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1. Introduction

The AMRS Governance Charter is a manual that clearly defines the respective roles, responsibilities and authorities of the Council and the Chief Executive Officer in setting the direction, management and control of the Shire of Augusta Margaret River.

The Charter supports the Council by:

- Assisting Councillors in partnership with the CEO and executive management in delivering good governance on behalf of the community;
- Providing clear guidelines for Councillors and executive management in relation to their roles and responsibilities, and what is expected of them in relation to performance;
- Acting as a point of reference for disputes; and
- Acting as an induction tool for new Councillors, CEO’s and executive managers.

The Council of the Shire of Augusta Margaret River is responsible for providing good government for the persons of the Shire as well as directing and controlling the Shire’s affairs. Council also plays a vital role in setting the strategic and policy direction for the Shire. It is ultimately responsible for all matters relating to the governance of the Shire.

For an organisation to demonstrate good governance there needs to be a clear understanding about values, responsibilities and accountability. This Governance Charter aims to inform councillors, staff and the community about the manner in which the Shire undertakes its functions, plans its business and the principles that motivate decision making. The development and adoption of an effective governance charter provides a tool to assist Council in discharging the ever increasing and onerous responsibilities and expectations required in governing the Shire.

Good governance is fundamental to the operations of any organisation. The CPA publication Excellence in Governance in Local Government 2007 includes four sections which have been used to structure this Governance Charter, namely roles and responsibilities, decision-making and management culture, and vision and accountability. In local government, governance is about ensuring democratic processes are respected and work effectively. Good governance is founded on a constant process of review and of searching for improvement.

The NSW Auditor-General’s Report Volume Two 2011 notes that, “Sound corporate governance is about identifying and addressing emerging risks and opportunities. It is paramount to service delivery and the efficient use of taxpayers’ money.

“Simply put – Good corporate governance promotes public confidence in Government and its agencies. The better governed agencies are, the better they will perform and the more satisfied the public will be” (http://www.audit.nsw.gov.au/ArticleDocuments/191/05_Vol_2_2011_Corp_Governance.pdf.aspx?Embed=Y).
2. What is good governance?

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

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

Corporate Governance for the Shire of Augusta Margaret River can broadly be described as the structures, mechanisms and processes used by Council to represent the interests of community members in the core activities of the organisation, including the way in which decisions are made on policies and strategies, and how these are actioned to obtain the optimal benefits for the community (WALGA 2003).

The Governance Institute of Australia (GIA) states that “governance encompasses the system by which an organisation is controlled and operates, and the mechanisms by which it, and its people, are held to account. Ethics, risk management, compliance and administration are all elements of governance” (2013)

The GIA notes that good governance has four key components:

Transparency: being clear and unambiguous about the organisation’s structure, operations and performance, both externally and internally, and maintaining a genuine dialogue with, and providing insight to, legitimate stakeholders and the market generally.

Accountability: ensuring that there is clarity of decision-making within the organisation, with processes in place to ensure that the right people have the right authority for the organisation to make effective and efficient decisions, with appropriate consequences for failures to follow those processes.

Stewardship: developing and maintaining an enterprise-wide recognition that the organisation is managed for the benefit of its shareholders/members, taking reasonable account of the interests of other legitimate stakeholders.

Integrity: developing and maintaining a culture committed to ethical behaviour and compliance with the law.

For the Shire of Augusta Margaret River, governance structures and processes are largely set down in the Local Government Act 1995 and other related legislation. The responsibilities of the people involved are sufficiently specified and regulated to guide and direct the performance of their functions and duties. Outside the legislative framework the Shire has additional policies, management and operational procedures to achieve a high standard of governance to meet the trust which the community has placed in its elected members and staff.
This AMRS Governance Charter summarises key sections of the *Local Government Act* and other policies and procedures and aims to provide a simple and easy to follow guide to governing the Shire.

Why is good governance important?

The Shire of Augusta Margaret River is vitally important to all rate payers and citizens, playing a key role in leading our communities as well as ensuring the delivery of high quality services to them. Good governance structures enable the AMRS to pursue its vision effectively as well as underpinning that vision with mechanisms for control and management of risk. Effective local government in the Shire relies on public confidence in elected councillors and appointed officers. Good governance “not only gives the local community confidence in its council, but improves the faith that elected members have in their own local government and its decision-making processes. It also leads to better decisions, helps local government meet its legislative responsibilities and importantly, provides an ethical basis for governance” (Good Governance Guide 2012).

Good governance benefits the Shire by:
- Promoting community confidence;
- Encouraging elected members and Shire staff to be confident;
- Leading to better decisions being made;
- Helping the Shire meet its legislative responsibilities; and
- Supporting ethical decision making.

*(Good Governance Guide 2012)*

Characteristics of Good Governance

- Accountability of Councillors for ensuring decisions and outcomes are made in the best interests of the residents of the Shire as a whole;
- Implementation of policies and programs reflecting the community’s values and aspirations;
- Creating a vision for the Shire and setting a clear strategic direction grounded in community consultation and engagement;
- Accountability achieved through appropriate performance management processes;
- Strong leadership by the Shire President, Council and the CEO that ensures the interests of the community are effectively safeguarded and promoted;
- Sustainable and compliant financial management that enables development of a community infrastructure and appropriate services;
- Provision of effective services and facilities which meet the community’s needs within budgetary parameters;
- Building cooperation with other tiers of governments and other stakeholders;
- Promoting the values of the Shire and demonstrating the values of good governance through behaviour;
- Developing the capacity and capability of members to be effective and ensuring that officers also have the capability and capacity to deliver effectively;
- Members and officers working together to achieve a common purpose with clearly defined functions and roles;
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk effectively, and
Consulting and communicating effectively with the community on issues which directly affect their lives.

What is a Governance Charter?

A governance charter is a statement of the values, principles and practices adopted and developed by the Council to achieve good government of the district and its people. This Charter explains how the Shire is governed through the establishment of a democratically elected Council and managed through the appointment of a Chief Executive Officer.

The Governance Charter is intended as a guide to help everyone concerned with the governance of the Shire to not only understand and apply common principles of good governance, but also to assess the strengths and weaknesses of current governance practice and improve it.

The Charter provides the framework that describes the individual and collective roles, responsibilities and obligations of Council, councillors, the CEO and staff. And it’s also about how we manage the fulfilment of community aspirations while respecting and working within the broad statutory environment. The Local Government Act provides us with the power to govern our District and the people who live and go about their business and private affairs here. This Charter is framed around four key content areas underpinned by important principles intended to make understanding governance more manageable. The four key categories to achieve excellence in governance are:

1. Roles and Relationships

An acceptance of the different roles of the various elements of a local government and positive working relationships between these elements.
- Clear roles
- Building relationships

2. Decision-making and management

Effective decision-making and related management processes that reflect transparency and accountability.
- Effective decision-making
- Business structure
- Financial management
- Delegating responsibility
- Risk mitigation

3. Culture and vision

A positive culture and a clear and owned vision and accompanying strategies.
- Good Values
- Clear Vision
- Strategies for the future

4. Accountability

The need for local governments to account for their activities and have systems in place which support and reinforce this accountability.
- Acting responsibly
- Performance reporting
- Auditing compliance
Figure 1 – Governance Framework
Reference: The CPA publication Excellence in Governance for Local Government 2007
3. Roles, Responsibilities and Relationships

Community Ownership

The Shire of Augusta Margaret River as a Western Australian local government is a body corporate with perpetual succession and a common seal. The Local Government Act 1995 and regulations provide the legislative framework for the local government’s operations.

The owners and occupiers of rateable property including the residents and business operators within the Shire are effectively the “owners or shareholders” of the Shire and Councillors remain accountable to these “owners or shareholders” for their own performance and for that of the Shire of Augusta Margaret River. This community ownership entitles persons on the Shire's electoral roll namely residents over the age of 18, property owners and occupiers of rateable property who have sought to be included on the electoral roll, to vote in the biennial elections to elect Councillors to govern the Shire as part of the Council and to manage the Shire’s affairs.

Council is effectively a board of directors and like the board of a publicly listed company represents its shareholders to make sound business decisions which will improve shareholder value. Similarly Council is like a board of directors of a membership based company such as the HBF or RAC which represents its members to make sound business decisions to make the organisation stronger and better able to serve its whole membership base the Council’s primary function is to serve the interests of the whole community by sound governance, financial management and good long term strategic planning as opposed to lobbying on behalf of the private individuals who are the clients and customers of Council services. Being elected by voters on the Shire's electoral roll councillors forming a Council are required to provide good government for all the persons of the District. This includes the Shire's residents of all ages whether eligible voters or not, ratepayers whether residents or not and local business people, agricultural industries and community groups.

Customers and Clients of Council Services

Clients of Council services include families seeking child care, users of sporting fields, library members, recreation centre users, road users, developers seeking planning approvals, builders seeking building licenses, restaurateurs, householders who receive waste collection services, swimmers at Council patrolled beaches, dog owners etc.

The Councillor’s secondary function is to facilitate communication between the community and the Shire and to bring to the attention of the CEO any reports where there has been dissatisfaction with the performance of Council service in order that this can be rectified or remedial action can be taken to ensure that there is no reoccurrence.
Roles and Functions of Council

The Council is the governing body of a local government and consists of elected members. Under Section 2.7 of the LGA 1995 Council has four main roles:

1. Direct and control the Local Government’s affairs;
2. Be responsible for the local government’s functions;
3. Oversee the allocation of the local government’s finances and resources, and
4. Determine the local government’s policies.

Incorporating these broad powers with the established principles of effective corporate governance, Council’s primary role is to govern the successful operation of the Shire of Augusta Margaret River, which is enacted through the Chief Executive Officer.

While these powers include responsibility for defining the policy and setting the overall strategic direction of the Shire, it does not incorporate responsibility for the day-to-day running the business of the local government. For this reason, all operational matters remain the responsibility of the Chief Executive Officer.

Without intending to limit the general role of Council, the broad functions and responsibilities include:

- Applying and modelling the values of the Shire of Augusta Margaret River;
- Providing the overall strategic direction of the Shire of Augusta Margaret River;
- Acting as an interface between the Shire of Augusta Margaret River and the community;
- Determining policies governing the operation of the Shire;
- Appointing and approving the terms and conditions of the Chief Executive Officer;
- Monitoring and evaluating Chief Executive Officer performance;
- Establishing and determining the powers, functions and membership of committees;
- Approving major operating plans, including the strategic plan;
- Approving the annual budget and long-term strategic financial plans;
- Approving all variations to the budget and operational expenditures outside the budget;
- Ensuring compliance of the Shire of Augusta Margaret River with the law;
- Reviewing the annual progress and performance of the local government in meeting its objectives, including reporting the outcome of such reviews, and
- Setting a structure for the effective management of the Shire’s operations.

