Innovation**

The City is to continuously consider new and better ways of going about its business in the achievement of its goals. Innovation will be assessed and implemented critically by using appropriate risk management, project management and other sound approaches.

## **Effective management structures and practices**

The organisation is to have a management structure that meets its goals and needs and the structure is characterised by efficient and effective use of human resources and clear accountability. Management practices reinforce accountability and outcomes and incorporate the nurturing of people's capacities to do their jobs.

## **Communication**

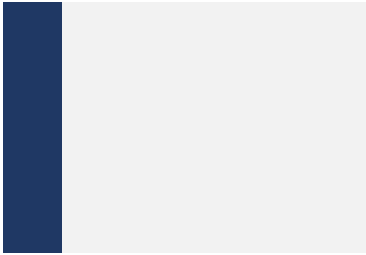
The City is to have effective communications policies and practices, internally and externally and will be open to, and encourage, feedback from all stakeholders. In addition, the City has an adopted Communication and Engagement Strategy which details mechanisms by which community engagement is undertaken and reviewed.

## **Fraud, misconduct and corruption**

Elected Members, Committee Members and employees are to act in accordance with their respective 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 City.

## **Confidentiality**

Confidential information, or information that is deemed confidential by the CEO must not be disclosed, unless authorised



by law. The Act, Regulations and the codes of conduct detail how general information and confidential information is to be treated, accessed and used by Elected Members and employees. Elected 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 City.



The nature of the City’s business may result in conflicts of interests arising between an individual’s personal interests and the performance of their public or professional duties. Conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like. Elected Members, committee members and employees are to comply with the requirements for disclosure of interests as prescribed in the Act, the City’s Standing Orders Local Law 2019 and their respective codes of conduct.



The City’s Code of Conduct for Employees and the Act contain provisions in respect of Elected Members, employees and committee members seeking and/or accepting certain types of gifts and gifts of a certain value while performing in their respective roles. Both the Code of Conduct for Employees and the Act detail the disclosure requirements for gifts accepted in a full and transparent manner. All disclosures must be made to the CEO (or if the disclosure is from the CEO to the Mayor) in a prompt and comprehensive manner via Attain. The gift registers are made available for public inspection and in some cases are available for viewing on the City’s website.

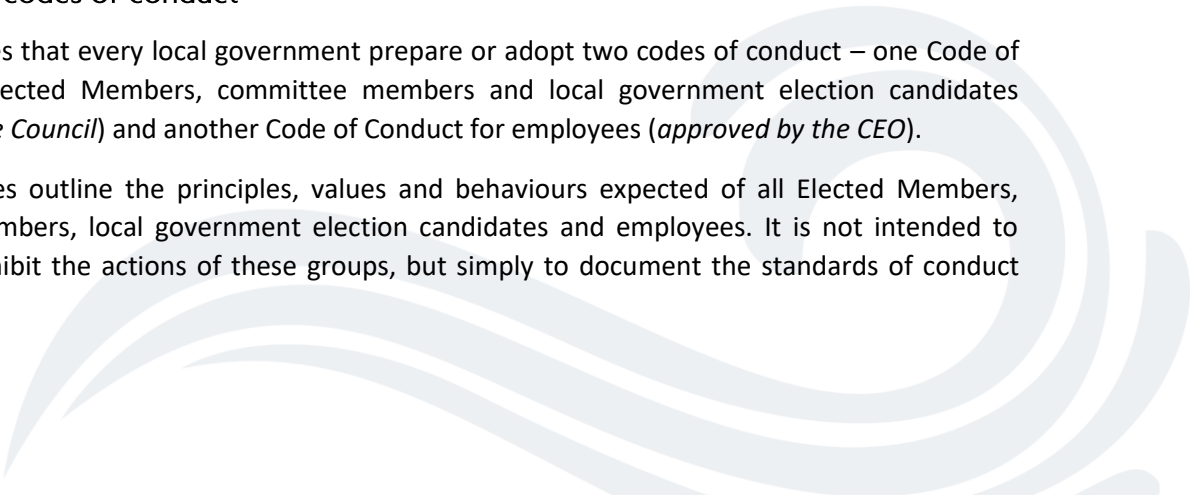


The City invests in training both for Elected Members and employees to assist in the development of skills required to fulfil their roles properly. In their first twelve month’s from being elected, Elected Members are required to undertake mandatory training around a number of core competencies important for an Elected Member to understand and to help them fulfil their role in public Office. In accordance with the Act and Council Policy Professional Development of Elected Members Policy, ongoing professional development for Elected Members is also provided.

**A clear set of codes of conduct**

The Act requires that every local government prepare or adopt two codes of conduct – one Code of Conduct for Elected Members, committee members and local government election candidates (*adopted by the Council*) and another Code of Conduct for employees (*approved by the CEO*).

The City’s codes outline the principles, values and behaviours expected of all Elected Members, committee members, local government election candidates and employees. It is not intended to control or prohibit the actions of these groups, but simply to document the standards of conduct



expected of all who either serve the community, or intend to serve the community when they stand as a candidate in the City's biennial local government elections.

In general terms, the community is entitled to expect that the following general principles to guide the behaviours of Elected Members, committee members and employees:

- *Act with reasonable care and diligence*
- *Act with honesty and integrity*
- *Act lawfully and in good faith*
- *Identify and appropriately manage conflicts of interest*
- *Treat others with respect and fairness*
- *Avoid damage to the reputation of the City*
- *Not be impaired by mind affecting substances such as drugs and alcohol*

The Code of Conduct for Council Members, Committee Members and Candidates 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 City in accordance with the Code and the City's Complaints Investigation Policy)
- provisions specified to be rules of conduct (which if breached are investigated by the Department of Local Government, Sport and Cultural Industries' Local Government Standards Panel)

The Code of Conduct for Employees is based on the *Local Government (Administration) Regulations 1996* and includes:

- the performance of an employee's duties
- dealings with other employees and the broader community
- the use and disclosure of information
- the use of City resources and 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.




## Our Vision

Our Vision is to be “welcoming and full of opportunities”. Bunbury is an accessible and inclusive City, where all people are valued equally.

Bunbury is a beautiful place to live, work and visit and has something for everyone. The quality of life is one of its biggest attractions offering residents a variety of amenities, schools, shops, beaches and nightlife, all within easy reach. It has everything a family needs including public and private schools, tertiary education, and a range of health services, not to mention an extensive and diverse events calendar. The City of Bunbury will continue to grow, develop and improve thanks to these qualities and the massive potential for investment and growth in our region

## Our Values

Our values guide our attitudes and behaviour in everything we do to serve our community:

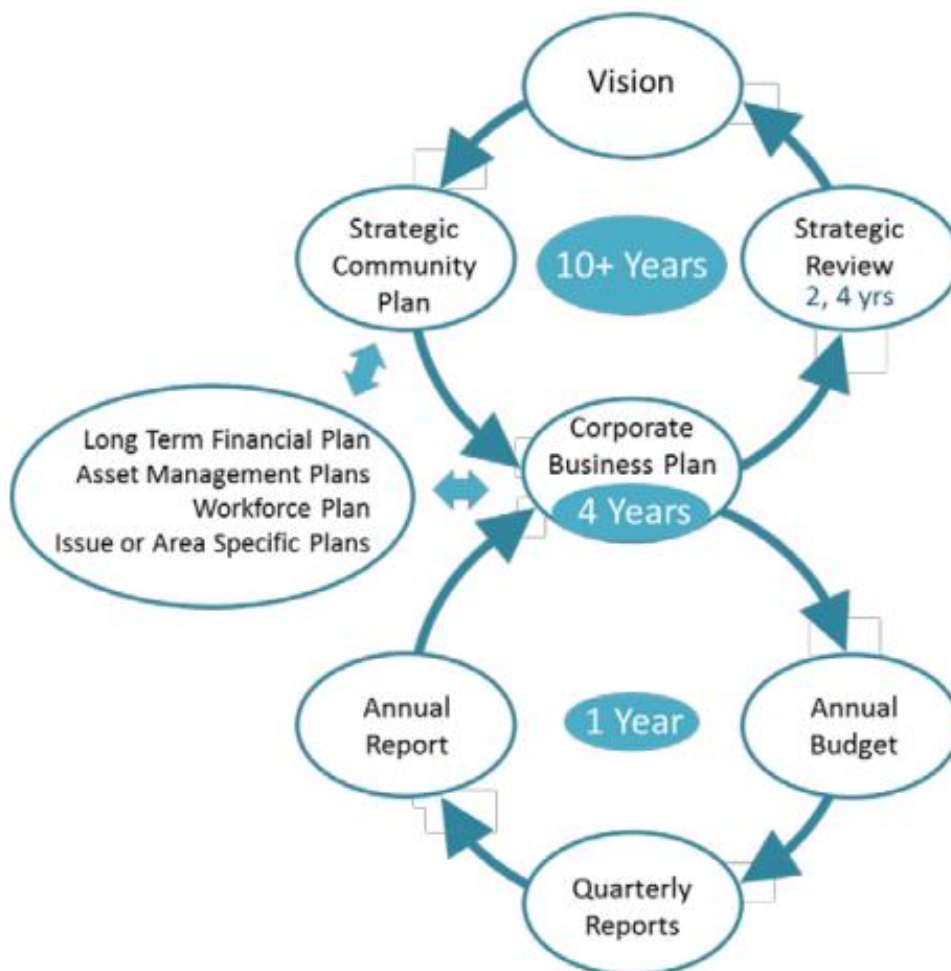
		
<b>We are Community</b>	<b>We are Open</b>	<b>We are Brave</b>
<b>C</b>	<b>O</b>	<b>B</b>
<ul style="list-style-type: none"><li>We are one team</li><li>We keep each other safe</li><li>We display empathy and respect</li><li>We have fun and celebrate our successes</li><li>We work together to achieve great outcomes</li></ul>	<ul style="list-style-type: none"><li>We are open to opportunities</li><li>We actively listen and think things through</li><li>We are inclusive and treat everyone equally</li><li>We are honest and open in our communications</li><li>We are open to feedback to improve our performance</li></ul>	<ul style="list-style-type: none"><li>We lead the change, we own it</li><li>We trust and empower each other</li><li>We have the difficult conversations early</li><li>We hold ourselves to the highest standard</li><li>We have the courage to improve and simplify</li></ul>

## Integrated Strategic Planning and Reporting

Section 5.56 of the *Local Government Act 1995* requires all local governments to plan for the future and Division 3 of the *Local Government (Administration) Regulations 1996* requires each local government to have a Strategic Community Plan (SCP) and a Corporate Business Plan (CBP)

A strategic community plan sets out the vision, aspirations and objectives of the community (10 years). A corporate business plan is to set out a local government's priorities for achieving the objectives and aspirations of the community (4 years) as they have been captured in the Strategic Community Plan.