The relationship between the President and the Chief Executive Officer is integral to the effective leadership of the Shire. In discharging their respective leadership roles, the President and Chief Executive will often require Council to act as a sounding board for ideas and challenges.

In recognition that the relationship between Council and the President and Chief Executive Officer is critical to effective corporate governance, Councillors should provide frank and honest advice when requested. Similarly, all advice should be constructive in nature and provided in a positive manner.

Under the Local Government Act (Part 3) a Local Government has three main functions. Firstly Council has a general function under Section 3.1 of the Local Government Act to “provide good government for the persons of the District,” and this is the overarching principle that should guide Council’s functions under the range of legislation that it operates.
Secondly Council has a Legislative Power to make Local Laws under Section 3.5 of the Act, and thirdly it has executive functions under Section 3.18 of the Act to administer the Local Laws and may also provide services and facilities.

In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity (Local Government Act 1995 2013, Section 1.3).

Composition of Council

The Council of the Shire of Augusta Margaret River consists of seven Councillors comprising:

- 3 Councillors elected from the North Ward;
- 2 Councillors elected from the Leeuwin Ward, and
- 2 Councillors elected from the Margaret River Ward.

Three or four Councillors’ terms expire at each biennial election in an alternating cycle e.g.: Three vacancies in 2013, four vacancies in October 2015, three vacancies in 2017.

The President is the Chief Governance Officer (CGO) and is elected by the 7 Councillors from amongst themselves by secret ballot at the first Special Council Meeting immediately following the biennial local government elections held on the third Saturday in October (2013, 2015, 2017 etc.)

The Deputy President is elected by the 7 Councillors immediately following the election of the President.

The principal officer of the Council is the Chief Executive Officer who is appointed by Council on behalf of the employing body the Shire of Augusta Margaret River. All other staff are employed by the CEO on behalf of the Shire of Augusta Margaret River. The Chief Executive Officer is responsible for the provision of advisory and administrative support to Council and in conjunction with the President and Council of facilitating the effective and efficient operation of the Council’s corporate governance processes.

Tenure of Councillors

Councillors are elected for a four-year term at elections held every two years, unless elected for a shorter term due to a vacancy created by the resignation or disqualification of a Councillor mid-term. There are no limitations on the maximum terms of office for Councillors.

Pursuant to the LGA 1995 Sections 2.20 to 2.27, a person shall cease, or be disqualified, from being a Councillor if that person:

- Resigns the position by notice in writing to the CEO;
- Is absent from 3 consecutive ordinary meetings without first obtaining leave;
- Is insolvent under corporations law;
- Becomes a member of State or Federal Parliament;
- Is convicted of a criminal offence and is serving a prison sentence or has been convicted of a serious local government offence;
- Is a member of another Council;
- Becomes an employee of the local government;
• Is guilty of misapplication of funds and property (Section 8.38); or
• Is dismissed as a member of a Council dismissed by the Governor (Section 8.25).

Election and Tenure of the President

Council is responsible for electing the President of the Shire every two years. The President is elected from among the Councillors to the office of President for a two-year term, commencing from the first Council meeting held after the election and concluding on the election of the next President. Voting is by secret ballot on a first past the post basis by ticking the candidate of choice as in a Local Government Election and the CEO as returning officer shall declare the number of votes received by each candidate.

Election and Tenure of the Deputy President

Council is responsible for electing the Deputy President of the Shire on a biennial basis. As with the President, the Deputy President is elected from among the Councillors for a two-year term, commencing from the first Council meeting held after the election and concluding on the date of the next local government elections. As with the Presidential election, voting is by secret ballot on a first past the post basis by ticking the ballot paper for the candidate of choice.

The Role of Councillors

(a) General roles and responsibilities
Councillors when combined together as a Council have ultimate responsibility for the overall successful operations of the Shire. The principal roles of Councillors enshrined in the Local Government Act (2.10) are:
• Representing the interests of electors, ratepayers and residents;
• Providing leadership and guidance to the community;
• Facilitating communication between the community and the council, and
• Participating in decision-making processes at council and committee meetings.

Implied in the Act and as outlined in the Shire’s Code of Conduct, there are five fundamental duties that Councillors must fulfil:
• A duty to act in good faith;
• A duty not to gain advantage by improper use of their position;
• A duty not to misuse information;
• A duty to act with due care and diligence; and
• A duty to prudently manage the Shire’s financial affairs.

Councillors, as directors of a Board, are required to consistently act in the “best interests of the community as a whole” and “provide good government for persons of the district”. This effectively means that the duties of a Councillor are owed to all ratepayers and residents of the Shire not just to those from the ward from which the councillor is elected or to special interest groups. Whilst it is recognised that Councillors must represent the interests of their respective wards, the interests of the whole Shire and its community must always come first.
Individual Councillors have no individual authority to participate in the day-to-day management of the Shire, including making any representations or agreements with other local governments, suppliers, customers, employees or other parties or organisations.

Councillors are not authorised to speak on behalf of the Shire, only the President or Deputy President in the President’s absence or the CEO if delegated by the President.

(b) Expectations of Councillors in Council meetings
A Councillor shall, in good faith, behave in a manner that is consistent with generally accepted procedures for the conduct of meetings at all Council meetings. Standards of behaviour are outlined in the Shire’s Standing Orders and Code of Conduct, and in the Local Government Rules of Conduct Regulations.

This will include, but not be limited to:
• Behaving in a business-like manner;
• Acting in accordance with the policy resolutions of the Council;
• Abiding by the provisions of the Rules of Conduct Regulations;
• Fully and frankly disclosing any financial and proximity interests and leaving the chamber;
• Disclosing interests affecting impartiality and determining whether this can be set aside in objectively determining issues on merit;
• Addressing issues in a confident and firm, yet courteous manner;
• Using judgement, common sense and tact when discussing issues;
• Minimising side comments, chatter and irrelevant remarks;
• Respecting the professionalism of staff and refrain from imposing excessive workloads on busy staff;
• Ensuring that others are afforded a reasonable opportunity to put forward their views by refraining from interruption or interjection when a speaker has the floor; and
• Being particularly sensitive in interpreting any request or indication from the President that aims to ensure the orderly and good-spirited conduct of the meeting.

Councillors are expected to be forthright in Council meetings and have a duty to question, request information, raise any issue, fully canvass all aspects of any issue confronting the Shire and cast their vote on any resolution according to their own judgement.

Wherever possible, Councillors should clarify issues with staff in advance of the meetings rather than during meetings as this will give staff the opportunity to research any matters and provide the most considered and accurate response. Staff should provide information equitably to all Councillors and not afford any one Councillor a beneficial advantage.

However, outside the Council Chamber, Councillors are required to support the spirit of all Council decisions in discussions with other local governments, external committees, staff and other parties when acting in their capacity as a Councillor. The Shire, however, respects the right of Councillors when acting in their local ward Councillor role to advocate the position of their local constituency.

(c) Emergency contact procedures
As there is the occasional need for urgent decisions, Councillors should leave with the CEO any contact details, either for themselves or for a person who knows their locations, so that all Councillors can be contacted within 24 hours in case of urgent business including the calling of a Special Council Meeting.
(d) **Attributes of an Effective Councillor**
Ideally any governing Council incorporates the breadth of expertise required to address the challenges facing it from time to time with an appropriate representation of community interests. For individual Councillors to be effective, the following attributes are desirable:
- Willingness to operate within and model the values of the organization;
- Capacity to devote sufficient time to responsibilities;
- Legitimacy and confidence in the eyes of the community;
- Ability to exercise objective judgement on corporate affairs independent from executive management;
- Willingness to access accurate, relevant and timely information; and
- Capacity to retain a holistic focus on Local Government issues.

(e) **The relationship between Councillors and Councillors**
"Councillors need each other to achieve their individual and collective goals. Effective relationships between councillors help to promote a successful council, a pleasant working environment and a council with public credibility" (CPA Australia 2007).

"Some features of an effective relationship are as follows.
- While they may have different views, councillors should treat each other with respect and courtesy.
- Disagreements, if they must be aired, should be expressed in a way that causes no detriment to individual councillors or the council as a whole.
- Councillors should not undermine each other, either within the local government or in public.
- Councillors must have effective working relationships in order to succeed individually and collectively" (CPA Australia 2007).

(f) **The relationship between the Councillors and the CEO**
"Effective relationships between the CEO and councillors can improve liaison between the councillors and the administration. The CEO is often able to assist councillors in addressing constituent issues. Councillors can keep the CEO informed about issues. The CEO is accountable to councillors when they sit as council. Councillors sitting as council are responsible for the performance management of the CEO.

"Features of an effective relationship are as follows:
- Each has a good understanding of each other’s role.
- Councillors understand that the CEO can be a source of advice and support and that honest and open communication between Councillors and the CEO can assist the CEO’s role.
- Councillors are a source of information to the CEO about what is happening in the community.
- Well understood and accepted protocols on communication exist between councillors and the CEO.
- Councillors set appropriate goals for the CEO. This is as important as assessing whether the goals have been achieved. Councillors commit themselves to spending the necessary time to set the goals as well as assessing their achievement" (CPA Australia 2007).

(g) **The relationship between the Councillors and the Administration**
"The fundamental role differences between the council and the administration underpin the relationship. The focus of Council and councillors should be on strategy, policy and outcomes. That is, they should focus on who is to benefit from the local government’s activities and in what way. The administration’s role is to focus on advice, implementation and operations."
“In the light of these role differences, some of the features of an effective relationship are as follows:

- There is a mutual understanding, acceptance and respect for each other’s’ roles.
- There is an understanding that while the administration is accountable to Council through the CEO, individual councillors cannot direct staff members.
- There is a preparedness to identify, discuss and resolve issues and problems if they arise.
- The administration has respect for and is committed to democratic governance and the primacy of council in the local government structure.
- Councillors understand that some of the work they may expect the administration to do is undertaken by politicians’ personal staff at other levels of government. This creates issues with regard to workloads and also prompts the question of whether it is appropriate for the administration to be carrying out this work. These issues have to be addressed directly and openly.
- There are protocols in place to inform and guide councillor-staff communication.

There are circumstances in which staff members have authority which is conferred by other state legislation. For instance health officers have responsibilities under state health legislation and they are not formally accountable to their Council for actions taken under this authority. Councillors and staff need to be sensitive to tensions which can arise in these circumstances. Good communication can to a large degree address any issues which arise” (CPA Australia 2007).

(h) Councillor Allowances/Entitlements

The Local Government Act provides allowances, fees, expenses and entitlements for Councillors. Currently the allowances and fees (as adopted by Council, July 2015) are:

<table>
<thead>
<tr>
<th></th>
<th>Annual LG Allowance</th>
<th>Meeting Fees</th>
<th>Information Technology &amp; Communication Allowance</th>
</tr>
</thead>
<tbody>
<tr>
<td>President</td>
<td>37,823</td>
<td>23,114</td>
<td>3,500</td>
</tr>
<tr>
<td>Deputy President</td>
<td>9,456</td>
<td>17,861</td>
<td>3,500</td>
</tr>
<tr>
<td>Councillors</td>
<td>0</td>
<td>17,861</td>
<td>3,500</td>
</tr>
</tbody>
</table>

The President is also supplied with a fully serviced vehicle for official purposes with any private use reimbursed to the Shire.