The City's approach to the Integrated Strategic Planning and Reporting Framework (ISPRF) is cyclical and begins with the community vision and aspirations. The short and medium term priorities are implemented through the Corporate Business Plan, with Asset Management Plans guiding capital works commitments. All plans are mutually informing and informed by resource constraints as modelled in the City's Workforce and Long Term Financial Plans.



## PILLAR 2: ROLES AND RELATIONSHIPS

### Roles

All local governments have two distinct parts – the Council which is the governing body that makes all high level decisions and a separate Administration staffed by employees that run the day to day services and provide executive support. Employees deliver a range of services as decided on by the Council as a whole and implement the decisions of the Council. Employee work performance is the responsibility of the Chief Executive Officer.

An understanding and acceptance of the different roles of Mayor, Councillors and employees, with cooperation between all parties, underpins good governance at the City. The relationship between Elected Members and the CEO must respect the diversity of opinion and the rights of all points of view to be heard with courtesy and respect.

The Mayor has a general leadership role for Council and is the City's civic leader. The Act recognises the role of the Mayor, as the spokesperson for the City, to carry out civic and ceremonial functions of the mayoral office, and to preside at meetings of Council. The City places great importance on the role of the Mayor as the Presiding Member of Council to ensure that all Councillors are a part of the decision-making process and are well and equally informed. The Mayor must also facilitate good relationships between the Councillors and the organisation and help to create an environment where good communication, systems and processes can thrive. The Mayor and Chief Executive Officer meet to keep each other informed about what is happening and to liaise about the City's business affairs.

Elected Members are not empowered to become directly involved in the Administration of the organisation, but as a whole the Council is able to influence and guide the way the Administration goes about its work. This is done through mechanisms such as the adoption of policies, strategies, master plans and long term financial planning. The Council receives reports on the performance of the Administration and financial reports on a regular basis so that the Council is in a position to monitor performance. The Elected Members are expected to:

- *be representative of the entire community at the Council level*
- *facilitate communication between Council and the community*
- *debate the issues in an open, honest and informed manner*
- *assist the decision-making process to keep the entire community in mind when considering and addressing issues and focus on the 'big picture'*
- *educate and involve the community in all local government activities and processes*
- *work together, cooperate and respect diversity*
- *provide model leadership.*

The Chief Executive Officer is the leader of the Administration. The Act recognises the CEO's role in managing the organisation to achieve the goals and strategies endorsed by Council, and the CEO is expected to fulfil these duties in a way that promotes an organisational culture of openness, accountability, fairness and good communication. Through a contract arrangement, the Council engages the Chief Executive Officer and adopts key performance indicators whereby the Council can monitor and assess the performance of this position. The Chief Executive Officer is empowered to employ and manage all the other staff. This power extends to deciding on the levels and conditions of employment of staff which must fall within budget constraints that are set by the Council.



The City's Standing Orders Local Law provides the framework within which meetings are to be conducted.

### *Role and responsibilities of Council*

The Council is charged with environmental protection, social advancement and economic prosperity. It must weigh issues carefully to achieve a balance between sometimes competing interests. This requires leadership of a high order since there may be divergent views in the community and also amongst Councillors. Ultimately the job of the Council, either unanimously or through a majority vote, is to make decisions that it believes are in the community interest. In accordance with section 2.7 of the Act, Council is charged with a number of key responsibilities, as summarised below:

#### **Governs the City's affairs**

This role encompasses strategic planning activities to ensure the continued sustainability of the City, the setting of strategic objectives for the City and the monitoring of the City's performance against these strategic objectives.

#### **Is responsible for the performance of the City's functions**

This role determines that Council has ultimate responsibility for the performance of the City's functions. Council can exercise this responsibility through the development of appropriate mechanisms including delegations of authority, the provision of services and facilities, and regular reporting against strategic objectives. Council also undertakes the annual performance review of the CEO.

#### **Oversees the allocation of the City's finances and resources**

The Council exercises this role by overseeing and adopting an Annual Budget and the City's Long Term Financial Plan. Council is advised by the CEO who is also responsible for the development of appropriate financial controls, management protocols and practices.

#### **Determines the City's policies and local laws**

The role of Council in setting policy is most effective when it is linked with a professional organisation that implements these policies through the development of appropriate management practices and work processes. The policies of Council provide the direction for the ongoing management of the City's activities.

## Role and Responsibilities of the Mayor

The Mayor is a key civic leader of the community and in the pursuit of good governance, from an internal and external perspective, the Mayor performs an important function. The Mayor is elected to represent the views and directions of Council in the performance of the role.

Section 2.8(1) of the Act defines the role of the Mayor as follows:

- *Presides at meetings in accordance with the Act.*
- *Provides leadership and guidance to the community in the district.*
- *Carries out civic and ceremonial duties on behalf of the local government.*
- *Speaks on behalf of the local government.*
- *Performs such other functions as are given to the Mayor or President by the Act or other written law.*
- *Liaises with the CEO on the local government's affairs and the performance of its functions.*

The Mayor also has the following role, which is similar to Councillors as outlined in section 2.10 of the Act:

- *Represents the interests of electors, ratepayers and residents.*
- *Provides leadership and guidance to the community.*
- *Facilitates communication between the community and the Council.*
- *Participates in the local government's decision-making processes at Council and Committee meetings.*
- *Performs such other functions as are given to a councillor by the Act or any other written law.*



The Mayor should be seen to support good governance by modelling good behaviour and ethics in fulfilling their leadership role.

*Section 2.8(1)(d) of the Act provides that the Mayor speaks on behalf of the City. The position of Mayor is pre-eminent and when they speak they are considered by the community to be articulating the Council's views. The Mayor must put aside any individual views and clearly outline the views of a Council decision in an all-inclusive way. Where the Mayor desires to speak contrary to the position of Council, he or she should clearly preface their comments that they are expressing an individual opinion and not on the Council's behalf.*

The Mayor's role of presiding at meetings of the Council is to achieve a balance of opinion and outcomes that demonstrates leadership by Council in the community.

*The Mayor is to have a good understanding of meeting procedures and the requirements relating to the conduct of meetings. This will enable impartial interpretations and ensure the smooth flow of the meeting's business. The Mayor represents the City at many civic and ceremonial functions and should be familiar with etiquette and protocol arrangements. Any speeches made on these occasions should not be used to present a point of view contrary to a decision of Council.*

### *Role and Responsibilities of the Deputy Mayor*

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

### *Roles and Responsibilities of Elected Members*

Elected Members have a fiduciary relationship with the City, meaning that they have a duty to act with fidelity, trust and in the interests of the City and the overall community – not for themselves or other third parties.

An individual Elected Member, unless delegated as part of a Committee arrangement, has no authority to make decisions or to participate in the day-to-day management or operations of the City. This includes making any form of representation on behalf of the Council or the City, unless they are specifically authorised by Council to do so. The Code of Conduct for Elected Members, Committee Members and Candidates also prevents Elected Members from undertaking tasks that contribute to the administration. Elected Members have no direct authority over employees with respect to the way in which they perform their duties.

Section 2.10 of the Act outlines the role of a Councillor is as follows:

- *Represents the interests of electors, ratepayers and residents of the district.*
- *Provides leadership and guidance to the community in the district.*
- *Facilitates communication between the community and the Council.*
- *Participates in the local government's decision-making processes at Council and Committee meetings, and*
- *Performs such other functions as are given to a Councillor by the Act or any other written law.*

The Council and Elected Members have a number of roles to undertake, and need to do this with the support of the CEO. One of the challenges for good governance from an Elected Member viewpoint is to be provided with the opportunity to raise specific issues so as to get a fair hearing. These issues have often been the platform on which a Councillor was elected. The Mayor, Elected Members and the CEO all have an important role to play in this process.

### *Roles and Responsibilities of the Chief Executive Officer (CEO)*

In summary the CEO is responsible for:

- *putting in place appropriate systems to achieve accountability and integrity*
- *implementing and maintaining a management structure which can achieve Council's vision and the Strategic Community Plan objectives*
- *managing relationships between the various elements in the City*
- *ensuring that the City is staffed by suitably qualified and motivated employees and that policies are in place that promote this*
- *ensuring that employees understand the organisation is working for a democratically elected Council and that Council decisions form the basis for the organisation's activities.*

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

- *Advise the Council in relation to the functions of a local government under the Act and other written laws.*

- *Ensure that the advice and information is available to the Council so that informed decisions can be made.*
- *Cause Council decisions to be implemented.*
- *Manage day to day operations of the local government.*
- *Liaise with the mayor or president on the local government's affairs and the performance of the local government's functions*
- *Speak on behalf of the local government if the Mayor or President agrees.*
- *Be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees).*
- *Ensure that records and documents of the local government are properly kept for the purposes of the Act and any other written law.*
- *Perform any other function specified or delegated by the local government or imposed under the Act or any other written law as a function to be performed by the CEO.*

The CEO has a statutory responsibility to manage the organisation through the implementation of goals and strategies that have been approved by Council. A significant role of the CEO in promoting good governance is through the development of a culture that sees the Council as the peak decision-making body and that the organisation exists to support Council in the delivery of good governance.

While Council has overall accountability, the CEO has critical responsibilities for managing the organisation soundly from a financial perspective and reporting the results and performance to Council.

In accordance with Regulation 17 of the *Local Government (Audit) Regulations 1996* the City is to review the appropriateness and effectiveness of the local governments systems and procedures (and report) in relation to Risk Management, Internal Control and Legislative Compliance.