Expenses that are to be reimbursed on the production of receipts in accordance with Section 5.98(2) LGA are:

- child care costs up to $25 per hour incurred as a result of Councillor attendance at a Council or Committee meeting; and
- travel costs to and from Council and committee meetings;

The extent of child care and travel costs to be reimbursed is in accordance with the determination of the Salaries and Allowances Tribunal on Local Government Chief Executive Officers and Elected Members under the Salaries and Allowances Act 1975 section 7B.

Other expenses incurred by a Councillor in carrying out a local government function or a person accompanying that Councillor may be reimbursed by the Local Government. Application will need to be made to the CEO including the production of receipts or other sufficient information such as a statement from a vehicle log book of mileage. The CEO is to approve the reimbursement of Councillor travelling expenses, parking fees, accommodation, meals and living expenses whilst at conferences and other reasonable expenses in accordance with s5.98(2) LGA and the determination of the Salaries and Allowances Tribunal on Local Government Chief Executive Officers and Elected Members under the Salaries and Allowances Act 1975 section 7B.
Members under the Salaries and Allowances Act 1975 section 7B and Council Policy. Any expenses that are considered by the CEO to be outside of the normal reimbursements in fulfilling the role of a Councillor are to be determined by Council.

(i) Council Support Provided by the Shire

Further support to assist Councillors in performing their functions includes:

- Councillor lounge workspace with telephone access and internet in Margaret River;
- A small office in the Augusta Council Offices with telephone access;
- Food or beverage before and after meetings;
- Induction training, site visits to Shire facilities;
- Access to relevant training including IT;
- IT support to receive emails;
- Access to an Ipad to promote paperless meetings;
- Business cards;
- Name badges for the Councillor and their partner;
- Access to Shire information through a secured elected member access facility on the Shire’s intranet site;
- A Councillor’s Manual containing the Governance Charter, Council Policies and other relevant Shire documents;
- Training on how to access the LGA and other legislation.

The Role of the President

The President’s role is a key one within the Shire. The President is considered the “lead” Councillor or Chief Governance Officer and utilises experience, skills and leadership abilities to facilitate governance processes. The President has the key leadership role in the application of the Shire’s values both internally and externally of Council. The President is to communicate and strongly advocate the resolutions of Council.

The role of the President is enshrined in the LGA 1995 as follows:

- Preside at meetings in accordance with the Act;
- Provide leadership and guidance to the community in the district;
- Carry out civic and ceremonial duties on behalf of the Shire;
- Speak on behalf of the Shire;
- Perform such functions as are required under Law;
- Liaise with the CEO on the Shire’s affairs and the performance of its functions.

In common with the Chairman of most companies, the President will:

- Act as spokesperson on such matters as are required, in consultation with the Chief Executive Officer of the Shire;
- Be the spokesperson for the Shire at the General Meeting of Electors and Special Meeting of Electors of the Shire and in the reporting of performance and financial information;
- Be the major point of contact between the Council and the Chief Executive Officer;
- Work with the CEO in managing the Agenda for Committee and Council meetings and Councillor briefing and strategic planning sessions;
- Be kept fully informed on current events by the Chief Executive Officer on all matters which may be of interest to Councillors;
- Regularly review with the Chief Executive Officer and such other executive officers as the CEO recommends, progress of important initiatives and significant issues facing the Shire;
• Provide mentoring to the Chief Executive Officer;
• Unless determined by resolution of Council, authorise all appointments of Councillors to external functions on the basis of expertise, merit and/or interest;
• Liaise with the CEO in keeping with Council Policy to determine Councillor eligibility for attendance at training courses which due to time constraints are not able to be approved by Council,
• Coordinate the performance review process for the Chief Executive Officer in consultation with Councillors in accordance with the methodology adopted by Council; and
• Coordinate the annual process of Council and individual Councillor evaluations if undertaken.

(a) The Relationship between the President and the Councillors
“An effective relationship between the President and the councillors will help to promote the successful delivery of the council’s strategic plan and a credible local government. The relationship needs to be based on mutual respect and understanding of the different roles as the President does not have any legal power, apart from the role as chair of the formal council meeting, to exert authority over other councillors

“Some important aspects of the relationship are as follows:
• The President is the leader of the council and this role should be respected by all councillors.
• The President should facilitate an inclusive approach to decision-making and involvement in council activities in general.
• The President can assist councillors to get their issues considered by the council.
• The President should take some responsibility for councillors’ training and development and should work with the CEO to ensure that Councillors receive necessary training opportunities.

The President is able to help councillors and he or she should be responsible for facilitating the resolution of any disputes between councillors” (CPA Australia 2007).

(b) The relationship between the President and the CEO
“This important relationship assists in the smooth running of the local government through good communication and anticipation of issues. It should be outward looking. That is, it should be focused on ways in which the councillors and the organisation can be supported to best achieve the council’s goals.

Some features of an effective relationship are as follows.
• Both parties work closely together and put energy into achieving a good working relationship.
• The relationship is characterised by consistency, openness and good communication.
• Each has the responsibility to keep the other informed about important and relevant issues. Open communication ensures that both parties understand what is important.
• Both parties understand that they have different roles and authorities. While the President is the leader of the local government, this position has limited specific authority while the CEOs has particular authorities under the Local Government Acts;
• The relationship between the President and the CEO promotes involvement and inclusion amongst the councillors and the administration. It does not seek to concentrate power in the relationship.
• There is consistent communication and regular meetings” (CPA Australia 2007)

(c) Emergency Decision Making
Under the Local Government Act 1995 the President has the authority to purchase goods and services if the supply of goods and services is authorised as an emergency under Section 6.8 of the Act. The expenditure is to be reported to the next ordinary Council meeting.

(d) Acting President

The role of the Deputy President is to perform the functions of the President when authorised to do so when the President is unavailable or unwilling to perform the functions of President (Local Government Act 1995 2013, Section 5.34)

Section 5.35 of the Local Government Act provides for a Councillor to be appointed if it be known that the President and Deputy President are likely to be unable to perform official duties. In the absence of an appointment by Council the CEO is required to perform the duties on the agreement of 2 Councillors of the CEO’s choice. It is preferable, however, for an elected member to perform ceremonial duties and other Presidential duties rather than the CEO if possible by convening a meeting of Council to make the appointment.
The Role of the Chief Executive Officer

The Chief Executive Officer is appointed by and accountable to the Council. The Chief Executive Officer is responsible for the ongoing management of the Shire in accordance with the strategy, policies and programs approved by the Council.

Within the Council meeting, the Chief Executive Officer will provide information and seek to clarify any issues raised, but will not enter into debate or deliberations of the Council.

The Chief Executive Officer’s responsibilities will include:
- Advising the Council in relation to its functions under the LGA and other laws;
- Ensuring that advice and information is available to Council so that informed decisions can be made;
- Causing Council decisions to be implemented;
- Managing the day-to-day operations of the Shire in accordance with the strategies, policies and programs determined by the Council;
- Liaising with the President on the affairs and performance of the Shire’s functions;
- Being the spokesperson for the Shire on such matters as required by the President;
- Employment, management supervision, direction and dismissal of staff
- Ensuring documents and records of the Shire are properly kept;
- Developing, with the Council, a consensus for the Shire’s vision and direction;
- Constructing, with the Shire’s Executive Leadership Team, a strategic business plan to implement this vision;
- Ensuring that all proposals which affect the strategic direction of the Shire are channelled through the Council for consideration;
- Providing strong leadership and effective management of the Shire’s staff in order to:
  - encourage co-operation and teamwork;
  - build and maintain staff morale at a high level; and
  - build and maintain a strong sense of staff identity with, and a sense of allegiance to the Shire.
- Ensuring a safe and fair workplace for all personnel;
- Forming staff committees and working parties from time to time to assist in the orderly conduct and operation of the Shire;
- Keeping the Council informed, at an appropriate level, of all the activities of the Shire, and
- Ensuring relevant and timely information is provided to Councillors.

Council is charged with responsibility for the oversight of the allocation of the local government’s finances and resources. The Chief Executive Officer is formally delegated by the Council to authorise all expenditures as approved in the budget and in accordance with the Shire’s Purchasing Procedures.

Councillor Staff Communication Protocols

The Shire of Augusta Margaret River, like many small to medium sized local governments, has a culture of greater interest by Councillors in the everyday operation of the local government. Councillors are often more accessible to the community and therefore want to be in a position of being able to answer most questions put to them by members of the community. In recognition of this close relationship which exists between elected members and the community, the CEO is to
ensure that prior to taking any decisions that are likely to have an adverse effect on the community perception of the Shire that elected members are kept informed on major issues whenever possible before they become known in the wider community. This is to be actioned by face to face meeting with the President if possible, otherwise by telephone contact with the President and by follow up email communication to all Councillors. Other less urgent matters are to be placed in the regular Councillors’ Bulletin.

Councillors are entitled to be fully informed in order to carry out their role as a decision maker and from time to time will seek specific information on various issues before Council. The principle of the hour glass is appropriate, with the CEO as the neck of the hour glass, the Councillors above and the staff below. Communication from staff to Councillors and vice versa should be through the CEO or in accordance with CEO approved protocols, which is through the Directors with the CEO being advised by email or verbally of any discussions.

The protocols for seeking email advice are that Councillors are to direct their enquiries through the CEO or Directors with a copy to the CEO and Shire President. Staff responding are to provide information to the Councillor and to inform the CEO and President of any advice or information provided. Return emails to Councillors from staff providing information and advice are required to cc the CEO and Shire President. In the event of information relating to a matter before Council information is to be given equitably to all Councillors to ensure all Councillors are informed and have been provided with the same information for decision making purposes.

Similarly, staff are to make a file note summary of significant Councillor telephone contacts and appointments for Council records and to ensure the CEO is informed.

In addition to a right of access to previous Agendas and Minutes of all meetings, Councillors are also entitled, within the parameters of the law, to view all records of the Shire relevant to the performance of his or her functions as a Councillor.

Councillors will adhere to the following protocol when seeking information:
1. Approach the Chief Executive Officer to request the required data;
2. If the data is not forthcoming, approach the President; and
3. If a resolution is still not forthcoming, write a letter to all Councillors and the Chief Executive Officer detailing the information required purpose of the information and why the information is required in fulfilling the function of Councillor.

Media Communication Protocols

Media Protocol has been established by the Shire to facilitate positive relationships with the media which in turn encourages positive relationships with the community.

All media requests are directed to the Marketing and Events Officer, whose role is to coordinate responses in consultation with the CEO. Under the provisions of the Local Government Act, the only authorised spokesperson for the Council is the Shire President and then the Chief Executive with the President’s authority. The Deputy Shire President is authorised to speak on behalf of the Shire in the absence of the Shire President. The CEO may authorise other staff where considered appropriate particularly the Directors to speak on operational matters.

Staff and Councillors are not authorised to speak on Council decisions and policy matters or Council matters publicly. However, Councillors are clearly able to speak out on matters expressing personal views on matters other than to criticise decisions of Council.
Figure 2: Communication with the Media on Behalf of Council

COMMUNICATION WITH THE MEDIA ON BEHALF OF COUNCIL

DEPUTY SHIRE PRESIDENT
Speaks in the absence of the Shire President

SHIRE PRESIDENT
Is the chief spokesperson for the Shire focusing on political issues and decisions of Council

CHIEF EXECUTIVE OFFICER
As authorised by the Shire President a focus on operational details rather than political issues

COUNCILLORS
Not authorised to speak on behalf of the Council. Personal views only, but not to criticise Council decisions.

MEDIA & COMMUNITY

MARKETING OFFICER
Preparation of Media Releases

DIRECTORS
on operational matters as authorised by CEO
4. Decision Making and Management

Community and Stakeholder Consultation

Consultation with the community and stakeholders as part of the decision making process is considered highly desirable when attempting to reach informed decisions. This ensures that decisions are grounded in the community’s views as greater community participation in the decisions and affairs of the local government is one of the key intentions of the Act (s1.3 (2b)). Decision making proposing major initiatives by the Council, private bodies or individuals will normally include public consultation, either for statutory reasons or because Council believes it is essential to achieve engagement of the community. Examples of mandatory community consultation include the Plan for the Future, Land transactions of over $1 million and Local Planning Scheme Amendments. Consultation provides the community with the opportunity to have a say with respect to the future direction of planned projects and a chance to participate in decisions which directly affect their lives prior to those decisions being made. The Shire has a consultation policy to supplement statutory requirements.

Council Meetings and Committee Meetings

The Council meeting is the formal debating and decision-making forum of the Council. The decision making process of Council is fundamental to the corporate governance process of the Shire. The decision making process of Council is outlined in the LGA and in the Shire’s Standing Orders. Motions arising at the Council meeting are decided by a majority of votes by a simple or absolute majority (i.e. To achieve an absolute majority a minimum of 4 votes are required without including a casting vote from the President). In the event of an equality of votes, the President or the Presiding Member of Council or a committee must cast a second vote to break the deadlock.

(a) Meeting Frequency

Unless otherwise agreed, an Ordinary Meeting of the Council will be held on the second and fourth Wednesday of the month.

When necessary, a special meeting of Council can be convened, pursuant to the LGA, by the Chief Executive Officer upon the written request of the President or at least three Councillors, or if decided by Council and stating the date and purpose of the meeting. (Section 5.4 & 5.5)

A schedule of upcoming Council meetings for the following twelve-month period will be approved by Council in December of each year and advertised to the wider community.

(b) Meeting Times and Locations

Council meetings will normally occur at the Council Chambers at the Council Administration Centre, 41 Wallcliffe Road, Margaret River. Meetings will generally commence at 5.30pm. Council meetings may be convened at alternative times and locations including Cowaramup and Augusta when it is so determined by the Council.
(c) Attendees
Attendees should include all Councillors, CEO, Directors and any other Manager or officer as directed by the Chief Executive Officer. The President or a majority of Councillors may request the attendance at any meeting of the Council any external person who, in their opinion, may be able to assist the Council in any matter under consideration. The CEO shall initiate action to invite the person to attend.

Generally speaking, all Council and committee meetings are open to the public. However, where confidential or sensitive matters are to be considered, the Council may resolve to conduct the proceedings behind closed doors for any of the reasons outlined in section 5.23 of the Act.

(d) Quorum
In order for a decision of the Council to be valid, a quorum of Councillors must be present. There must be a minimum of 4 Councillors present at any Council meeting to form a quorum. If there is no quorum then the meeting shall be abandoned (counted out) after 30 minutes has elapsed.

(e) Council Meeting Agendas and Minutes
The Chief Executive Officer will oversee the preparation of the meeting Agendas. The Directors will be responsible for the proof reading and authorisation of the items of officers from within their Directorates whilst the CEO will give overall approval for the release of the agenda. Under the Act the community is entitled to have the agenda at the same time as it is released for the Councillors. This is facilitated by copies being available at the public counter and the agenda being posted on the website.

The Agenda will then be distributed to Councillors the Thursday before the Ordinary Council or Committee meeting (at least seventy-two hours is required under the Act). It will also be posted in electronic format to the Shire’s website. The Council meeting Agenda will follow the format below as listed in the Standing Orders:
   a) Declaration of opening;
   b) Apologies;
   c) Approved members' leave of absence;
   d) Disclosure of members' interests;
   e) Public question time;
   f) Applications for members' leave of absence;
   g) Confirmation of minutes;
   h) Deputations;
   i) Petitions;
   j) Announcements by the President;
   k) Questions by members of which due notice has been given;
   l) Reports;
   m) Motions of which previous notice has been given;
   n) Motions for consideration at the next meeting;
   o) New business of an urgent nature;
   p) Matters for which the meeting may be closed;
   q) Closure.

(f) Councillor Meeting Preparation
Preparation before attending a meeting is critical. All reports that will involve a decision should be read thoroughly and the main points well understood. If not, then a Councillor may seek further clarification and raise any concerns with the responsible Director(s) well in advance of a meeting. Asking questions of a complex and technical nature at council (and other public) meetings is to be avoided as an officer may not be able to respond adequately off the cuff or there is a risk of a factually incorrect answer being given. Some issues affecting Shire planning, finance or legal matters can be quite complex and clarification of points prior to a decision making meeting is highly recommended. The relevant Director should be emailed at the earliest opportunity to enable a written reply to be provided in advance of the
meeting. Alternatively a Councillor may seek the approval of the President in liaison with the CEO to include the item on a Councillor Information Briefing Session for further clarification and discussion.

Similarly, Councillors remain accountable when resolving to change decisions recommended by reporting officers. Reasons for amending or rejecting an officers recommendations or for introducing additional or alternative resolutions must be recorded in Council meeting minutes. Councillors are therefore required to provide full justification for any changes actually in the motion or during the debate on the alternative motion.

A decision to defer a matter should be seen as a last resort and occur only where it is clear that additional information is required or where circumstances have come to light since an agenda has been distributed. A failure to consult with the community or key stakeholders may also give cause to defer a matter.

The Shire’s *Standing Orders Local Law* also provides procedures for the Council to revoke or change a decision made earlier in a meeting or at a prior meeting.

The *Local Government Act* specifies all cases where an absolute majority is required for a decision to be valid. Each report presented to a meeting is to state whether an absolute or simple majority is required.

**(g) Meeting Cycle**

The meeting cycle will be as follows:

<table>
<thead>
<tr>
<th>Deadline</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday prior to the Council or Committee agenda distribution</td>
<td>Close of agenda items to be provided to the Governance Officer</td>
</tr>
<tr>
<td>Tuesday week prior to meeting</td>
<td>Agenda Settlement meeting for executive team to review agenda</td>
</tr>
<tr>
<td>Thursday before meeting</td>
<td>CEO gives final approval for agenda distribution</td>
</tr>
<tr>
<td>Thursday evening before Council or Committee meeting</td>
<td>Distribution of Council or Committee agenda including posting on the website</td>
</tr>
<tr>
<td>2nd or 4th Wednesday of month 1-5 pm</td>
<td>Councillor Information Briefing session</td>
</tr>
<tr>
<td>2nd or 4th Wednesday of month 5.30pm</td>
<td>Ordinary Council meeting</td>
</tr>
<tr>
<td>Friday following meeting at or following Monday at latest</td>
<td>Distribution of unconfirmed minutes*</td>
</tr>
</tbody>
</table>

*NB:* Statutory timeframe for unconfirmed minutes is 5 working days for Committees and 10 working days for Council meetings. In cases of complex minutes the unconfirmed minutes of Council meetings may exceed the 3 day turnaround.

**Meetings are Generally Open to the Public**

The *Local Government Act* provides for the public to attend Ordinary and Special meetings of Council. The Act also provides for all or part of any meetings to exclude the public on the grounds of confidentiality. Members of the media are also excluded from confidential meetings. Council or the committee must carry a motion to exclude members of the public to allow the meeting to sit behind closed doors.
There are valid reasons why the public might be excluded from a meeting. For example, it is often unwise for legal advice to be tendered publicly and proposals for Shire planning schemes may be prematurely disclosed and individuals’ rights could be disadvantaged.

Usually the discussion of a Council’s confidential business will be held after exclusion of members of the public. This is done by a Council resolution which may be moved without notice. The following matters are reasons given in the Local Government Act for excluding members of the public and considering matters behind closed doors:

- A matter affecting an employee or employees;
- The personal affairs of any person;
- A contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting;
- Legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;
- A matter that if disclosed, would reveal a trade secret;
- Information that has a commercial value to a person; or information about the business, professional, commercial or financial affairs of a person,
- Where the trade secret or information is held by, or is about, a person other than the local government;
- A matter that if disclosed, could be reasonably expected to impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
- Endanger the security of the local government’s property; or
- Prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
- Information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971; and

Reports in the confidential section of the Agenda are clearly marked “Confidential” by the CEO for the purpose of confidential discussion during a committee or council meeting with members so the public excluded. Councillors and staff are generally not permitted to disclose information discussed at the meeting or contained in a confidential report or attachment.

Disclosure is only permitted in some special circumstances as outlined in the Local Government (Rules of Conduct) Regulations 2007. A council member may only disclose information —

a) At a closed meeting; or
b) To the extent specified by the council and subject to such other conditions as the council determines; or
c) That is already in the public domain; or
d) To an officer of the Department; Local Government, or
e) To the Minister; or
f) To a legal practitioner for the purpose of obtaining legal advice; or
g) If the disclosure is required or permitted by law.

The Local Government Act 1995 (s5.93) states that “A person who is a council member, a committee member or an employee must not make improper use of any information acquired in the performance by the person of any of his or her functions under this Act or any other written law —

a) To gain directly or indirectly an advantage for the person or any other person; or
b) To cause detriment to the local government or any other person” (2013).

Breaching s.5.93 is a serious matter and carries a penalty of $10,000 or imprisonment for 2 years.
Planning and Development Decision Making

The Planning and Development Act 2005 provides a clear, workable legislative framework for the planning system in Western Australia. The Shire has experienced significant residential, commercial and tourism growth in the last decade and planning for the future is a critical function for our local government. The Shire’s Local Planning Scheme was gazetted on 10 September 2010.