The Act (Section 5.42) enables Council to delegate in writing to the CEO, the capacity to exercise any of its powers or duties, with the following exceptions (as per Section 5.43 of the Act):

- *Actions in which a decision of an absolute majority of the Council.*
- *Acceptance of a tender, which exceeds an amount as determined by the Council.*
- *Appointment of an auditor.*
- *Acquisition or disposal of any property valued at an amount exceeding an amount determined by the Council.*
- *Any of the Council's powers under Sections 5.98, 5.98A, 5.99 or 5.100 (determining fees, allowances and expenses of members and Committee members).*
- *Borrowing money on behalf of the City.*
- *Hearing or determining an objection of a kind referred to in Section 9.5.*
- *Authorising a person to sign documents on behalf of the City.*
- *Carrying out any power or duty that requires the approval of the Minister or the Governor.*
- *Such other powers or duties as may be prescribed.*

The roles between the Council (governing the affairs of the local government) and the CEO (managing day-to-day operations) can sometimes be blurred if careful attention is not given to the separation of the roles. The image below illustrates the separation of these roles.

## Council

- Sets direction and strategy
- Responsible for the performance of the local government's functions
- Decides on matters of policy
- Ensures that services and facilities are integrated with and do not unnecessarily duplicate other public services
- Oversees the allocation of the City's finances and resources
- Monitors the performance through the CEO to ensure efficiency and effectiveness in service provision
- Mayor liaises with the CEO and presides at Council Meetings

## CEO

- Provides professional and technical advice to the Council
- Implements the decisions of Council
- Liaises with the Mayor
- Manages the day-to-day operations
- Responsible for the employment and management of employees
- Prepares reports to Council and makes recommendations based on expert advice
- Establishes and maintains financial management systems that consider risk management, internal control and legislative compliance

### *Role and responsibilities of employees*

Good governance requires all employees to think carefully about their decisions and actions, to be interested and to be active participants in the City's management and outcomes. Every employee, while on duty, is to ensure their work is carried out efficiently and effectively, so the standard of work reflects favourably on them and the City. In carrying out their duties, employees achieve good governance when:

- *they reflect the positive values and standards of behaviour the City expects*
- *their duties are performed and conducted in a professional way*
- *information is managed and maintained appropriately and records are kept of their duties, decisions and work related activities*
- *resources of the City, including information, is used efficiently and effectively; not misused; and waste is to be minimised*
- *conflicts of interest are identified and reported including disclosure of gifts and benefits obtained from certain parties.*

### Working relationships

The Code of Conduct is a public declaration of the principles of good conduct and standards of behaviour that the Council agrees individual Elected Members, the Mayor, CEO and staff should conform to when carrying out their role. It also provides guidance to Elected Members about carrying out their duties and responsibilities.

The City's Code of Conduct Complaint Handling Policy has been adopted as a mechanism to deal with complaints. Complaints will be managed observing the requirements detailed in the *Local Government Act 1995 (s5.103 – Codes of Conduct and Local Government (Administration) Regulations 1996 (Regs 34b and 334C)*

The sections below summarise some of the requirements of key relationship dynamics that need to be taken into account.

#### *Working relationships between the Mayor and Elected Members*

The relationship between the Mayor and Councillors is to consider some key considerations:

- *The Mayor is the Presiding Member of Council and this role should be respected by all Councillors.*
- *The Mayor should facilitate an inclusive approach to decision-making and involvement in Council activities in general.*
- *The Mayor should assist Councillors to get their issues considered by Council.*
- *The Mayor should take some responsibility for Elected Member training and development and should work with the CEO to ensure that Councillors receive necessary training opportunities.*
- *The Mayor is a source of assistance for Councillors and also has the responsibility for facilitating resolution of any disputes between Councillors.*

The Mayor as the Presiding Member of Council plays an integral and influential role both within meetings and outside of the formal process, by facilitating and encouraging all points of view to be expressed and respected. This will enable Councillors, who may not have their point of view supported by the majority, be satisfied that they have been given a fair hearing and the process is transparent.

*Through carefully considered facilitation, the Mayor can manage conflict and differing opinions in a constructive manner in order for it to work in the broader interest of the City as a whole, rather than be a source of division. By advising, supporting and facilitating negotiations, the Mayor can assist the Councillors to meet their accountabilities to their communities. This advisory and support role of the Mayor for other Councillors can possibly be seen as the single most important contribution to good governance a Mayor can make. It requires great skill and experience and as such, is critical to the overall operation of Council.*

#### *Working relationship between the Mayor and the CEO*

The Mayor 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 regarding the City's affairs and the performance of the City's functions. Such liaison between the Mayor 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 City. While this right rests with the Mayor there are occasions when it is considered prudent and more applicable for this function to be undertaken by the CEO.



The Act does not detail how the liaison between the Mayor and CEO is to occur, but it 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 overall essential principles that should be followed are the ability to effectively communicate and to have a large degree of trust in each other as well as respecting each other's opinion and role. Furthermore, role clarity and communication should be actively pursued by both parties. The essential considerations in order to achieve this are summarised below:

- *The Mayor and the CEO need to work closely together and put energy into achieving a good working relationship*
- *Both parties are in a position to brief and inform the other about information each is privy to and which would assist the other in performing their role. Deciding on what information is important and what should be passed onto each other must be negotiated and understood.*
- *Regular meetings – over and above those scheduled to discuss specific issues or problems – are necessary to enhance planning and communication.*
- *The 'no surprises' principle should apply. The Mayor and CEO should brief one another so that neither is caught off guard within other forums.*
- *The Mayor and the CEO need to understand and respect one another's role. A clear understanding of their different roles is absolutely crucial and should be a subject of ongoing discussion.*
- *The need for the relationship between the Mayor and the CEO should aim to facilitate involvement and inclusion among the Elected Members and the organisation. It does not seek to concentrate power in the relationship.*
- *There is a differential of power, which should be acknowledged. While the Mayor has status and leadership capacity, the position has no direct authority in its own right. On the other hand, the CEO has direct authority through the Act. Elected Members cannot just 'fix' problems that come to their attention, while the CEO has this capacity.*

#### *Working relationships among Elected Members*

Elected Members are members of a team, elected by their constituents to work collectively in the interests of the whole community. Good governance is dependent on a mature and constructive working relationship between Elected Members. Elected Members should behave towards each other and towards others in a manner that generates community trust and confidence in them as individual Elected Members and that enhances the role and image of both the Council and the City. Elected Members are expected to conduct their ongoing relationship with other Elected Members, employees and the community with respect and courtesy. At Council and committee meetings, Elected Members should model good constructive relationships and show personal respect for one another.

They are also expected to undertake their role with reasonable care and diligence, to act within the law and within good faith at all times and to act in a reasonable, just and non-discriminatory manner.

All Elected Members have issues of particular concern and interest to them. Elected Members need to work together to achieve satisfactory outcomes, acknowledging that while they may not agree on all issues, they are all doing important and often difficult work. There is not the requirement to agree with every Elected Members' opinion, but there is the need to respect those opinions and allow other members to be free to express their point of view. How conflict is addressed by both the Elected members and the Mayor has implications for good governance.

Effective relationships between Elected Members assist in achieving a successful Council, a pleasant working environment and a Council with public credibility. Features of an effective relationship include the following:

- *While they may have different views, Elected Members should treat each other with respect and courtesy.*
- *Disagreements, if they must be aired, should be expressed in ways that are not personal attacks, and do not cause detriment to individual Elected Members or the Council as a whole.*
- *Elected Members should not undermine each other, either within the local government or in the public domain.*
- *Elected Members must have effective working relationships in order to succeed individually and collectively.*

#### *Working relationships between Elected Members and the CEO*

Elected 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 requests and queries to the relevant area for advice, and responsive services and processes all assist in furthering good governance. The role of the CEO is to implement Council's goals, strategies and manage the City's services as well as advise and support Council.

The CEO and Elected Members are likely to be in regular contact about issues, concerns and information. As with the Mayor/CEO relationship, 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 a good relationship between Elected Members and the CEO which include:

- *goodwill*
- *a clear understanding of each other's roles*
- *good communication*
- *agreed structures and protocols*
- *an appreciation of legislative requirements*
- *clear delegation of authority*
- *appropriate channels for information, discussion and consultation.*

#### *Relationships between Elected Members and employees*

Individual Elected Members must not seek to foster special relationships with employees for the sole purpose of seeking information that may not otherwise be available to all Elected Members. Key issues to consider in respect of this relationship include the following:

- *Elected Members need to understand that accountable advice needs to go through an organisational process. Advice must be sought from the CEO or Directors.*
- *Elected Members should not seek advice from other employees as the employee may have a particular interest or point of view in respect of the issue, but may not be in command of the full facts.*
- *Employees are accountable to the CEO. They are not accountable to Elected Members and are not required to take direction from them.*

The provisions within the Code of Conduct and *Local Government (Model Code of Conduct) Regulations 2021* specifically addresses this relationship as follows:

*20. Relationship with local government employees*

*(1) In this clause – local government employee means a person - (a) employed by the local government under section 5.36(1) of the Act; or (b) engaged by the local government under a contract for services.*

*(2) A council member or candidate must not - (a) direct or attempt to direct a local government employee to do or not to do anything in their capacity as a local government employee; or (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee in their capacity as a local government employee; or (c) act in an abusive or threatening manner towards a local government employee.*

*(3) Subclause (2)(a) does not apply to anything that a council member does as part of the deliberations at a Council or Committee meeting.*

*(4) If a council member or candidate, in their capacity as a council member or candidate, is attending a Council or Committee meeting or other organised event (for example, a briefing or workshop), the council member or candidate must not orally, in writing or by any other means - (a) make a statement that a local government employee is incompetent or dishonest; or (b) use an offensive or objectionable expression when referring to a local government employee.*

*(5) Subclause (4)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.*

## Elected Member access to information

Section 5.92 of the Act provides that an Elected Member can have access to any information held by the City that is relevant to the performance of their functions under the Act or any other written law. This provision does not give an Elected Member an automatic right to have access to all records held by the City as any information must be relevant to the performance of an Elected Member's role, as defined by the Act. In this respect requests for information held by the City are to be referred to the CEO who is to determine if the information is to be released, on the basis that he or she is satisfied that the requested information is relevant to the Elected Members' role and functions. Notwithstanding, section 5.96 of the Act provides that if any person can inspect certain information then Elected Members may also request a copy of that information. An Elected Member is also entitled to be given access to records that are accessible to other persons under the *Freedom of Information Act 1992*.

## PILLAR 3: DECISION-MAKING AND MANAGEMENT

### Effective decision-making

Decision-making is the most important activity undertaken by the City, both by Council and by employees. Effective decision-making processes increases the likelihood that good governance prevails and that the decisions themselves will be in the best interests of the entire community. The Council can only make decisions by resolution, that is, a motion being considered at a properly convened meeting and passed by the required majority vote.

Many of the decisions made by the City (including Council and employees) are subject to administrative law, and therefore subject to challenge or appeal. The principles of administrative law are to act in good faith, to take into account only relevant considerations, to act reasonably and to provide procedural fairness.

An important role of the CEO is to ensure that Council receives quality and timely advice and relevant information to enable informed and effective decisions to be made. At meetings, this includes ensuring that all reports presented include the necessary background information and detail, options, financial or legal impacts and any associated risks. Council decisions need to have clarity and that clarity arises from the recommendations in reports from the CEO. The decisions made at meetings provide the direction and authority for the ongoing operation of the City and give direction to the CEO to act.

All Councillors have equal rights to vote and responsibilities to spend time making sure they are well informed about issues (due diligence). This involves reading and researching and listening to and analysing different viewpoints. Decisions are made based on a majority of votes. If there is an equality of votes then the Mayor has a casting vote to break the deadlock.

### Decision-making forums and processes

#### *Council meeting structure*

**Ordinary Council Meetings (OCM)** are the principal forum in which decisions are made by the Council, the peak decision making body of the City of Bunbury. Council meetings are formal meetings of Council as defined under the Act and are required to be open to the public, although under certain conditions, meetings can be closed when Council considers certain items of business as prescribed by the Act. In order to promote transparency and accountability required for good governance, the closure of meetings should be applied as infrequently as possible.

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, adherence to meeting procedures and adherence to statutory requirements. There should also be a strong commitment to Council meetings being open to the public so that the community are fully informed and, where appropriate, involved in the decisions and affairs of Council.

Meetings are conducted on a three-weekly cycle on Tuesday's, commencing at 5.30pm and held in the City of Bunbury Council Chambers. Agendas for the meetings are distributed to Elected Members on the Thursday afternoon immediately preceding the meeting. Conduct at ordinary Council meetings must comply with the City of Bunbury *Standing Orders Local Law* and minutes will be recorded in

accordance with the provisions of Section 5.22 of the *Local Government Act 1995*. Elected Members, the CEO and Directors attend all Council meetings.

**Council Committees.** To assist with its decision-making responsibilities, Council is able to establish committees from time to time. The work of committees is significant in local government due to the wide range of activities and functions of Council. Committees of Council are established under section 5.8 of the Act and operate in a formal and structured manner as an extension of Council, subject to the requirements of the Act and the City's Standing Orders. Committees provide reports and make recommendations to Council on matters where Council does not have time to dedicate to an important area or where specialist expertise or extended debate is required.

Council currently operates eight formal Committees to assist Council with its decision-making (see table below). Each committee operates within set terms of reference which are formally reviewed by Council each electoral cycle (every 2 years). None of Council's committees have any delegated authority to make decisions, meaning that these committees consider Officer reports and then make recommendations to full Council for consideration.

	Purpose	Membership and Relevant Officers	Meeting Frequency
<b>Audit Committee</b>	To accept responsibility for the annual external audit and liaise with the local government's auditor so that Council can be satisfied with the performance of the local government in managing its financial affairs.	Membership: Currently 4 Elected members and 2 external members appointed by the Council.  Officers: CEO, Director Strategy and Organisational Performance, Manager Finance, Manager Governance	As required, minimum of three (3) meetings per calendar year
<b>Bunbury Event Advisory Committee</b>	This committee aims to attract, support and promote events that deliver community and economic benefit and add vibrancy to Greater Bunbury.	Membership: Currently 3 Elected Members and 5 external members appointed by the Council.  Officers: Manager Community Connections, Team Leader Community Partnership, Team Leader Public Relations and Senior Events Officer	Quarterly
<b>CEO Performance Review Panel</b>	This committee undertakes the annual performance and salary review for the CEO and reports to Council.	Membership: 5 Elected Members  Officers: CEO	As required
<b>Disability Access and Inclusion Committee</b>	This committee advises Council on matters of access and monitors implementation of the <i>Disability Access and Inclusion Plan</i> for City of Bunbury	Membership: 3 Elected Members and 4 external members appointed by the Council.	As required

	buildings, facilities, services and information.	Officers: CEO, Director Sustainable Communities, Senior Community Partnership Officer	
<b>Heritage Advisory Committee</b>	To provide for information exchange between Council and the general community on heritage matters.	Membership: 3 Elected Members and 7 external members appointed by the Council.  Officers: Director Sustainable Communities, Strategic Planning Officer (Heritage)	Every 2 months
<b>International Relations Committee</b>	To provide advice and support in the ongoing development of relationships and strategic opportunities with Setagaya, Japan, Jiaxing, China and Nha Trang, Vietnam.	Membership: 2 Elected Members and 9 external members appointed by the Council.  Officers: Director Sustainable Communities, Team Leader Community Partnerships, International Relations Officer	As required
<b>Policy Review and Development Committee</b>	To review all existing Bunbury City Council policies, and facilitate the development of new policies for consideration by Council on an ongoing basis.	Membership: 5 Elected Members  Officers: CEO, Director Strategy and Organisational Performance, Manager Governance	Every 2 months
<b>Youth Advisory Council</b>	To provide guidance to the Council on issues affecting the youth of the Bunbury Region, and to assist and be actively involved in youth driven initiatives.	Membership: 2 Elected Members and 8 external members (youth) appointed by the Council.  Officers: Director Sustainable Communities, Community Development Officer (Youth)	Quarterly

The Terms of Reference for each of these Committees can be seen in the Council Committee Book.



**Assessment Panels** are established by Council under the terms of the respective Council policies under which they fall. The Council has the following Assessment Panels:

	<b>Purpose</b>	<b>Membership and Relevant Officers</b>	<b>Meeting Frequency</b>
<b>Community Funding Panel</b>	The Community Funding Panel assesses applications received under the City's annual Community Grant Funding Program (Grant Funding Program Council Policy).	Membership: 3 Elected Members  Officers: Director Sustainable Communities	As Required
<b>Arts Development Grant Funding Panel</b>	The Arts Development Grant Funding Panel assesses applications received under the City's Arts Development Grant Funding Program (Grant Funding Program Council Policy).	Membership: 3 Elected Members  Officers: Director Sustainable Communities	As Required
<b>Public Art Assessment Panel</b>	The Public Art Assessment Panel exists as an assessment body within the provisions of the Public Art Council Policy. The Panel considers all proposed public art projects in terms of practical, structural, safety, planning issues as well as curatorial and aesthetic considerations. Commissioning methodologies are also guided by the advice of the Assessment Panel on industry best practice, and suitability for the project in question.	Membership: 1 Elected Member  Officers: Director Sustainable Communities	As Required
<b>Art Collection Acquisition Panel</b>	The Art Collection Acquisition Panel considers artworks identified for potential acquisition by the Director Bunbury Regional Art Gallery or the Collection Curator/Registrar under the provisions of the City of Bunbury Art Collection Council Policy.	Membership: 3 Elected Member  Officers: Director Sustainable Communities	As Required

**Working Groups** are established from time-to-time as a mechanism for facilitating and improving broader participation in the City's decision-making process.

While not formally established under legislation, working groups provide an engagement mechanism for Elected Members, staff and, where appropriate the community, on a wide range of issues. The opportunity to obtain such views assists Elected Members and Council to address strategic issues and priorities at their genesis, well before the culmination of ideas results in a report to Council or a Committee. Working groups make recommendations to the organisation, who in turn detail those recommendations and comments within formal reports to Council or a Committee on a particular issue or topic.

Working groups typically comprise a mix of Elected Members, Officers and external (community) members as considered appropriate, and are formed via mutual agreement between the Mayor, Deputy Mayor and CEO. The membership composition is deliberately flexible to facilitate an agile approach in responding to the issue or topic at hand. Similarly, each working group establishes its own

meeting frequency and duration as appropriate. Working groups have the flexibility to be formed for a particular purpose and disbanded when that purpose has been fulfilled.

Working groups can be used as a forum for Councillors, community members and subject matter experts to inform decision making processes. The less formal nature of working groups allows for greater participation by the community in the generation of ideas and involvement in decision making.

Working groups will not be formed where the topic/issue relates to a matter that falls within the terms of reference of an existing Committee of Council.

Current Working Groups are:

- Bunbury Regional Art Gallery Advisory Group
- Community Safety Advisory Group
- Tourism Working Group

**External Committees, Boards and Groups** are not committees of Council established pursuant to the provisions of section 5.8 of the *Local Government Act 1995*), but are external boards of management that are either constitutionally required to have City of Bunbury Councillors as members, or have requested that Council nominate an elected representative to become a member.

The Council has representation on the following External Committees, Boards and Groups:

- Bunbury Harvey Regional Council
- South West Zone of WALGA
- Bunbury Regional Theatre Inc. (BREC Board)
- Bunbury Alcohol Accord
- Bunbury Geographe Seniors and Community Centre Management Committee
- Bunbury Port Community Consultation Committee
- Dolphin Discovery Centre Management Committee
- Morrissey Homestead Inc.
- Peron Naturaliste Partnership Inc
- Regional Capitals Australia WA
- South West Regional Road Group
- Bunbury-Geographe Economic Alliance
- South 32 Community Liaison Committee
- Southern Joint Development Assessment Panel
- Local Emergency Management Committee

**Strategic Briefing Sessions** are held on the first Tuesday of the three-weekly meeting cycle; Strategic Briefing → Agenda Briefing → Council Meeting, and provide a forum for two-way communication between Elected Members and the Executive Leadership Team on strategic or complex issues. The sessions are open to all Elected Members, the CEO and other employees designated by the CEO as required. Strategic Briefing Sessions also provide an opportunity for relevant staff and/or outside consultants to present information on a concept or project. Elected Members are encouraged to ask questions but not enter into debate. Strategic Briefing Sessions are generally not open to members of the public

**Electronic meetings** may be necessary for Council and committee meetings to be conducted in certain circumstances. The City has adopted a range of procedures and internal documents to support all aspects of the decision-making framework in this environment and how overall good governance is implemented and maintained.