The State Government has established Development Assessment Panels (DAP) whereby all development applications over $7 million are determined by an independent DAP. Additionally a developer can choose to have any development application exceeding $3 million up to $7 million determined by the DAP.

The Council of a local government therefore has particular responsibilities under the Planning and Development Legislation to carry out planning functions including to determine all development applications under the DAP thresholds and to modify their local planning schemes as required. Council has a quasi-judicial role in determining development applications in accordance with Planning Law as enshrined in the Local Planning Scheme of the District. In other words, Councillors are to act as a panel of judges would in carefully weighing up all the facts of the matter and applying the Shire Planning law that is relevant to the case under consideration.

In this role, Councils are required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law, natural justice and procedural fairness. Whilst it is recognised that Councils are constituted by members of the community, they must exercise their discretion over planning matters in a way that is mindful of this quasi-judicial role.

The AMRS employs specialist planning officers to draft reports and provide council with all the information on the facts of a particular planning matter and the relevant law that is applicable. Council, in considering the matter at a Council meeting, should restrict itself to those Shire Planning issues raised in the report, as these will be the relevant considerations.

Councillors, in deciding on planning matters must take care to ensure that the following principles are adhered to:

a) Councillors must refrain from declaring their support or opposition to a development application prematurely as they are required to carefully evaluate all information impartially including the officer’s report, any public submissions, deputations and the debate of fellow Councillors prior to finalising their position and voting and making a determination.

b) Councillors must read the officer’s report on the matter before voting at a council meeting. A Councillor who has not read the officer’s report who participates in the decision making process without a full understanding of the issues at hand may jeopardise the validity of the decision making process.

c) Councillors must ensure when they debate a planning matter under consideration that they restrict themselves to the relevant matters of fact and law. These relevant matters will be contained and addressed in the officer’s report. Where council conducts a debate on a matter that is based on irrelevant considerations, or fails to take into account relevant considerations, this may jeopardise the decision making process.
The 2006 State Administrative Tribunal decision in the J & P Metals vs the Shire of Dardanup appeal highlights this point. The Shire of Dardanup not only lost the appeal but over $10,000 in costs were awarded against the Shire.

“The Shire of Dardanup failed to identify any environmental planning issues in respect to this matter and justified their decision based on community opposition to the proposal. The Tribunal determined that community opposition could not of itself be a determinative matter, as it was but one of many considerations relevant to the determination of the application. The elevation of this consideration to the sole criterion was an error. The Tribunal was of the view that the Shire of Dardanup failed to give proper, genuine and realistic consideration to the substantial merits of the application. The Tribunal was persuaded by the arguments presented by J & P Metals and was satisfied that the upgrade of the existing landfill facility from Class II to Class III would not prejudicially affect the amenity of the area and was consistent with the orderly and proper planning of the locality. Planning approval for the upgrade of the existing landfill facility to accept Class III landfill was granted subject to a number of conditions.”

d) Council must be careful when making a resolution that is different to the officer recommendation. In resolving differently from the recommendation the 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. Council’s case will be weakened when going to the State Administrative Appeals Tribunal if Council is at odds with the professional advice of officers.

e) Council has a duty to ensure neighbours who may be significantly adversely affected by the development have had an appropriate opportunity to be heard on the development proposal. The officer report will include details of any neighbour notification or consultation that has occurred. Council must ensure that neighbours that may be adversely affected by a proposed development have had an adequate opportunity to put their case, 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 significant interest requests it.

Any submission must be made on the basis of Shire 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.

Council must ensure that neighbours that may be adversely affected by a proposed development have had an adequate opportunity to put their case, and that any relevant matters that they raise have been considered in the decision making process.

Generally, Council as a body, and each Councillor individually, must be certain that they have a clear understanding of the relevant facts and law before making a decision. This decision must be based on the relevant considerations and should not take into account irrelevant considerations.

Local Planning Schemes
The AMRS is required under the Planning and Development Act to have in place a Local Planning Scheme for the district. A Local Planning Scheme is required to be consistent with the SW Region Planning Framework and SW planning policies, which is administered by the State Government. The Local Government Shire Planning Scheme must also take into consideration State Government Planning Strategies, Plans and Policies.

A Local 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; and
• 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 Local Planning Scheme are formulated through a collaborative and consultative process involving the State Government, Local Government and the community.

The State Government, through the Minister for Planning and Infrastructure provides final approval to the contents of a Local Planning Scheme and once gazetted a Scheme comes into operation and has the force of law. The authority to operate its Local Planning Scheme is delegated to the Local Government by the State Government.

Amendments can be made to an operative Local 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 a Scheme Amendment.

A range of local planning policies are also used to support and guide the implementation of the Scheme. These planning policies include the Shire’s Local Planning Strategy, as well as the Municipal Heritage Inventory. Planning policies can be developed to also provide guidance, detail and consistency of treatment with respect to amenity and other relevant planning issues.

The role of a Council in administering a Local Planning Scheme includes:
• Consideration of development applications;
• Comment on subdivision proposals before the WAPC;
• Consideration of Shire Planning Scheme Amendment proposals (whether suggested by the Shire or by a customer);
• Enforcement of Local Planning Scheme provisions;
• Development of planning policies;
• Review of existing Local Planning Scheme; and
• Formulation of new Local 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 will provide Members with detailed information relating to the particular planning issue requiring Council consideration. In certain circumstances, applicants have rights of appeal to challenge a planning related decision of the Council. It is therefore important for Members to gain a full understanding of the issues and follow proper process before reaching a decision.

While all decisions relating to development applications represent a ‘Council decision’, most determinations are made by the Director Sustainable Development under ‘delegated authority’ through the Development Assessment Unit (DAU).

The DAU meets on a weekly basis on Tuesday and the minutes of that meeting are distributed to Councillors on the Friday. Councillors have until the following Tuesday morning to ask any questions or, in rare cases where there is sound justification, request the application to be dealt with by Council.
Unless a request is received from a councillor to have the matter determined by Council the applicants are notified of the decision of the Shire as soon as practical.

Shire Planning decisions must be consistent with, and have regard to, the requirements of the Leeuwin Naturaliste Ridge Statement of Planning Policy and the Department Environment and Conservation who have jurisdiction over matters affecting the environment.

Financial Management

Council is charged with responsibility for the oversight of the allocation of the local government’s finances and resources. During the period from 1 June in a financial year to 31 August in the next financial year, or such extended time as the Minister allows, each local government is to prepare and adopt (by Absolute Majority), a budget for its municipal fund for the financial year ending on 30 June in the following year (s.6.2).

A local government is to prepare an annual financial report for the preceding financial year and other financial reports as required. By 30 September following each financial year, a local government is to submit to its auditor the accounts of the local government, balanced up to the last day of the preceding financial year, and the annual financial report of the local government for the preceding financial year.

The Shire of Augusta Margaret River receives revenue from:
- Rates;
- Service charges;
- Fees and charges;
- Borrowings;
- Investments; or
- In property; or
- Grants or gifts.

The CEO has a duty (s.6.5) to ensure that proper accounts and records of the transactions and affairs of the local government are kept in an up to date, accountable and auditable condition. Shire purchasing and financial management is to be conducted strictly in accordance with the LGA, Financial Management Regulations and Council’s adopted Purchasing Procedures Manual.

Under the Financial Management Regulations of the Local Government Act (s.6.10), efficient systems and procedures are to be established by the CEO for the Shire of Augusta Margaret River —

a) For the proper collection of all money owing to the local government;
b) For the safe custody and security of all money collected or held by the local government;
c) For the proper maintenance and security of the financial records of the local government (whether maintained in written form or by electronic or other means or process);
d) To ensure proper accounting for municipal or trust —
   i. revenue received or receivable;
   ii. expenses paid or payable; and
   iii. assets and liabilities;
e) To ensure proper authorization for the incurring of liabilities and the making of payments;
f) For the maintenance of payroll, stock control and costing records; and
g) To assist in the preparation of budgets, budget reviews, accounts and reports required by the Act or the Financial Management Regulations.

The CEO is to also:
a) Ensure that the resources of the local government are effectively and efficiently managed;
b) Assist the council to undertake reviews of fees and charges regularly (and not less than once in every financial year); and

c) Undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every 4 financial years) and report to the local government the results of those reviews. (NB: This is known as the Internal Audit function at the Shire of Augusta Margaret River).

The Council can closely monitor the Shire’s financial management through the monthly reports presented to Council including the:
- Monthly and quarterly financial reports;
- Cash flow statements;
- Variance reports;
- Trust and reserve fund statements;
- Income and Expenditure Statement;
- Debtors (over 90 days); and
- Creditor’s days.

Councillors have the right to seek information and clarification from staff about the financial affairs of the Shire.

**Committee Meetings**

Committees may be established by, and to assist, the Council to more effectively fulfil its functions. Membership of committees can involve high levels of commitment during the term of a Council. Clear terms of reference are encouraged to ensure clarity of purpose and accountability. Committees are also a means of engaging members of the community who are recognised for their interests and expertise.

Currently Council has established the following committees:
- Audit and Risk Management Committee
- Sustainability Advisory Committee
- Local Emergency Management Committee
- Bush Fire Advisory Committee
- Sport and Recreation Advisory Committee

The Council can establish committees comprising 3 or more persons to assist in the exercise of its powers and discharge the duties of Council. Not all powers may be delegated. All Council Committee meetings are bound by the same *Standing Orders Local Law* in the same manner as Special and Ordinary Meetings of Council.

Committee meetings will normally be attended by a Shire officer having the function of two way communication between the Committee and the Shire administration. If a Committee wishes Council to be informed or determine a matter, the Committee should submit the request through the officer informing the CEO that it wants to report a certain matter to the Council for its determination or consideration.

The CEO, at his or her discretion, may direct the officer to prepare a report on the subject matter for inclusion in a coming Ordinary Council Meeting or Committee meeting agenda (the full minutes of a committee meeting should not be sent to Council and then, only at the specific request of Council). Council’s determination will then be reported back to the Committee.
The Audit and Risk Management Committee

The establishment of an Audit Committee is a compulsory requirement of the *Local Government Act*. The Audit Committee is to recommend to Council the appointment of the Shire’s auditor and is to receive the reports of the auditor on an annual basis following the close of the financial year.

Councillor Briefing Sessions

In September 2013, in the interests of openness and transparency to its public, Council resolved to ensure that Councillor briefings would be open to the public. Council decided to allocate time on Wednesday afternoons prior to the Ordinary Council Meetings to receive briefings from staff, deputations from parties with an interest in agenda items and presentations from professionals and community members relating to potential future and current agenda items.

The purpose of Councillor Information Briefing and Workshops Sessions is to:
1. Provide relevant information so that Councillors are better informed when participating in Council decision making processes.
2. Provide a forum for two-way communication between elected members and key staff members on important Council related matters.