#### *Agendas and minutes*

The level of decision-making and transparency needed for good governance requires comprehensive meeting agendas and minutes to be prepared. Matters to be considered at meetings of Council or committees are to be presented in an agenda prepared by the CEO. Agendas comprise of reports prepared by the organisation.

Reports are structured to include information on the background, details, summary and funding of the proposal under consideration. All reports are the professional advice of the organisation and contain recommendations as to the most appropriate course of action to take based on the information presented. The decision to adopt, amend or reject a recommendation rests with Council, or in some cases a committee.

Where a Council decision is significantly different to that which has been recommended, reasons for that decision must be stated and recorded. Agendas are made available to Elected Members and the public before the Committee and Council meetings. Unconfirmed Council and committee minutes are made available to the public. The minutes of a meeting (*other than confidential items presented at the meeting for discussion*) include attendances, all motions, their movers and seconders and the decisions that have been made.

#### *Apologies and leave of absence*

Elected Members who are going to be absent from a meeting of Council or a committee must submit an apology. For extended periods of absence, Elected Members should apply to Council to grant leave of absence for that extended period. Leave of absence is not to be granted to an Elected Member in respect of more than six consecutive ordinary meetings of the Council without the approval of the Minister, unless all of the meetings are within a period of three months. An Elected Member who is absent, without first obtaining leave of the Council, throughout three consecutive ordinary meetings of the Council is disqualified from continuing his or her membership of the Council unless all of the meetings are within a two month period.

#### *Meeting procedures and conduct*

The Council has adopted a local law (*Standing Orders Local Law*) that provides a set of enforceable meeting procedures and rules to ensure better decision-making of council and its committees, assist in the good and orderly conduct of meetings and ensure greater community understanding of the business of the Council. Elected Members are to familiarise themselves with the meeting procedures as any breaches may result in the matter being referred to the Local Government Standards Panel.

### *Lobbying and meetings with external parties*

Many opportunities exist for stakeholders to communicate with Elected Members and employees as part and parcel of our society's democratic and accessible system of government. Problems can arise when an Elected 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.

Elected Members and employees are to recognise the difference between appropriate and inappropriate lobbying and the risks associated if they fail to resist inappropriate lobbying. Elected Members must not, when lobbied, commit or indicate their vote on a matter that is before Council, or intended to be considered by Council. Elected Members, who commit their vote outside of the Council meeting process, may be faced with claims of perceived bias and could compromise the final decision of Council. Elected Members may offer understanding or otherwise but as decision makers they 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.

If an Elected 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 lines be overstepped, or there is discomfort in discussion, Elected 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.

Similarly, employees are not to indicate their approval or otherwise on a proposal or application put forward to the City, until such time as an assessment and/or consideration of a proposal or application is formally undertaken by the City.

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.

### Decisions on land use planning and development

#### *Administrative role*

The City has particular decision-making responsibilities under planning legislation, other state laws and planning policies. The Council and employees are therefore responsible for applying and assessing factual situations and circumstances against the legislative regime detailed in the Act, the *Planning and Development Act 2005* and other relevant planning laws. The controls and procedures for assessment of planning matters are set in place by a statutory framework and the City is responsible for undertaking this role in accordance with the planning legislation and any other relevant laws.

The City is required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law and natural justice / procedural fairness. Elected Members must exercise their decision making discretion over planning matters in a way that is mindful of this responsibility. The City employs specialist planning officers to prepare reports and provide Council with all the relevant information and facts of a particular planning matter and the relevant legislative provisions that are applicable.

Council, in determining planning matters must take care to ensure that the following principles are adhered to:

- *Elected Members must read the report on the matter before voting at a Council meeting to ensure the validity of the decision-making process.*

- *Elected Members must ensure when they debate a planning matter under consideration that they restrict themselves to the relevant matters of fact and law as contained and addressed in the report, and not conduct any debate that is based on irrelevant considerations.*
- *Council must carefully consider any resolution that is different to the organisation's recommendation. In resolving differently from the recommendation, Council is required to include reasons for the variation from the recommendation. These reasons must take into account the relevant considerations of fact and law and must not be based on irrelevant considerations.*
- *If a development has the potential to impact on neighbours and/or the locality, and where a statutory obligation exists, the City has a duty to ensure that consultation occurs in relation to that development. The report of the organisation is to include details of any neighbour notification or consultation that has occurred. The City must ensure that neighbours who may be adversely affected by a proposed development have had an adequate opportunity to make a submission and that any relevant matters that they raise have been considered in the decision making process. An opportunity to make a written submission is generally sufficient, though an opportunity to make a submission in person to a relevant meeting may be appropriate where a person with a sufficient interest requests it.*
- *Any submission must be made on the basis of planning principles. Council has the role of testing submissions, whether made by the applicant or another party, and the applicant must be accorded a right of reply.*

### *Planning schemes*

Under the *Planning and Development Act 2005* local governments are required to have a planning scheme in place for their respective district. A planning scheme provides a legal framework for a range of functions including:

- *providing land use and development controls*
- *supporting housing choice, variety and amenity*
- *providing the mechanism for the development of convenient and attractive retail centres*
- *assisting economic development through facilitation of commercial, industrial and business development to maximise job opportunities*
- *establishing high quality open space areas and protecting areas of environmental significance*
- *assisting in the provision of a transport network, which serves the needs of the community by providing a range of alternative networks catering for different transport modes, which are closely integrated with land use considerations.*

The provisions of a planning scheme are formulated through a collaborative and consultative process involving the State Government, the local government and the broader community. The State Government, through the Minister for Planning provides final approval to the content of a planning scheme and once published in the Government Gazette, the scheme comes into operation and has the force of law.

Local government planning schemes incorporate by reference the Residential Design Codes (R-Codes), which is the planning policy of the State Government providing detailed development control for residential development. The State Government revises the R-Codes from time to time.

The role of Council in administering a planning scheme includes:

- *consideration of development applications*
- *consideration of subdivision proposals*
- *consideration of Planning Scheme Amendment proposals (whether suggested by the City or by the community)*
- *enforcement of planning scheme provisions*
- *development of planning policies*
- *review of an existing planning scheme*
- *formulation of a new planning scheme.*

Council is provided with the professional advice from specialist planning officers in exercising its role in relation to each of these matters. This advice provides Elected Members with detailed information relating to the particular planning issue requiring Council determination.

A planning scheme requires periodic review and this is to ensure that the scheme continues to meet changing community needs and expectations. This review process is facilitated by the local government and involves community input.

Amendments can be made to an operative planning scheme to vary the scheme provisions. An amendment to a scheme again involves a range of stakeholders including the local government, the State Government and the community. The Minister for Planning provides the final decision in relation to any scheme amendment. Local planning policies are also used to support and guide the implementation of the planning scheme.

### *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 Elected 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.

### *Planning delegations*

The City's planning scheme and State planning legislation permits Council to delegate its decision making powers to certain qualified persons or committees, subject to certain conditions.

The criteria used for determining the types of development that can be decided by employees is set out in an Instrument of Delegation, which is reviewed annually or earlier if so determined by Council. 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 Instrument of Delegation and for the large volume of development applications received by the City to be dealt with in an efficient and effective manner.

### *Development Assessment Panels*

Development Assessment Panels are the decision making body for a certain type, class and/or value of planning applications the City receives from time to time.

Local representation is a vital component of the Development Assessment Panel (DAP). Local members are members of a local government council who are nominated by that local government



to sit on a DAP. The relevant local government will be responsible for nominating four local government representative members from the local government's pool of elected members (councillors). Two councillors will be local members, and two deputy local members to be called on if an issue of quorum arises. The Minister will appoint the local government representatives in accordance with the local government's nomination.

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 City's planning specialists 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.

### Declarations of interest

An aspect of the City's decision-making responsibilities that requires effective governance is how conflicts of interests are identified, recorded and treated throughout the organisation. It is not only important to ensure that real or potential conflicts of interests are handled appropriately, but also perceived conflicts of interests. Interests can be categorised as financial interests, proximity interests or interests that may affect impartiality.

The City's Code of Conduct for Employees also places a requirement on employees to disclose any interests, where the interest could, or could reasonably be perceived to, affect the impartiality of the employee having the interests and includes an interest arising from kinship, friendship or membership of an association. In some situations this may require the employee to disqualify themselves from dealing with a particular matter.

It is an Elected Member's responsibility to decide whether or not to declare an interest in accordance with the relevant legislation.

### *Financial interests*

An Elected Member or a committee member may be excluded from presiding and voting in the meeting if that person, or a person that is closely associated to them, has a direct or indirect financial interest in the subject under discussion.

Division 6 of Part 5 of the Act details disclosure of financial interests in matters affecting local government decisions. This division defines financial interests, closely associated persons, and interests that need not be disclosed by Elected Members and committee members.

*A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that member must disclose the nature of the interest:*

- a. in a written notice given to the Chief Executive Officer before the meeting; or*
- b. at the meeting immediately before the matter is discussed. (Section 5.65(1) of the Act)*

*A member who makes a disclosure under section 5.65 must not:*

- a. preside at the part of the meeting relating to the matter; or*
- b. participate in, or be present during, any discussion or decision-making procedure relating to the matter, unless, and to the extent that, the disclosing Elected Member is allowed to do so under Section 5.68 or Section 5.69. (Section 5.67 of the Act)*

Sections 5.68 and 5.69 of the Act detail the circumstances in which Council, committees and the Minister may allow Elected Members and committee members disclosing interests to participate in meetings.

Failure to comply with certain sections of the Act can result in a penalty of \$10,000 or imprisonment for two years.

The *Department of Local Government Operational Guideline No. 20 – Disclosure of Financial Interests at Meetings* provides a comprehensive guide to identifying and declaring financial interests and steps to take in safeguarding liability.

#### *Proximity interests*

Elected Members and committee members also have a responsibility to declare interests around matters that are in close proximity to that person's land. Section 5.60B of the Act states a person has a proximity interest in a matter if the matter concerns:

Section 5.60B of the Act states a person has a proximity interest in a matter if the matter concerns:

- a. a proposed change to a planning scheme affecting land that adjoins the person's land*
- b. a proposed change to the zoning or use of land that adjoins a person's land, or*
- c. a proposed development of land (as defined by section 5.63(5) of the Act as being the development, maintenance or management of the land or of services or facilities on the land) that adjoins the person's land.*

Land (the proposed land) adjoins a person's land if:

- a. the proposed land, not being a thoroughfare, has a common boundary with the person's land*
- b. the proposed land, or any part of it, is directly across a thoroughfare from, the person's land, or*
- c. the proposed land is that part of the thoroughfare that has a common boundary with the person's land.*

Similar to financial interests, an Elected Member of committee member with a proximity interest must disclose their interest (in accordance with sections 5.65 of the Act) and not preside or participate in discussion on the matter (section 5.67 of the Act). Although under certain circumstances the Council, committee or the Minister may allow Elected Members and committee members disclosing interests to participate in meetings.

#### *Interests that may affect impartiality*

Elected Members are required to disclose any interest which could, or could reasonably be perceived to, adversely affect their impartiality, and includes an interest arising from kinship, friendship or membership of an association.

The disclosing of an interest that may affect impartiality is to be made immediately before the matter is discussed at a Council or committee meeting or in a written notice given to the CEO before the

## 22. Disclosure of interests

(1) In this clause — Interest —

- a. means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest; and*
- b. includes an interest arising from kinship, friendship or membership of an association.*

(2) A council member who has an interest in any matter to be discussed at a Council or Committee meeting attended by the council member must disclose the nature of the interest —

- a. in a written notice given to the CEO before the meeting; or*
- b. at the meeting immediately before the matter is discussed.*

(3) Subclause (2) does not apply to an interest referred to in section 5.60 of the Act.

(4) Subclause (2) does not apply if a council member fails to disclose an interest because the council member did not know —

- a. that they had an interest in the matter; or*
- b. that the matter in which they had an interest would be discussed at the meeting and the council member disclosed the interest as soon as possible after the discussion began.*

(5) If, under subclause (2)(a), a council member discloses an interest in a written notice given to the CEO before a meeting then —

- a. before the meeting the CEO must cause the notice to be given to the person who is to preside at the meeting; and*
- b. at the meeting the person presiding must bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.*

(6) Subclause (7) applies in relation to an interest if: (a) under subclause (2)(b) or (4)(b) the interest is disclosed at a meeting; or (b) under subclause (5)(b) notice of the interest is brought to the attention of the persons present at a meeting,

(7) The nature of the interest must be recorded in the minutes of the meeting.

meeting. The disclosure of an interest that may affect impartiality does not affect the ability of the Elected Member to discuss or vote on the matter. The *Code of Conduct for Elected Members, Committee Members and Candidates* deals with disclosure of interests that may affect impartiality:

#### *Disclosure of interests of employees*

Similar to Elected Member and committee members, employees should ensure that there is no actual or perceived conflict or incompatibility between the fulfilment of the public or professional duties and either their personal interests, or those persons closely associated with them.

*Section 5.70 of the Local Government Act 1995* states that where an employee has an interest in any matter in which the employee is providing advice or a report directly to Council or a committee, they must disclose the nature of the interest when giving the advice or report.

#### *Primary Returns and Annual Returns*

Section 5.75 of the Act requires Elected Members and certain employees to complete a Primary Return within three months of commencing in Office or being employed at the City. 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, Elected Members and certain employees 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.

#### *Related Party Disclosures*

The City 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.

#### *Contact with Developers*

Contact with developers is a normal and necessary function of the role of an Elected Member and of employees that deal with planning matters. However, the nature and frequency of that contact can sometimes lead to allegations or perceptions of bias, influence or even corruption being made towards Elected Members or employees. The Department of Local Government, Sport and Cultural Industries provides guidelines in relation to Elected Member relationships with Developers (see <https://www.dlgsc.wa.gov.au/department/publications/publication/elected-members'-relationship-with-developers> )

#### *Gifts*

It is the City's position that Elected Members, the CEO and employees should not seek or accept (*either directly or indirectly*) any immediate or future gift (*including any financial benefit, reward, donation or hospitality*) for themselves, or for any other person or body, as a result of their role with the City.

According to the *Local Government (Administration) Regulations 1996*, Elected Members and the Chief Executive Officer are required to disclose gifts which are valued over \$300 or are two or more gifts

with a cumulative value over \$300 (*where the gifts are received from the same donor in a twelve (12) month period*), within 10 calendar days of receipt.

In accordance with the *Local Government (Administration) Regulations 1996*, employees are required to disclose gifts that are valued between \$20 and \$300, or are two or more gifts with a cumulative value between \$20 and \$300 (*where the gifts are received from the same donor in a six (6) month period*) within 10 days of receipt. Gifts over the value of \$300 are prohibited.

The Gifts Registers contain those disclosures of gifts that have been made by Elected Members, the Chief Executive Officer and Employees in their official capacity.

### *Fraud and Corruption*

The City expects all Elected Members, Committee Members, Candidates, Employees and Contractors of the City to act in accordance with the applicable Codes and behave ethically and honestly at all times when performing their functions at the City. The City has zero tolerance for corrupt conduct or fraudulent activities, and is committed to preventing, deterring, detecting and investigating fraudulent and corrupt behaviour in the delivery of its services. Elected Members and employees must not engage in practices that may constitute fraud or corruption.

### Protection from liability

Elected Members are not protected in the same manner as Members of Parliament for statements they make at Council meetings since an Elected Member fulfils a public duty and is therefore given limited legal protection. However, unlike Members of Parliament, an Elected Member's privilege is qualified. This means that protection is only provided as long as the statements are made in good faith. Statements made with malice or made recklessly are not protected by qualified privilege. Statements made by Elected Members outside Council and Committee meetings are unlikely to attract qualified privilege.

Under section 9.57A of the Act a local government is not liable to an action for defamation in relation to matter published on its official website as part of a broadcast, audio recording, or video recording, of a meeting of the Council or a Committee, but does not include other meetings (such as Strategic Briefing Sessions).

The *Code of Conduct for Elected Members, Committee Members and Candidates* also states that an Elected Member must not make improper use of their office as an Elected Member to cause detriment to the local government of any other person. This provision has relevance to what an Elected Member can say whilst performing in their role as an Elected Member.

Division 4 of Part 5 of the Act also protects Elected Members, committee members and employees from any actions in negligence that the person has done, or has not done, in the performance of their functions under the Act or any other written law. However, the City may not be necessarily protected from claims of negligence.

## Legislative framework

The general function of the City under the Act is to provide for the good government of people living and working within its district and includes legislative and executive powers and responsibilities given to it through the Act.

Overall, the Act is intended to provide excellence in governance through:

- *decision-making by local governments*
- *greater community participation in the decisions and affairs of local governments*
- *greater accountability of local governments to their communities*
- *more efficient and effective local government.*

To allow local governments better decision-making, greater accountability and to be more efficient and effective, the Act provides a number of ways of achieving these objectives.

### *Delegations*

Delegations form part of the City's decision-making approach and involves the entrusting of certain types of decisions to the CEO, employees or committees.

Under the Act both Council and the CEO are given certain functions and duties to be discharged. Council may delegate authority to the CEO to perform some of its functions and duties on its behalf. The use of delegated authority means that the large volume of routine work of Council 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 CEO may delegate to any other employee the authority to perform functions and duties that are exercisable by the CEO under the Act or that have been delegated to the CEO by Council (with the exception of the power to delegate). This accords with employees being responsible to the CEO and the CEO being responsible to Council. Similarly, the implementation of Council decisions and instructions are conducted by the CEO, who may in turn require responsibility to be undertaken by other employees.

Delegations of authority are required in order to provide employees of the City with the power to exercise duties and make determinations. It is essential that the City's delegations are performed in a manner that is in accordance with the delegation and is compliant with the relevant legislation. Delegations by Council are to be reviewed on an annual basis via the Policy Review and Development Committee.

### *The concept of 'acting through'*

Not all functions or duties of the local government require formal delegation. The Act details that a local government and / or the CEO is not prevented from performing any of their functions under the Act or any other written law by 'acting through' another person.

The key difference between a delegation and the concept of 'acting through' is that a delegate exercises the delegated decision-making function in his or her 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.



### *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' or some other similar term. 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. Due to their position as an employee, some legislative provisions appoint all employees of a local government as authorised persons. Examples of such legislation include the *Litter Act 1979* and the *Criminal Procedures Act 2004*.

### *Local laws*

Under the Act and as part of its legislative functions, Council is able to make local laws as a way of providing good governance to the community and which reflect current community standards. The Act outlines the process by which the Council may adopt local laws. This legislative role allows the Council to adopt a regulatory regime that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws. When adopting local laws the Council must be aware that they operate with the force of legislation and the City has a duty to enforce all of its local laws.

The process for making a local law provides the community with a six-week advertising period to allow opportunity for comment on proposed local law. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local law is published in the Government Gazette and reviewed by the Western Australian Parliamentary Committee on Delegated Legislation. The City currently maintains local laws relating to:

- *Advertising Devices*
- *Bush Fire Brigade*
- *Cats*
- *Dogs*
- *Health*
- *Parking*
- *Private Property*
- *Public Places and Local Government Property*
- *Standing Orders (Meeting Procedures)*
- *Waste*

The City is required to review all its local laws every eight years from the date they came into operation or from the date they were last reviewed. This review process also allows for community consultation and feedback.

## *Policies*

Section 2.7(2)(b) of the Act states that the Council is to “determine the local government’s policies”. Policies provide the Council and the organisation with the ability and direction to make decisions that are considered to be consistent and unbiased. A policy can also provide detail on the manner in which the City undertakes, or requires others to undertake, certain works or activities. The Council, through the adoption of its Policy Framework, has established the following level of policy:

- *Council Policies* - set out Council’s strategic position, viewpoints and values, and assists in decision-making relating to matters that often impact on and are of concern to the local or wider community.
- *Planning Policies* - are developed in accordance with State Planning Policy Framework and the City’s Local Planning Scheme.
- *Management Policies* - relate to administrative and operational matters to ensure consistency and good governance with an internal focus.

The Administration also develops and implements Management Practices to ensure effective implementation of all Policies.