Information briefings and workshops sessions are centred on one or more of the following outcomes, which can be classified under the Department of Local Government and Communities (DLGC) *Guidelines for Councillor Forums* as either a Concept or an Agenda Forum:

**Concept Forums**
- Capacity building and up skilling of Councillors
- Discussion of governance processes and effectiveness
- A statement of principles on key issues
- Guidance to the CEO on further avenues of research
- Compiling a list of critical issues affecting the Shire
- The brainstorming of ideas
- Policy development and direction (but not adoption)
- Strategic planning and ongoing discussion of the Shire’s strategic direction
- Breaking down of complex issues scheduled to come before Council in the medium to longer term

**Agenda Forums**
- Clarification of items on the Council agenda
- Requests for additional information on items on the Council agenda to ensure equity of information to all Councillors
- Confidential discussion of items which are on the agenda and which will be discussed with members of the public excluded

Briefing sessions relating to agenda items are open to the public. Briefing sessions known as concept forums, whereby a free flowing exchange of creative thoughts and ideas and brainstorming is encouraged, particularly for longer term strategic planning purposes, will be closed to the public.

Additionally, items of a confidential nature (as outlined in section 5.23 (2) of the *LGA*) or complex items which need to be broken down before being tabled for Council are to be discussed in Concept Forum. This approach to Councillor briefings is consistent with the DLG Guidelines.
It is essential that information workshops do not become de facto meetings. There must be no implication of debate or collective or collaborative decisions being made or implied. Council has established protocols and guidelines for the conduct of these workshops to ensure compliance with the LGA.

Notice of information briefings and workshops will be given in the Councillors’ Calendar and will include a list of topics or a program with any accompanying information or discussion papers. Councillors wishing to have an item included on the program are to advise the CEO and President via email at the earliest opportunity. Workshops will generally be held in the Council Chambers or at other venues outside of the Shire Offices to facilitate informal discussion.

Sessions will generally involve information being given by the relevant officer and other parties with questions and discussion from the floor directed through the chair or by breaking into smaller workshop discussion groups before returning to the whole group for the sharing of ideas. On occasions an external facilitator may be required to assist Council.

Organisational Structure

The role of Council is clearly distinct from that of the administrative arm of Local Government. Section 5.2 of the LGA provides that the Council is to ensure that there is an appropriate structure for administering the local government. The Council may delegate this responsibility to the CEO to fulfil. A clear understanding of the roles of the Council and the CEO is first necessary when establishing the organisational structure. Council has delegated this function to the CEO at the AMRS.

General Delegations

Pursuant to the LGA, the Council has the power to delegate to the CEO (s.5.42) or to a committee (s.5.16) of Council as long as that committee is not exclusively comprised of community members.

Council can delegate by an absolute majority resolution of Council to the Chief Executive Officer the exercise of any of its powers or the discharge of any of its duties from time to time and in such manner as the Council determines excepting certain limitations as outlined below. The CEO has the power to delegate to other staff members.

In addition, the Council may from time to time, as it may deem necessary or expedient, delegate to a committee comprising Councillors/and or staff by an absolute majority decision any of its powers, duties and functions as it thinks fit excepting certain limitations. Where a committee has Councillor and/or staff and community members the delegation is limited to the management of local government property or an event, e.g. the Seniors Week Committee.

Delegations are to be in writing and a register of delegations is to be kept by the CEO.

Limitations to delegation to the CEO

- Any power requiring an absolute or special majority
- Accepting tender exceeding an amount determined by the Council
- Appointing an auditor
- Acquiring and dispose of property exceeding an amount determined by the Council
- Borrowing money;
• Set Councillor, Presidential and Deputy Presidential fees; and
• Hearing objections under 9.5 and any power or duty requiring Ministerial or Governor approval.

Limitations to delegation to a Committee
• Any power requiring an absolute or special majority
• Any powers that are prescribed in the Act.
• Any powers to a committee comprised only of community members

Delegations are to be reviewed annually in accordance with the Act and this will be carried out in the June quarter.
5. Culture and Vision

The Shire’s Values

Organisational culture includes the written and unwritten rules that shape and reflect the way an organisation operates. It incorporates the shared values and beliefs that enable members of an organisation to understand their place in the organisation, its norms and how it operates. It also helps members of the organisation understand what is expected of them. A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues.

Council has adopted five core values to guide our behaviour and decision making as people and as an organization and how we strive to lead and serve our community.

1. Respect
2. Honesty
3. Commitment
4. Courage
5. Innovation

Councillors and staff should demonstrate their commitment to the Shire’s values by adopting the following actions.

Respect
Respect is demonstrated by:
- Respecting yourself and caring about your own wellbeing, happiness, appearance and reputation
- Respecting your own safety and that of your workmates
- Respecting and treating fellow councillors, staff, volunteers and the community as you expect to be treated with friendliness, dignity, fairness and courtesy.
- Respecting the environment and recognising the importance of caring for the Planet by thinking globally and acting locally.
- Respecting the Council as the key elected local government decision making body
- Respecting the Shire’s limited resources by safeguarding the Shire’s assets, vehicles, equipment, finances and reputation.

Honesty
Honesty is demonstrated by:
- Being truthful and acting with integrity
- Being frank and open in your dealings with each other
- Acting ethically and beyond reproach
- Building trust through reliability and consistency
- Being sincere in your words and actions
- Admitting your own mistakes and taking responsibility for them

Commitment
Commitment is demonstrated by:
- Striving to improve or meet a standard of excellence
- Persisting in seeking goals despite obstacles and setbacks
• Readily making personal or group sacrifices to meet the Shire’s goals
• Actively seeking out opportunities to fulfil the Shire’s goals
• Being results orientated, with a high drive to meet objectives and standards
• Setting challenging goals and taking calculated risks
• Staying focused on the vision to achieve the agreed outcomes

Courage
Courage is demonstrated by:
• Doing what is right even if it involves a personal cost
• Confronting unethical actions in others
• Taking tough, principle stands even if they are unpopular
• Operating from hope of success rather than fear of failure
• Making the tough decisions and seeing things through to the end
• Standing up for your convictions

Innovation
Innovation is demonstrated by:
• Taking fresh perspectives in your thinking and work
• Being flexible in handling change
• Generating new ideas and creative solutions
• Adapting to shifting priorities
• Recognising new and more efficient ways of doing things
• Taking on new challenges and roles outside of your comfort zone
• Working smarter and not necessarily harder

Ethical Conduct and the Code of Conduct
The Local Government Act confers considerable powers on the Council. Because of this, elected members, committee members and employees must seek actively to achieve and retain public trust. The Shire’s Code of Conduct provides a framework for behaviour that must be observed in the wide range of interactions and scenarios experienced in the conduct of Council activities.

Elected members and committee members should behave at least consistently with the minimum standards of the Code of Conduct for Councillors and Committee Members, and thereby reflect the high level of conduct the community is entitled to expect of them. In this way, public confidence and trust in the system of Local Government is enhanced.

Compliance with the Shire’s Code of Conduct remains voluntary unless legislation is breached such as the relevant sections of the Local Government Act and the Rules of Conduct Regulations which are duplicated within the Code of Conduct whereby disciplinary sanctions and prosecution may be applied.

Rules of Conduct Regulations and the Standards Panel
The Local Government (Rules of Conduct) Regulations 2007 provide minimum standards for ethical and professional conduct by elected members and people who may be members of committees established by Council (as defined in sections 5.8 and 5.9 of the Local Government Act).
The Rules contain general principles to guide the behaviour of council members. The Rules state that a person in his or her capacity as a council member should —

a) Act with reasonable care and diligence; and
b) Act with honesty and integrity; and
c) Act lawfully; and
d) Avoid damage to the reputation of the local government; and
e) Be open and accountable to the public; and
f) Base decisions on relevant and factually correct information; and
g) Treat others with respect and fairness; and
h) Not be impaired by mind affecting substances. The Rules require Councillors to:
   - Observe confidentiality requirements,
   - Not misuse their positions for the gain or disadvantage of others,
   - Disclose interests affecting their impartiality,
   - Not become involved in administration which is the province of the CEO and staff,
   - Not criticise or cast aspersions on staff members in a Council or committee meeting,
   - Not accept any gifts over $300,
   - Notify the receipt of gifts up to $300 through the gifts register

Allegations of failure to observe the Rules of Conduct can be made to the Standards panel convened by the Minister. Complaints are required to be made in writing on the required forms and forwarded to the Standards Panel by the CEO who is the Shire’s designated Complaints Officer.

Disclosures of Interest

A council or committee member and who has an interest in any matter to be discussed at a council or committee meeting attended by the 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.

Financial interests and proximity interests are dealt with under the Local Government Act and require the Councillor to leave the room while the item is debated unless approval is given by the Council in special circumstances. Failure to disclose a financial or proximity interest is a serious matter and may result in the matter being reported to the Crime and Corruption Commission or the Director General of the Department of Local Government.

The disclosure of interests affecting impartiality is dealt with in the Rules of Conduct Regulations.

Advice can be sought from the CEO or Department of Local Government and Communities, however, responsibility for the decision on whether to disclose an interest lies fairly and squarely on the shoulders of the Councillor concerned.

CEO reporting obligations to the CCC and PSC

The CEO has a mandatory requirement to report any reasonable suspicions of serious misconduct on the part of Councillors or Shire officers to the Corruption and Crime Commission (CCC).
New legislation under the Corruption, Crime and Misconduct Act 2003 (CCM Act) separates serious and minor misconduct and provides different, but complementary roles for the Corruption and Crime Commission (CCC) and Public Sector Commission (PSC) in managing misconduct.

Serious misconduct, as defined in the CCM Act, is when an elected member, or officer:

- acts corruptly or corruptly fails to act in the course of their duties; or
- corruptly takes advantage of their position for the benefit or detriment of any person; or
- commits an offence which carries a penalty of two or more years imprisonment.

Examples include blackmail, bribery (including bribery in relation to an election), deliberately releasing confidential information, extortion, fraud or stealing, forgery, or an offence relating to an electoral donation.

Minor misconduct is the type of misconduct that should be so significant that, if proven, could reasonably lead to a disciplinary offence providing reasonable grounds for termination of a person’s office or employment. Minor misconduct is when an officer engages in conduct that:

- involves the performance of functions in a manner that is not honest or impartial;
- involves a breach of trust placed in the public officer or elected member;
- involves the misuse of information or material for the benefit of the public officer or elected member or the benefit or detriment of another person;
- adversely affects the honest or impartial performance of the functions of the LG or officer or elected member.

It is the responsibility of the CEO to make informed decisions about whether a suspected misconduct should be treated as a serious or minor matter, and reported to the Corruption and Crime Commission or the Public Sector Commission respectively.