## *Executive functions*

The Council is responsible for overseeing the executive functions of the City. The executive functions of the City are to provide services and facilities. In performing its executive functions, section 3.18 of the Act states the following:

- *A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.*
- *In performing its executive functions, a local government may provide services and facilities.*

A local government must satisfy itself that the services and facilities it provides:

- *integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body*
- *do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private*
- *are managed efficiently and effectively.*

## **Business management**

The management of corporate business within an organisation is important to the concept of governance. As part of the City’s Integrated Planning Framework, the City has developed a Four Year Corporate Business Plan. The Corporate Business Plan guides internal operational activities and serves as the City’s service and project delivery program which is aligned to the strategic direction and priorities set within in the Strategic Community Plan. The Corporate Business Plan also reflects actions within other informing strategies and the City’s Capital Works Program.

Detail on specific projects and their milestones are reported to Council and the community on a regular basis.

## Financial management

### *Role of the CEO*

The CEO is accountable to Council for the financial performance of the City. The CEO must ensure that certain fundamentals are in place including:

- *appropriate financial systems, plans, strategies and protocols*
- *adequate resources to support the City'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*
- *adherence to and compliance with legislative provisions.*
- 

### *Financial management planning and principles*

The Council is ultimately responsible for the financial management of the City. Council is to ensure that it receives sufficient reports and other information to adequately monitor its performance, resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery.

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.

Council has established an Audit Committee to oversee and advise the Council on matters of accountability and internal control.

### *Annual Budget*

One of the responsibilities of Council under the Act is to prepare, set and adopt the City's Annual Budget. Based on the leadership of Council, the City determines its priorities for each year and the allocation of resources to achieve those priorities.

Under Regulation 33A of the *Local Government (Financial Management) Regulations 1996* the City is required to conduct a review of its Annual Budget after considering the changes in its 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. The City typically conducts 2 budget reviews each financial year; one in October/November and one in February/March.

### *Long Term Financial Plan*

The Year Long Term Financial Plan (LTFP) is a high-level informing strategy that outlines the City's approach to delivering infrastructure and services to the community in a financially sustainable and affordable manner. It also demonstrates the City's commitment to managing its operations in a sustainable way that minimises the financial impact on the City's ratepayers. The LTFP represents projections and estimates, based on many assumptions and is a primary planning tool for the development of future budgets.

The Corporate Business Plan (CBP) reflects the Financials in the Long term Financial Plan, and provides details on the Operational services and Workforce costs, as well as the Operating and Capital projects that will be implemented to achieve the community Aspirations that have been set out in the Strategic Community Plan.

### *Organisational structure and human resource management*

Good governance is achieved when an organisational structure is in place that adequately serves the City's operations, and those operations are planned to achieve the established goals and the strategic direction set for the City.

Part of the role of the CEO is to establish an organisational structure which will facilitate the delivery of projects and programs within the Strategic Community Plan.

To enable the City to continue to provide high quality services to the community now and into the future it is critical that the City develops and maintains a skilled, flexible and sustainable workforce. In line with the Department of Local Government, Sport and Cultural Industries' Integrated Planning and Reporting Framework, the City has developed a Workforce Plan to provide a strategic framework for organisational workforce planning and management. This will enable the City to attract and retain a suitable, committed and professional labour force that will ensure the City achieves its strategic priorities and deliver quality services to the community. The process of planning for future workforce requirements enables the City to respond to emerging challenges before they impact on services and operations. It also facilitates the preparation of detailed budgets and a long-term financial plan that support the delivery of efficient and affordable services.

All employees are required under the Act to undertake a performance evaluation each year. These evaluations assess specific job performance, behavioural indicators, business planning outcomes as well as determining an employee's training and development needs.

### *Records management*

The City's corporate records are to be managed in accordance with the City's approved Recordkeeping Plan. All Elected Members, employees and contractors are responsible for maintaining complete, accurate and reliable evidence of all business transactions and ensuring all corporate documents are retained within the City's official recordkeeping system at the point of creation regardless of the format, The City's record keeping practices must be in accordance with the *State Records Act 2000*, *Freedom of Information Act 1992*, and *Local Government Act 1995*.

Certain corporate records maintained and held by the City are accessible to members of the public in accordance with the processes stated in the *Freedom of Information Act 1992*.

### *Risk Management*

Risk Management is an integral part of good management practice and an essential element of sound corporate governance. Identifying and managing risk enables a more robust basis for effective decision-making and facilitates continuous improvement in policies, processes and performance.

The City has an adopted Risk Management Framework, comprising the *City of Bunbury Risk Management Policy*, *Risk Management Strategy*, and *Risk Management Plan*, to promote a culture of awareness and a commitment to processes that are directed towards the effective and efficient management of risk by the City. This Framework guides the City's risk management and is consistent with the risk management guidelines and principles set out in Australian Standard for Risk Management (*AS ISO 31000:2018 Risk Management – Guidelines*). The City is undertaking a review of its Risk Management Framework to operationalise and integrate the philosophies therein with the City's strategic and operational activities.

## Council Decision-Making Framework

The strategic decision-making criteria has been determined by Council as being fundamental for considerations when determining significant issues and strategic priorities. These criteria are:

*What does the community think?*

Have we collected community feedback and input to inform the decision?

*How well does it fit our strategic direction?*

How well does the option fit with the City's vision, community outcomes and strategic priorities?

*Guiding Principles.*

Is it consistent with the following guiding principles?

1. Sustainable development – Bunbury must develop in a way that meets the needs of the present without compromising the needs of future generations.
2. Evidence based – decisions must be based on evidence, be adaptable to change and continuously reviewed.
3. Strong leadership – the City will take a leadership role to ensure decisions consider all possible options and opportunities.
4. People first – people will be given precedence in the city's public spaces.
5. Minimum sufficient regulation – minimal and flexible regulation will encourage and support a diverse, vibrant and progressive city.
6. Fair funding – decisions will consider aspects of just funding across our rate base. Partnerships and joint ownership will be used to maximise desired outcomes.
7. Interagency collaboration – as the regional capital of Western Australia, we will require contributions and partnerships with stakeholders and collaboration with all levels of government.

*Can we afford it?*

How well does the option fit with our long term financial plan? What do we need to manage whole-of-life costs?

*Does it involve a tolerable risk?*

What level of risk is associated with the option? How can it be managed?

## PILLAR 4: ACCOUNTABILITY

Excellence in governance is based on the principle that the Elected Members and employees are held to account for what they do and for the City's performance. The public trust placed in the City and in its Elected Members to act in the public interest can be justified in the manner in which their duties have been performed.

Accountability systems need to provide disclosure and the ability to review of decision-making and processes. These systems must record and support the City's accountability to its stakeholders and its legal accountability to the State Government through:

- *open and transparent government so that people can follow decision-making processes and outcomes*
- *consultation so that communities feel that they are being heard*
- *good information and communication processes so that communities are kept informed.*

- Risk management systems aim to ensure that community assets are protected.
- An internal audit system and a comprehensive consultation and engagement framework all support good decision-making by ensuring that Elected Members are aware of the views of those who will be affected by any decision.

### Performance management and reporting

The Council is accountable for monitoring performance in the achievement of the City's strategic direction, goals and financial outcomes which are set through the Strategic Community Plan, the Corporate Business Plan and the Annual Budget.

The management of the City's performance and the reporting of that performance to the community is achieved in several ways.

#### *Financial reporting*

Financial reporting is a basis for accountable financial management and it is required by the Act. The City has adopted full accrual accounting and all other applicable accounting standards in accordance with the *Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996* and Australian Accounting Standards. The Financial reporting undertaken at the City is as follows:

**Monthly Financial Report** - timely and accurate reports are essential to keep Council in an informed position to ensure the City meets its financial responsibilities. In accordance with the Act and the *Local Government (Financial Management) Regulations 1996*, the City is required to prepare a monthly statement of financial activity reporting on the source and application of funds as set out in the Annual Budget.

**Schedule of Accounts Paid** - Council has delegated to the CEO the exercise of its authority to make financial payments from the City's Municipal Fund. Therefore in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the CEO is prepared each month for Council, showing each account paid since the previous list was prepared.



**Annual Financial Report** - in accordance with the Act, the City is required to prepare an Annual Financial Report each financial year which provides information about the City's financial activities, income and expenditure. The City's Annual Financial Report is to be audited by an external auditor and is to be considered by the Audit Committee before being submitted to Council for adoption. An abridged version of the Annual Financial Report forms part of the City's Annual Report, which is received and discussed by the community at the Annual General Meeting of Electors.

#### *Annual Report*

In accordance with Section 5.53 of the Act, the City prepares an Annual Report each financial year. Other than just financial information, the Annual Report includes, amongst other things, the auditor's report, major achievements, and an overview of the City's plan for the future' including major initiatives that are proposed to commence or to continue.

The electors of the district receive the Annual Report at the Annual General Electors Meeting, usually held in December each year. At this meeting, the community can ask questions of the City on various aspects of the Annual Report.

#### *CEO performance review*

The Council is accountable for managing the CEO's performance and is responsible for setting the CEO's Key Performance Indicators (KPI's) and subsequently monitoring 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 Council has established the Chief Executive Officer Performance Review Committee to assist it with this task of reviewing the CEO's performance as well as recruitment activities for a new CEO when such a situation arises.

#### *Employee performance review*

In accordance with the Act the performance of all employees is to be reviewed at least once in relation to every year their employment.

The City's Professional Development Planning approach provides a mechanism for employee performance to be assessed as well as training and development opportunities to be identified. Evaluation of past performance also considers the City's values, and measures employee performance against these.

## Audits and oversight

#### *Compliance Audit*

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

The Compliance Audit Return is submitted to the Department of Local Government Sport and Cultural Industries each year after its adoption by Council. The Compliance Audit Return provides prompts in relation to the local government's statutory obligations in a number of areas, such as local laws, tenders, meeting processes, disclosure of financial interests and financial management. It provides a useful tool for the City to ensure compliance with the Act.

In addition to this requirement the City has established a number of internal compliance mechanisms to ensure its practices and procedures meet its obligations in relation to good corporate governance, including the use of a compliance calendar and a software tool for the management of all compliance related requirements.

#### *Audit Committee*

The audit function of the City is achieved by means of the establishment of an Audit Committee to oversee and advise the Council on matters of internal or external audit, risk management, financial reporting and legislative compliance functions of the City, as required by the Act. Issues handled by the Committee include developing and monitoring the City's audit activities as well as reviewing the appropriateness and effectiveness of the City's systems and procedures in relation to risk management, internal controls and legislative compliance.