The CEO is required to assess the level of seriousness of the misconduct and apply the CCC Notification of Serious Misconduct Guidelines, provided under s30 CCM Act, to determine the specific category of serious misconduct and related notifications and reporting obligations, and act in accordance with the Guidelines.

An elected member, officer or any other person may report any reasonable suspicions of serious or minor misconduct on the part of Councillors, public officials or public officers to the CCC or PSC.

An elected member, public officer or any other person may report any reasonable suspicions of serious or minor misconduct on the part of Councillors, public officials or public officers to the CCC or PSC.

Misconduct can be reported to the:
Corruption and Crime Commission online at www.ccc.wa.gov.au and Phone (08) 9215 4888 or Toll free: 1800 809 000, or

Public Sector Commission on line at www.publicsector.wa.gov.au and Phone (08) 6552 8501.
A Shared Vision

Excellent governance requires that the local government has a strategic/corporate planning process that produces a vision and consequent plans that are owned by all stakeholders. This ownership arises from the opportunities stakeholders have had to participate or comment during the process. The vision, which is a long-term view of where the municipality should be progressing, provides the basis for council’s integrated strategic planning and reporting framework.

The Shire of Augusta Margaret River has adopted a 10 year Strategic Plan for the Future underpinned by a 10 year Strategic Financial Management Plan. These plans in turn form the basis for the annual operational plan and budgets and underpins policy development and service delivery. Everyone in the local government should understand the Strategic Plan for the Future and the direction in which the Council is going.

Our Vision Statement, adopted by Council in February 2013 as a part of the Community Strategic Plan, outlines the Shire's future direction and encapsulates the community's aspirations:

“Our Vision for the Shire of Augusta Margaret River is a prosperous and connected community that values its natural environment and character as it grows sustainably into the future.”

Our mission is a statement about our fundamental purpose - what we do in partnership with, and on behalf of the whole Shire of Augusta Margaret River community.

“Our Mission is to strengthen our communities, foster local economic prosperity, protect the natural environment and responsibly manage the community’s infrastructure and assets.”
Integrated Planning Framework

Under the Local Government (Administration) Regulations 1996, all local governments in Western Australia were required to have developed and adopted two key documents by 30 June 2013: a Strategic Community Plan and a Corporate Business Plan which are supported and informed by resourcing and delivery strategies. These plans drive the development of the annual budget and future budgets. Together the Strategic Community Plan and the Shire Plans form the Integrated Planning Framework.
Infrastructure and Asset Management

Shire assets are valued in the order of $249M. Responsible management of those assets cannot therefore be underestimated. Expansion of new assets and maintenance of existing assets is a common role of local governments everywhere. The Shire of Augusta Margaret River utilises the Intramaps mapping system to allow greater public access to selected asset information, mapping functions and Shire planning maps. In addition, the Shire has created a new road asset database and is currently working on a new interface between this and Intramaps.

The road expansion and maintenance program is a key component of our annual budget, particularly as there is constant growth of tourism industry destinations scattered throughout the Shire. Increasing tourist attractions means greater traffic numbers, which in turn creates the need to reduce risk for road users. Additionally the road network is expanded to achieve identical benefits.

Policy Development

Determining the local government's policies is one of four main roles for Council listed under section 2.7 of the LGA 1995. The key higher level policies determined by Council are the purpose or mission of the Shire, its vision and its values. These higher level policies articulate the Shire's commitment to economic development, the protection of the natural environment, the enhancement of the built environment and the fostering of the community's well-being by fostering a clean, safe, fair and prosperous society.

Also, the Act states that, “In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through integration of environmental protection, social advancement and economic prosperity” (2013, s.1.3).

Sustainability is therefore at the core of local government policy making and the Shire has adopted an overarching sustainability policy to guide Council's policies. Policies are an important component of governance by which responsibilities to stakeholders are identified and effective systems of leadership, authority, accountability and control are implemented. A system of policies will enable the Shire's functions to be carried out and services and facilities to be provided to the community in an ethical, innovative and responsive manner.

The key principles that guide the development of policies at the Shire of Augusta Margaret River are:

- The achievement of community aspirations supported through the adoption of sound policies by the Council;
- That Council’s position on a range of strategic issues is well documented;
- That consistency and coherence are achieved in the application of the Council’s approach to strategic planning, operations, management and other issues affecting the Shire’s operations; and
- That officers can act confidently and consistently, directed by Council’s approach to a range of issues and functions.

The responsibility for administration and implementation of policy rests initially with the CEO and secondly with the executive team. All officers must apply policies faithfully and fairly, and inform the executive team of instances where a policy is not, or cannot be, applied as per its intent.
Policies are to be as clear and concise as possible and clearly differentiate high level Council policies which do not include day to day operational procedures and instructions. The separation of powers between the role of Council as policy maker and the role of the CEO and staff in implementing the policies is to be reinforced in the process.

The following policy framework has been adopted as it focuses on building a sustainable community and integrates with the Shire's Strategic Plan and proposed annual reporting.

<table>
<thead>
<tr>
<th>Sustainable Development</th>
<th>Environmental Protection</th>
<th>Stronger Communities</th>
<th>Vibrant Economies</th>
<th>Governance &amp; Business Excellence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building Policies</td>
<td>Biodiversity Protection</td>
<td>Recreation Policies</td>
<td>Tourism Strategy</td>
<td>Business Excellence</td>
</tr>
<tr>
<td>Parks and Gardens Policies</td>
<td></td>
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<td></td>
<td>Customer Service Charter</td>
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</tbody>
</table>

Council policies with the exception of planning policies are structured under three headings as follows:

**Objectives**
- Clear statement of Council’s position and the outcomes it hopes to achieve

**Strategy**
- Statements as to how the objectives are to be achieved and guidelines to direct the Town’s activities and to provide the parameters in which staff will operate

**Application**
- How the policy will be applied and measured and a statement of the accountabilities and responsibilities for the policy implementation

**Governance Review and Council Evaluation**

As a matter of principle, the Council is committed to the ongoing development of both individual Councillors and Council as a whole. Council will conduct a biennial Governance Review aimed at evaluating and improving the governance processes in the Shire. Performance evaluation will be undertaken in a manner that is positive and non-threatening.

The findings of this review will be summarised in a CEO report with an action plan developed to improve the governance processes over the subsequent 2 years.

**Review of the Corporate Governance Charter**

The Corporate Governance Charter for Council will be formally reviewed by the Council (or a committee or working group of Council) on a three yearly basis or as required by changes to legislation and leadership within Council and the administration.
Australian Business Excellence Framework

The Council has adopted the Australian Business Excellence Framework (ABEF) as a national and international benchmark to assess its performance as an organization. A guided self-assessment will be conducted tri-annually subject to sufficient funds being budgeted (2014, 2017) to identify gaps, which will assist in determining a strategic process for organisational development that will feed into the Shire's strategy development and Collective Workplace Agreements.

Induction of New Councillors

Following the Local Government Elections, new Councillors will undergo a full induction into their role on the Council based on the checklist and guidelines provided by the Department of Local Government and Communities (DLGC). The CEO will coordinate an in-house induction program.

Information conveyed to new members will include:

- Details of the roles and responsibilities with an outline of the qualities required to be a successful Councillor;
- Official documents including:
  - Shire's Strategic Plan and Strategic Financial Plan including the Principal Activities Plan (Policy, Services, Executive);
  - Standing Orders;
  - Official policies for the Shire; and
  - Code of Conduct.
- Details of all relevant legal requirements including:
  - LGA 1995; and
  - Other major statutory bodies.
- A copy of this Corporate Governance Charter;
- Guidelines on how the Council processes function;
- Background information on and contact information for key people in the Shire including an outline of their roles and capabilities;
- Minutes of the previous three (3) Council meetings;
- Copies of recent publications and circulars; and
- Schedule of monthly meeting dates.

A tour of Shire facilities and services will form part of the induction program. Follow-up WALGA training courses will be offered to Councillors who are strongly encouraged to participate.

Councillor Development

In order to continually improve the performance of Council, all Councillors are encouraged to undergo continuous professional development. Specifically, where skills gaps are identified, Councillors will be provided with resources and training to address them.

Councillors are also encouraged to undertake self-development where appropriate. The CEO will bring to Council's attention relevant training and in the event that there is insufficient time to gain Council endorsement those who wish to undertake a development activity at expenses to the Shire will approach the President for approval in accordance with Council policy.
6. Accountability

Statutory environment for Local Government

The principal statute affecting local governments in Western Australia is the *Local Government Act 1995*. The *Local Government Act 1995* is divided into 10 Parts and supported by Regulations as per the table below:

<table>
<thead>
<tr>
<th>LOCAL GOVERNMENT ACT 1995</th>
<th>Supporting legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 1</td>
<td>Introductory matters</td>
</tr>
<tr>
<td>Part 2</td>
<td>Constitution of local government</td>
</tr>
<tr>
<td>Part 3</td>
<td>Functions of local governments</td>
</tr>
<tr>
<td>Part 4</td>
<td>Elections and other polls</td>
</tr>
<tr>
<td>Part 5</td>
<td>Administration</td>
</tr>
<tr>
<td>Part 6</td>
<td>Financial management</td>
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<tr>
<td>Part 7</td>
<td>Audit</td>
</tr>
<tr>
<td>Part 8</td>
<td>Scrutiny of the affairs of local governments</td>
</tr>
<tr>
<td>Part 9</td>
<td>Miscellaneous provisions</td>
</tr>
<tr>
<td>Schedules</td>
<td>LG (Uniform Local Provisions) Regulations 1996</td>
</tr>
</tbody>
</table>

Other statutes of significance are the:
- Planning and Development Act
- Bush Fires Act
- Cemeteries Act
- Dividing Fences Act
- Environment Protection Act
- Freedom of Information Act
- Health Act
- Land Administration Act
- Library Board of WA Act
- Equal Opportunity Act

There are around 300 separate statutes that are either administered by or affect Local Governments – so it is a complex legal environment that we work within.

Annual Reporting

The *Local Government Act 1995* requires each Local Government to prepare an annual report for each financial year, including reports from both the Shire President and the CEO; an overview of the plan for the future of the district, including major initiatives that are proposed to commence or to continue in the next financial year; the financial report for the financial year; the auditor’s report for the financial year and details of entries made under section 5.121 during the financial year in the register of complaints (the number of complaints recorded in the register of complaints and how the recorded complaints were dealt with).
The community and Council stakeholders are provided with an Annual Report of the Shire's activities. The annual report is presented to the community at the General Meeting of Electors (GME) and to the Department of Local Government and Communities. A general meeting of the electors of a district is to be held once every financial year on a day selected by the Council but not more than 56 days after accepting the Annual Report for the previous financial year. The meeting is presided over by the Shire President, and matters to be discussed at the GME are the presentation of the Annual Report and the audited financial statements.