The Audit Committee also oversees the implementation of audit recommendations made by the auditor and accepts recommendations arising from reviews of local government systems and procedures.

#### *External Audit*

Each year, the Office of the Auditor General, or contractors appointed on its behalf, provide the independent oversight of the local government sector and audit the City's financial statements with an audit report being provided to Council (via the Audit Committee). Any significant issues the Office of the Auditor General identifies are reported to Council (via the Audit Committee), the CEO and the Minister for Local Government.

In addition to financial and compliance audits, the Office of the Auditor General may carry out performance audits that examine the economy, efficiency, and effectiveness of programs and organisations, including compliance with legislative provisions and internal policies. Performance reports are also submitted to both Houses of Parliament.

#### *Internal Audit*

The CEO engages an internal auditor as part of a model for managing risks and ensuring controls are effective. An annual audit plan is developed to assist all levels of the Administration with achieving management review and control over activities to ensure they are carried out effectively and efficiently. The Internal Auditor reports to the Audit Committee through Chief Executive Officer.

### Community consultation and stakeholder engagement

Consultation is an important two way interactive process that informs and enhances the City's decision-making processes. As a community leader, Council should define the City's directions and priorities for a sustainable future by:

- *promoting discussion and debate within the community and with other stakeholders about the priorities and needs of the City*
- *using research to develop and inform Council policies and decision-making*
- *actively and faithfully considering, the needs and opinions of the community when making decisions*
- *translating the community's aspirations for a sustainable future through appropriate partnerships, initiatives, programs and services.*

### *Community engagement*

The Council has an adopted Communications and Engagement Strategy, the objective of which is to provide guidance around the City's communication objectives, audience, key messages, channel and resourcing.

The City of Bunbury is a customer-oriented local government, which places its people first and recognises their right to contribute to the decision-making process through genuine and mutual engagement. Accordingly, the City endeavours to involve the community wherever practical in the decision-making process through engagement. It is recognized, however, that there will be circumstances and situations in which it will not be either appropriate or practical for this to occur and Council upholds its right and obligation to make those decisions when necessary.

### *Social media*

The City of Bunbury uses social media to facilitate interactive information sharing and to provide responsive feedback to its community. Social media will not however, be used by the City to communicate or respond to matters that are complex, or relate to a person's or entity's private affairs.

The City uses social media platforms such as Facebook, Twitter, Instagram, LinkedIn and You Tube as a way of promoting corporate messages and public notices, interacting and engaging with the community and sourcing valuable feedback on issues and events that are relevant to the community.

Other electronic information and feedback systems and consultation mechanisms are also used from time to time.

### *Customer Service and Complaints Management*

The City prides itself on the delivery of exceptional service and customer experiences and has developed a number of internal and external documents and processes around customer service and complaints management.

The City has adopted a Customer Service Charter which outlines the City's customer service standards the community can expect from the City. The charter demonstrates the City's commitment to customer service excellence and the levels of customer service performance. The charter provides a mechanism of accountability to the community.

The City has a complaints management process and the *Customer Complaint Management Policy* ensures an effective, transparent and timely method of responding to complaints regarding the City's services, administrative actions, competitive neutrality, the conduct and performance of Elected Member or employee behaviour.

The City is subject to reporting and review mechanisms conducted by a number of external agencies, including:

- minor breach and serious breach complaints about Elected Members to the Department of Local Government, Sport and Cultural Industries' Standards Panel under the *Local Government Act 1995*;
- public interest disclosures made under the *Public Interests Disclosure Act 2003* (commonly known as whistleblowing);
- misconduct complaints to either the Public Sector Commission or the Corruption and Crime Commission under the *Corruption, Crime and Misconduct Act 2003* ;
- investigating and resolving complaints about the decision making of local government to the WA Ombudsman under the *Parliamentary Commissioner Act 1971*.

### *Access to information*

Under the Act any member of the public can access certain information held by the City, but there is not an unfettered right of access to this information. There are some documents not accessible to the public or available for viewing; however, being a 'public body', the provisions of the *Freedom of Information Act 1992* apply.

All Elected Members and employees should be aware of freedom of information implications when creating documents, whether it is internal or external and must undertake proper record-keeping in the fulfilment of their duties and responsibilities whilst employed at the City.

As a general rule any written material generated by employees or Elected Members may become public knowledge and subject to a freedom of information request and investigation. Freedom of information gives individuals a right to access certain records held by both state and local government agencies. The City each year publishes a Freedom of Information Statement to assist the community on the functions and services of the City and how information can be accessed.

## REFERENCES

The following documents have been used in the development of the Governance Framework for the Bunbury:

*City of Cockburn Corporate Governance Charter*

*City of Stirling Governance Framework*

*City of Vincent Governance Framework*

*City of Wanneroo Corporate Governance Framework*

*City of Joondalup Corporate Governance Framework*

*Corruption, Crime and Misconduct Act 2003*

*Department of Local Government – Local Government Operational Guideline No 3 – Managing Public Question Time.*

*Department of Local Government – Local Government Operational Guideline No 4 – Elected Member Induction.*

*Department of Local Government – Local Government Operational Guideline No 5 – Council Forums.*

*Department of Local Government – Local Government Operational Guideline No 7 – Clarity in Council Motions.*

*Department of Local Government – Local Government Operational Guideline No 9 – Audit Committees in Local Government.*

*Department of Local Government – Local Government Operational Guideline No 17 – Delegations.*

*Department of Local Government – Local Government Operational Guideline No 20 – Disclosure of Financial Interests at Meetings.*

*Excellence in Governance for Local Government – CPA Australia.*

*Freedom of Information Act 1992*

*Local Government Act 1995.*

*Local Government (Administration) Regulations 1996.*

*Local Government (Financial Management) Regulations 1996.*

*Local Government (Model Code of Conduct) Regulations 2021.*

*Parliamentary Commissioner Act 1971*

*Public Interest Disclosure Act 2003*

*Public Sector Commission (WA) – Good Governance Guide for Public Sector Agencies*

*Public Sector Governance (Vol. 1) – Better Practice Guide – Australian National Audit Office.*

*State Records Act 2000*

*WA Local Government Association*

## APPENDIX 1: GLOSSARY

**Act:** The Local Government Act 1995.

**Audit:** The inspection or examination of a City activity or facility to evaluate or improve its appropriateness, efficiency or compliance.

**Business Unit:** A functional work group of the organisation that consists of a Manager and employees that perform particular functions of the City.

**CEO:** The Chief Executive Officer who is most senior employee in the organisation. The CEO is appointed by and directly accountable to the Council.

**City:** The local government of the City of Bunbury and includes the Council and the organisation.

**Community:** Group of people (including ratepayers) that:

- *own residential property; and/or*
- *live long term or short term; and/or*
- *own or operate business; and/or*
- *work, visit or recreate;*

within the local government boundaries

**Council:** The Elected Members meeting as a Council under the Act.

**Councillor:** An individual elected representative of a local government, but does not include the Mayor.

**Committee:** A Committee of Council established by Council under the Act and constituted by Elected Members, employees or members of the public.

**Council Meeting:** A meeting of Council conducted in accordance with the Act.

**Delegated Authority:** Refers to the ability of the City, in accordance with the *Local Government Act 1995*, to appoint another person to exercise a power or discharge a duty. The ability to delegate authority itself cannot be discharged and the person who has delegated the authority reserves their right to exercise the delegated power or discharge the delegated duty. A delegated power or duty follows the office and not individuals.

**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.

**Elected Members:** The Mayor and Councillors of the City.

**Employee:** A person employed by the local government in accordance with the Act.

**Executive Leadership Team:** The CEO and Directors.

**External Member:** Refers to a member of a Council Committee that is not a Councillor or employee.

**Integrated Strategic Planning and Reporting Framework:** A framework that integrates the community's vision and aspirations in everything that is planned and implemented. From the strategies and plans all the way through to individual tasks and KPIs, all focused on the delivery of the community aspirations.



**Local government:** Refers to a local government established under the *Local Government Act 1995*, where the establishment of the area under jurisdiction has been ordered by the Governor on the recommendation of the Minister.

**Leadership Team:** Refers to the CEO, Directors and Managers of the City of Bunbury as a collective.

**Long Term Financial Plan:** A financial plan that forecasts expected revenue and expenditure over a period of ten or more years, based on a series of assumptions.

**Manager:** An employee in the organisation directly accountable and responsible for a Business Unit of the organisation.

**Mayor:** A person elected by the community to hold the position as the leader of the local government under the Act.

**Natural justice:** The right to be given a fair hearing and the opportunity to present one's case, the right to have a decision made by an unbiased or disinterested decision maker, and the right to have that decision based on logically probative evidence.

**Ordinary Council Meeting (OCM):** Council's principal decision making forum.

**Organisation:** Includes employees of the local government, led by the Chief Executive Officer.

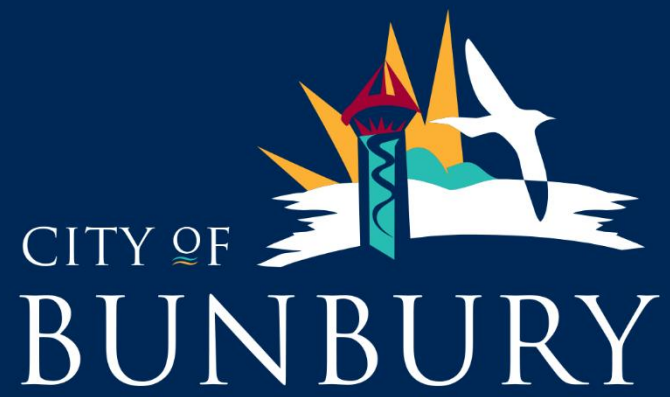
**Regulations:** The Local Government (Administration) Regulations 1996.

**Stakeholders:** Individuals and organisations that have an impact on the strategic direction and decision making processes of the City.

**Corporate Business Plan:** Long-term plan that summarises the financial impacts of achieving the Aspirations and Strategic Objectives in the Strategic Community Plan. (4 to 10 years).

**Strategic Community Plan:** A strategic community plan sets out the vision, aspirations and objectives of the community (10 years).

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