The Annual Report contains audited statements of the Council's financial affairs including the Income and Expenditure Statement and Balance Sheet. The Report also contains an assessment of the Shire's performance against the Key Result Areas and Objectives of the Strategic Plan as well as other statutory compliance matters required by legislation, such as the progress of the Shire's Disability Access and Inclusion Plan. It also contains a statement about Council’s future direction.

**Statutory Compliance Return**

The Council is charged with implementing appropriate compliance systems within the Shire. Aspects of this process may be delegated to the Chief Executive Officer whilst other compliance functions are specifically designated as the CEO’s role e.g. records management. The Chief Executive Officer will work in conjunction with relevant executive managers to ensure all areas of compliance are covered within the Shire.

The performance of all local governments is scrutinised by the DLGC and other State Government agencies. A key accountability return to the DLGC is the annual Statutory Compliance Return. The CEO and Director Corporate and Community Services will prepare the Statutory Compliance Return required to be adopted by Council and submitted to the DLGC by the end of March Ordinary Council Meeting.

The Statutory Compliance Report contains statements that the Shire is meeting its requirements under the Local Government Act. It is to be adopted by a resolution of Council and is a way of Council being informed of any issues or concern and of what remedial action is being taken to avoid any reoccurrence.

**Chief Executive Officer Evaluation**

The Chief Executive Officer is the principal employee of the Shire in general and the Council in particular. As such, a special relationship exists between the Chief Executive Officer and the Council. Council, acting on behalf of the Shire as an employing body, is required to review the performance of the CEO annually. The evaluation should be seen as a positive opportunity to support and develop the CEO as effective governance is enhanced by the CEO achieving the strategic goals and objectives set by Council.

Chief Executive Officer evaluation is undertaken by the Council, with deliberative input from individual Councillors and can be facilitated by an external consultant with relevant Human Resource Management experience. The evaluation is to be conducted strictly in accordance with contemporary best practice standards in HR Management and Workplace Relations. The evaluation will utilise both quantitative and qualitative measures. Evaluation will occur annually in July/August for the CEO’s
performance over the previous financial year, with the results tabled and discussed at a subsequent Council meeting.

Following the evaluation, the Council and the Chief Executive Officer will discuss and agree on goals (both quantitative and qualitative) for the next year.

The following table outlines the suggested methodology to be utilised in the CEO Review unless an alternative methodology is agreed between both parties; the Council and the CEO.

<table>
<thead>
<tr>
<th>Date</th>
<th>PA Task</th>
<th>Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>July OCM</td>
<td>Adopt Performance Agreement instrument</td>
<td>Consultant's report</td>
</tr>
<tr>
<td></td>
<td></td>
<td>CEO Report</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Draft PA &amp; CEO PD</td>
</tr>
<tr>
<td>March</td>
<td>Appoint or confirm consultant if the parties agree a consultant is required</td>
<td>Council meeting</td>
</tr>
<tr>
<td>June</td>
<td>CEO provides self-evaluation /progress report to Councillors</td>
<td>CEO self-evaluation</td>
</tr>
<tr>
<td>July</td>
<td>Councillors prepare own notes against Performance Agreement and submit to consultant with copy or the President if the parties agree not to use a consultant. It is optional for the consultant to interview ELT members with interview questions to be relevant to the PA</td>
<td>Cr feedback</td>
</tr>
<tr>
<td>August</td>
<td>Consultant or President prepares summary of Councillors comments and other relevant information and speaks to individual Councillors unless denied. Consultant prepares recommendation and supplies copy of summary and recommendations to CEO &amp; invites comment from CEO.</td>
<td>Consultants' summary and recommendations</td>
</tr>
<tr>
<td>August</td>
<td>Councillors meet with Consultant to receive and discuss recommendations. Councillors formulate a recommendation to be adopted by Council at an April OMC. Recommendation and any supporting report to be supplied to CEO for his comment (should he wish) before the April OCM.</td>
<td>Consultant's report</td>
</tr>
<tr>
<td>August</td>
<td>Adoption of resolution relating to CEO Performance Agreement</td>
<td>Council agenda</td>
</tr>
</tbody>
</table>

The performance development of all other staff is the responsibility of the CEO.

**Risk Management**

According to the AS/NZS ISO 31000: 2009 Risk Management Principles and guidelines, risk is the effect of uncertainty on the objectives of an organisation. It is a dynamic factor that affects each of the Shire’s operations and activities, and which if inadequately assessed can result in financial loss, threats to public safety and considerable damage to the organisation’s reputation. As such, risk management plays a critical role in the timely and cost effective improvement and delivery of Shire services.

The Shire has in place a Risk Management Framework which sets out the Shire’s approach to the
identification, assessment, management, reporting and monitoring of risks. The framework’s policy and procedures are consistently applied to all of its operations and activities as a means of mitigating risk in the community and across the organisation.

The Shire’s risk management objectives are to:

- Optimise the achievement of our vision, mission, strategies, goals and objectives;
- Provide transparent and formal oversight of the risk and control environment to enable effective decision making;
- Enhance risk versus return within our risk appetite;
- Embed appropriate and effective controls to mitigate risk;
- Achieve effective corporate governance and adherence to relevant statutory, regulatory and compliance obligations;
- Enhance organisational resilience; and
- Identify and provide for the continuity of critical operations.

In order to meet these objectives, the Shire has adopted a “Three Lines of Defence” risk management model (outlined in the framework), which ensures that the roles, responsibilities and accountabilities for decision making are structured to demonstrate effective governance and assurance. By operating within the approved risk appetite and framework, the Council, management and community will have assurance that risks are managed effectively to support the high-quality delivery of the Strategic, Corporate and Operational Plans.

**Performance Monitoring**

A fundamental function of the Council is to monitor the performance and compliance of the Shire in achieving its strategic objectives and priorities funded through the annual budget. With this general principle in mind, the Council is charged with monitoring both financial and non-financial Key Performance Indicators and holding the CEO responsible through the annual performance appraisal.

The CEO reports to Council on a quarterly basis so that Councillors are kept apprised of the Shire’s activities and relevant issues, particularly those that have arisen during the quarter and of emerging trends and opportunities. The report also serves as major documentary evidence of the extent to which Councillors are kept informed of the Shire’s activities.

**Records Management**

Legislation requires the CEO to maintain a records management system that completely, accurately and reliably creates and maintains evidential records, and to dispose of those records only through an approved scheme.

Shire records are an important information resource and cultural asset. Records provide the essential means to meet the accountability requirements of the local government.

The *Local Government Act* provides (s.5.41(h)) that a function of the CEO is to ensure that records and documents of the local government are properly kept for the purposes of the *Local Government Act* and any other written law. The Record Keeping Plan and the Records Procedure & Policy Manual are designed to manage this function.
The CEO is to ensure there is a system for the maintenance and management of records that is compliant with records management legislation and State guidelines and procedures. This includes the provisions of s.5.41(h) of the *Local Government Act*.

Directors must ensure that all their staff are familiar with and adhere to the Records Management Policy, the Record keeping Plan and all associated procedures as required from time to time.

All managers must ensure that record keeping policy and procedures are adhered by the staff. Managers must ensure that staff, (including contractors) understand and have knowledge of the Shire’s record keeping policy, procedures and plan.

Staff responsibility is to ensure that they have a good understanding of the record keeping plan, policy and procedures. All staff members should retain records relating to the business activities they perform. They are to identify significant and ephemeral records, ensure significant records are registered in the records management system; maintained, protected and disposed of in accordance with the State Records Office’s General Disposal Authority for Local Government Records (GDALGR).

All elected members are to create, collect and retain records relating to their role as an elected member for the Council as specified by the legislation and the Shire’s Record keeping policy and procedures.

**Freedom of Information Act**

The *Freedom of Information Act 1992* (FOI) is designed to create a general right of access to documents held by the State and Local Government agencies. This is subject to the sensitivity of the document. A person’s right to access is not to be affected by any reason the person gives, or the agency’s believes as to what the person’s reasons are for wanting access. The FOI Act ensures that personal information is accurate, complete, up-to-date and not misleading. Individuals have a right to see their own records and have them amended where they are inaccurate, incomplete, out-of-date or misleading. The FOI Act also requires that certain documents concerning government operations be made available.

Councillors and staff are to ensure that all communication subject to FOI is in a polite, respectful and courteous manner and of a high professional and ethical standard. Communication which attributes motives or casts aspersions on others, is malicious or is defamatory or lacking in good faith is to be avoided. Councillors and staff should assume that all communications can be accessed under FOI and should think carefully about the content and way communication, particularly emailed communication, is expressed to avoid any negative consequences for the individual or the Council (*Shire of Augusta Margaret River Freedom of Information Statement 2006*).

**Keeping the Community Informed**

**Local press**

Statutory notices and other Shire announcements are communicated to the public through the local press. Additionally, a promotional community information feature known as the *Community Update* is published bi-monthly in the week following the bi-monthly Ordinary meetings of Council.
Shire website
Statutory notices, council news, events and announcements are also posted on the Shire website. All media releases and latest weekly news appear posted in the Noticeboard section, and past releases and news are also archived for reference on the Media Releases page. All Council meeting Agendas and Minutes are published on the website and available online for twelve months after publication.

Complaint Handling System

It is a Shire policy that all customer feedback received by Council will be acknowledged within two normal working days and all customer feedback will be investigated and complainants notified of the results of the investigation. Where a customer is not satisfied with the outcome, an appeal against the result can be lodged in accordance with the Shire’s Complaint Handling Manual with the Director and then the CEO if still not satisfied or the matter can be referred to an independent authority for investigation.

Councillor Protection

As a general rule, a Councillor has three key areas of protection – Acting in good faith, Councillor and Officers' insurance cover, and the reimbursement of legal expenses. Therefore, as a matter of policy, the following measures of Councillor protection will apply:

(a) Acting in Good Faith
A Councillor or a committee member is protected from an action in tort for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act or under any other written law.

(b) Councillor and Officers' Insurance Cover
The Shire shall maintain insurance policies providing Councillor and Officer Liability cover on behalf of each Councillor. This policy indemnifies each Councillor against any loss or liability incurred, including, without limiting the generality of this indemnity:

• Any costs incurred by the Councillor arising out of any legal proceedings whether civil or criminal; and
• Any liability at law which may attach to the Councillor in respect of any negligence, default, breach of duty, breach of trust or breach of any other law which may exist from time to time, which loss or liability arises as a result of carrying out their capacity as a Councillor or purporting to do so EXCEPT that no indemnity is granted for wilful breach of duty, dishonesty or lack of good faith.

(c) Reimbursement of legal expenses
Council has adopted a policy of reimbursement of Councillor legal expenses and wherever possible should be approved in advance of engaging legal advisors.
7. Sources and References

This Governance Charter has been compiled with reference to documents previously produced regarding the concept and practice of good governance. The following documents have been used in the development of the Shire of Augusta Margaret River Governance Charter:


