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This document relates to Goal 5 Effective leadership and governance in the Community Strategic Plan.

Goal 1
Valuing the natural environment

Goal 2
Welcoming and inclusive communities

Goal 3
Managing growth sustainably

Goal 4
Vibrant and diverse economy

Goal 5
Effective leadership and governance
INTRODUCTION
This Code of Conduct provides Councillors and committee members in the Shire of Augusta Margaret River with clear guidelines for an acceptable standard of ethical and responsible conduct. It focuses on ethical responsibility and encourages greater transparency and accountability.

The general function of the Shire of Augusta Margaret River is to provide good government for the community it serves. This Code is complementary to the fundamental aims of the Local Government Act 1995, which are:
(a) Better decision-making by local governments;
(b) Greater community participation in the decisions and affairs of local governments;
(c) Greater accountability of local governments to their communities; and
(d) More efficient and effective local government.

This Code provides a guide for Councillors and Council appointed committee members to meet ethical behavioural expectations. It encourages a commitment to ethical and responsible behaviour and outlines principles in which individual and collective Local Government responsibilities may be based.

STATUTORY ENVIRONMENT
In accordance with the Local Government Act 1995 (section 5.103 Codes of Conduct), Local Governments are required to have a Code of Conduct which meets the requirements of Part 9 of the Local Government (Administration) Regulations 1996.

RULES OF CONDUCT AND OTHER LEGISLATION
Councillors acknowledge that their activities, behaviour and statutory compliance obligations may be scrutinised in accordance with prescribed rules of conduct as described in the Local Government Act 1995 and Local Government (Rules of Conduct) Regulations 2007. Committee members are bound by the provisions of the Local Government Act 1995 and other legislation.

Additionally, allegations of serious misconduct by a Councillor or committee member can be reported to the Corruption and Crime Commission, the Department Local Government, Sport and Cultural Industries, and/or the WA Police Service for investigation.

GENERAL PRINCIPLES
It is a requirement of this Code that Councillors and Council appointed committee members observe the general principles referred to in Regulation 3(1) of the LG (Rules of Conduct) Regulations 2007:

General principles to guide the behaviour of Councillors and Council appointed committee members include that a person in his or her capacity as a Council or committee 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.
1. ROLES

1.1. ROLE OF COUNCIL

The Role of the Council is in accordance with section 2.7 of the Local Government Act 1995:

(1) The Council —
   (a) directs and controls the local government’s affairs; and
   (b) is responsible for the performance of the local government’s functions.

(2) Without limiting subsection (1), the Council is to —
   (a) oversee the allocation of the local government’s finances and resources; and
   (b) determine the local government’s policies.

1.2. ROLE OF COUNCILLORS

The primary role of a Councillor is to represent the community. The effective translation of the community’s needs and aspirations into a direction and future for the Local Government will be the focus of the Councillor’s public life.

The role of Councillors is set out in section 2.10 of the Local Government Act 1995, as follows:

A Councillor —
(a) represents the interests of electors, ratepayers and residents of the district;
(b) provides leadership and guidance to the community in the district;
(c) facilitates communication between the community and the Council;
(d) participates in the local government’s decision-making processes at Council and committee meetings; and
(e) performs such other functions as are given to a Councillor by this Act or any other written law.”

A Councillor is a part of the team in which the community has placed its trust to make decisions on its behalf. The community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Councillors’ activities will focus on:
(a) Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
(b) Achieving sound financial management and accountability in relation to the Local Government’s finances;
(c) Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents’ concerns;
(d) Working with other governments and organisations to achieve benefits for the community at both a local and regional level; and
(e) Having an awareness of the statutory obligations imposed on Councillors and on local governments.

Councillors should be aware that a core function of local government is to use its best endeavours to meet the needs of current and future generations through the integration of environmental protection, social advancement and economic prosperity.
1.3. ROLE OF COMMITTEE MEMBERS

Committee members are appointed by Council to participate in decision making on the Shire’s advisory committees and committees with delegated authority. Committee members should fulfil their responsibilities to the best of their ability and in accordance with the relevant committee’s terms of reference, which are contained in the Instrument of Appointment and Delegation. To perform their duties conscientiously and responsibly, committee members shall:

(a) Be familiar with the content and requirements of the relevant committee’s Instrument of Appointment and Delegation and all other meeting procedures;
(b) Be familiar with agenda items in advance of the committee meeting and contact staff prior to the meeting if further information and clarification is required;
(c) Attend meetings punctually or advise the CEO or the CEO’s staff representative if unable to attend;
(d) Ask questions of clarification at the meeting to ensure that the committee member is familiar with the process and the issues surrounding the matter being discussed.
(e) Follow the directions of the presiding member. The Shire’s Standing Orders will be used as a guideline for the running the meeting, however committee meetings may be conducted in a less formal manner than Council meetings;
(f) Consider all relevant written and verbal information provided by staff, personal research, debate and discussion, before making a final voting decision on any agenda item; and
(g) Vote on all agenda items and note that failure to vote as a member of a Committee which has been delegated authority by the Council is an offence under the Local Government Act 1995. Members of advisory committees are not legislatively required to vote, however indicating a preference for or against a motion is encouraged.

1.4. ROLE OF EMPLOYEES

The role of each employee is determined by the functions of the Chief Executive Officer (CEO), as set out in section 5.41 of the Local Government Act 1995, and through the position description of each employee, as set out by the Shire.

The CEO’s functions are to –

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

- Advice and information is provided to Councillors and committee members in a timely manner;
- Officers’ reports are comprehensive and objective;
- True and correct records of all Council and committee meetings are taken and retained in accordance with the law; and
- That all decisions made by Council are carried out within a reasonable timeframe.

It is the responsibility of the CEO and Senior Leadership Team that all staff members adequately perform their duties as outlined in their position descriptions.
2. CONFLICT AND DISCLOSURE OF INTEREST

2.1. CONFLICT OF INTEREST

Conflicts of interest arise when a Councillor or committee member's professional duties are, or could be perceived as being, prejudicially influenced by their own private or personal interest, or by an immediate family member's, business partner's or close associate's private interest.

Such an interest may be of a financial, proximity, or non-financial (impartial) nature.

Financial Interest
A person has a financial interest in a matter if it is reasonable to expect that the matter will, if dealt with by the local government, or an employee or committee of the local government or member of the Council of the local government, in a particular way, result in a financial gain, loss, benefit or detriment for the person.

Proximity Interest
A person has a proximity interest in a matter if the matter concerns —
   (a) A proposed change to a planning scheme affecting land that adjoins the person's land; or
   (b) A proposed change to the zoning or use of land that adjoins the person's land; or
   (c) A proposed development of land that adjoins the person's land.

Impartiality Interest
A non-financial interest, known as an interest affecting impartiality, may exist by virtue of a person's affiliations that can give rise to an expected response on a particular matter (e.g. office bearer of a community or sporting club, close friendship or adversarial relationship, relative etc.).

All forms of interest are to be disclosed at the meeting, either in writing to the CEO prior to the commencement of the meeting, or verbally immediately before the matter is to be discussed at the meeting.

Specifically:
Councillors and committee members should ensure that there is no actual or perceived conflict or incompatibility between the impartial fulfilment of their public duties and either their personal interests, or those of their immediate family members, business partners, employers or close associates.

Councillors will lodge written notice with the Chief Executive Officer, immediately following the clear intention of themselves or any closely associated person, as that term is explained in section 5.62 of the Local Government Act 1995, to undertake a dealing in land within the Shire of Augusta Margaret River or activity which may otherwise be in conflict with the local government's functions other than purchasing or selling their principal place of residence. Committee members should make disclosures if a conflict will occur through their work on a particular committee and their land dealings.

2.2. FINANCIAL AND PROXIMITY INTERESTS

(a) Where a financial or proximity interest exists, the matter will be dealt with in accordance with the Local Government Act 1995.
(b) Disclosures of financial and proximity interest are to be made in writing to the CEO prior to the Council or committee meeting, or are to be declared verbally at the meeting immediately before the item is discussed.
(c) The disclosure is to be recorded in the minutes of the meeting.
(d) Unless permitted by Council, or the Minister in special circumstances, a disclosing Council or

Natural | Connected | Prosperous
committee member with a financial or proximity interest must leave the Chamber and not participate in discussion, debate or voting.

(e) Whenever the disclosure of an interest is required, recommended by this Code, or as otherwise seems appropriate, it is to include the nature of the interest, for example, “because I have shares in the tendering company” or “as my wife is an employee of the proponent” etc.

2.3. INTERESTS AFFECTING IMPARTIALITY

(a) An impartiality interest is to be made in writing to the CEO prior to the meeting, or it is to be declared verbally at the meeting immediately prior to the item being discussed.

(b) The disclosure is to be recorded in the minutes of the meeting.

(c) A member who has disclosed an interest affecting impartiality is not required to leave the meeting if they consider themselves able to set the matter aside and judge the item on its merits and without bias.

(d) In accordance with regulation 11 of the Local Government (Rules of Conduct) Regulations 2007, a Council or committee member is excused from the requirement to disclose an impartiality interest if the failure to disclose occurs because the person:

   (i) did not know he or she had an impartiality interest in the matter; or

   (ii) did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the person then discloses the interest as soon as possible after the discussion has begun.

2.4. PRIMARY AND ANNUAL RETURNS

Councillors and committee members (on committees with delegated authority only) must provide the Shire with a primary return within three months of the commencement of their term, and an annual return disclosing changes that have occurred to the Primary Return in the financial year before 31 August for every subsequent year, in accordance with the requirements of Division 6 of Part 5 of the Local Government Act 1995.

The responsibility of providing the Shire with these returns, correctly completed, falls upon the Councillor / committee member. Members are encouraged to seek advice from the Department of Local Government, Sport and Cultural Industries if they require any assistance with the correct completion of the form.

Failure to provide the Shire with a Primary or Annual Return within the required timeframes can result in a $10,000 fine or two years imprisonment.
3. PERSONAL BENEFIT

3.1. USE OF CONFIDENTIAL INFORMATION

Councillors and committee members shall not use confidential information acquired through their roles to gain improper advantage for themselves or for any other person or body in ways which are inconsistent with their obligation to act impartially, or to improperly cause harm or detriment to any person or organisation, as pursuant to section 5.93 of the Local Government Act 1995.

Personal information about a person, their property and their affairs held by the Shire, unless available on the public record, is confidential and not to be disclosed to other parties unless required by law. The public is entitled to interact with Council in a confidential manner and have their privacy respected.

3.2. INTELLECTUAL PROPERTY

The title to intellectual property in all duties relating to Councillors and committee members will be assigned to the Shire of Augusta Margaret River upon its creation unless otherwise agreed by separate contract.

3.3. IMPROPER OR UNDUE INFLUENCE

Councillors and committee members will not take advantage of their position to improperly influence, bully or coerce other Councillors, committee members or employees in the performance of their duties or functions, in order to gain undue or improper (direct or indirect) advantage or gain for themselves or for any other person or body or to cause a detriment.

3.4. GIFTS

There are two separate areas under the Local Government Act 1995 (LGA) that deal with gifts:

a) Gifts accepted from a person who is undertaking or seeking to undertake an activity involving local government discretion – LG (Rules of Conduct) Reg 12 and

b) All gifts received under s5.82 LGA.

Each of these areas have different requirements and are explained in more detail below.

**Gifts where the donor is undertaking an activity involving local government discretion**

**Definitions:**

In this section of the Code of Conduct and in accordance with Regulation 12 of the Local Government (Rules of Conduct) Regulations 2007 -

“activity involving a local government discretion” means an activity –

(a) that cannot be undertaken without an authorisation from the local government; or

(b) by way of a commercial dealing with the local government;

“gift” has the meaning given to that term in section 5.82(4) of the Act except that it does not include -

(a) a gift from a relative as defined in section 5.74(1) of the Act; or
(b) a gift that must be disclosed under regulation 30B of the Local Government (Elections) Regulations 1997; or

(c) a gift from a statutory authority, government instrumentality or non-profit association for professional training;

(d) a gift from WALGA, the Australian Local Government Association Limited or the Local Government Managers Australia WA Division Incorporated.

“notifiable gift”, in relation to a person who is a Councillor, means –

(a) a gift worth between $50 and $300 (i.e. of value no greater than $299); or

(b) a gift that is one of 2 or more gifts given to the Councillor by the same person within a period of 6 months that are in total worth between $50 and $300;

“prohibited gift”, in relation to a person who is a Councillor, means -

(a) a gift worth $300 or more; or

(b) a gift that is one of 2 or more gifts given to the Councillor by the same person within a period of 6 months that are in total worth $300 or more.

(1) A person who is a Councillor or committee member must not accept a prohibited gift from a person -

(a) who is undertaking or seeking to undertake; or

(b) who it is reasonable to believe is intending to undertake, an activity involving a local government discretion.

(2) A person who is a Councillor or committee member and who accepts a notifiable gift from a person –

(a) who is undertaking or seeking to undertake; or

(b) who it is reasonable to believe is intending to undertake, an activity involving a local government discretion,

must, within 10 days of accepting the gift, notify the CEO of the details of the acceptance as outlined below.

(3) Notification of the acceptance of a notifiable gift is to be in writing and is to include -

(a) the name of the person who gave the gift; and

(b) the date on which the gift was accepted; and

(c) a description, and the estimated value, of the gift; and

(d) the nature of the relationship between the person who is a Councillor and the person who gave the gift; and

(e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) –

(i) a description; and

(ii) the estimated value; and

(iii) the date of acceptance,

of each other gift accepted within the 6 month period.

(4) The CEO must maintain a register of gifts and record the details provided in the notification of acceptance.
(5) This clause does not prevent the acceptance of a gift, even a gift valued at over $300, on behalf of the local government in the course of the President or Councillor or a committee member performing representational or ceremonial duties in circumstances where the gift is presented to the Shire as a whole, for example, a gift from a visiting delegation. Such gifts should be transferred to the CEO for display or safe-keeping and entered into the Register of Notifiable Gifts and used or retained exclusively for the benefit of the local government.

All Gifts - s5.82 LGA

Definitions:

S5.82 (4) LG Act – “Gift” means any disposal of property or conferral of financial benefit, without adequate consideration.

- Includes discounts (not available to the general public) on goods or services.
- Adequate consideration means providing something in exchange that is of a similar value to the benefit you receive.
- Property or financial benefits received through a will are not gifts under this definition.

A gift received under s5.82 has no conditions on the donor undertaking or seeking to undertake an activity involving local government discretion. This means there is a requirement to disclose gifts from donors who may or may not have dealings with the local government, and would therefore include gifts such as a wedding present from a friend.

Councillors and committee members are required to disclose any gifts received over the value of $200 in accordance with s5.82 LGA. The disclosure is to be made in writing to the CEO within 10 days of receipt of the gift and published on the gift register on the Shire’s website.

Councillors and committee members do not have to disclose a gift if the donor is a relative (relative is defined in s5.74 LGA).

3.5. CONTRIBUTIONS TO TRAVEL

Definition:

“Travel” includes accommodation incidental to travel (s5.83).

- Accommodation is not incidental if it is accommodation at the final/end destination, or is the reason for the journey itself.

Any contributions to travel over the value of $200 received by a Councillor or committee member must be disclosed in writing to the CEO within 10 days of receipt of the contribution in accordance with s5.83 LGA. The disclosure will be published on the travel contribution register on the Shire’s website.

Councillors and committee members need to be aware that when they receive a:

- notifiable gift; or
- gift greater than $200 in value; or
- contribution to travel greater than $200 in value;

from a person, then they become a ‘Closely Associated Person’. This means that for any person who has given a Councillor a declarable gift or travel contribution and is seeking a Local Government decision in a
matter, then the Councillor is ‘closely associated’ to that person and must disclose either a financial or proximity interest and withdraw from all debate and voting on that issue. (Closely associated persons defined in s5.60 LGA).

3.6. DISCLOSURE OF ELECTION CAMPAIGN CONTRIBUTIONS

In the interests of uncompromised decision making, the Shire of Augusta Margaret River requires all electoral candidates to comply with the Local Government Act 1995 and its associated regulations in disclosing electoral donations. A candidate is to disclose information about any electoral related gift with a value of $200 or more that may be received within the six month period prior to the relevant election day. Pursuant to Part 5A of the Local Government (Elections) Regulations 1997:

(a) A “gift” includes a gift of money, a gift which is non-monetary but of value, a gift in kind or an inadequate financial consideration or the receipt of a discount (where the difference or the discount is more than $200 worth), financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time.

(b) A gift does not include a gift by will; a gift by a relative; a gift that the candidate would have received notwithstanding his or her candidature; or the provision of volunteer labour.

(c) The disclosure of a gift is to be made to the CEO of the local government in the manner prescribed and in doing so identify specified information as outlined in the next clause.

(d) Details about each gift are to be disclosed on the prescribed form and submitted within three days of receiving the gift. Information to be supplied includes the name of the candidate, the name and address of the donor, the date the gift was promised or received, the value of the gift and a description of the gift.

(e) The disclosure period commences six months prior to the relevant election and finishes three days after the election day for unsuccessful candidates, and on the start day for financial interest returns for successful candidates.

(f) The CEO is to establish and maintain an electoral gift register. Disclosure forms are to be placed in the electoral gift register upon receipt by the CEO in a manner that clearly identifies and distinguishes the candidates. The electoral gift register is to be kept available for public inspection.

(g) A maximum penalty of $5,000 may be imposed on a candidate who fails to comply with the disclosure requirements.

4. CONDUCT OF COUNCILLORS AND COMMITTEE MEMBERS

4.1. PERSONAL BEHAVIOUR

(a) Councillors and committee members will:
   (i) Act, and be seen to act, properly and in accordance with the requirements of the law and the terms of this Code;
   (ii) Perform their duties impartially and in the best interests of the Shire of Augusta Margaret River uninfluenced by fear or favour;
   (iii) Act in good faith (i.e., honestly, for the proper purpose, and without exceeding their powers) in the interests of the Shire of Augusta Margaret River and the community;
   (iv) Make no allegations which are improper or derogatory (unless true and in public interest) and refrain from any form of conduct, in the performance of their official or professional duties, which may cause any reasonable person unwarranted offence or embarrassment;
   (v) Councillors and committee members have limited protection against defamation under “qualified privilege”. A Councillor or committee member can only rely on the defence of “qualified privilege” whilst exercising the proper discharge of his or her duties, and doing so...
in the public interest;

(vi) In order to maintain “qualified privilege”, a Councillor or committee member should ensure that comments made are in context and pertinent to the business of local government and are relevant to the item on the agenda or on the agenda at the public meeting at the time. Any statements which are made maliciously, or without due regard as to whether they represent the truth would jeopardise the defence of “qualified privilege”; and

(vii) Always act in accordance with their obligation of fidelity to the Council.

(b) Councillors and committee members will represent and promote the interests of the Shire of Augusta Margaret River, while recognising their special duty to the community. Councillors will represent the whole community first and the interests of pressure groups or individuals only in a context of the greater community good.

(c) To fully achieve all that is possible for the residents of the Shire of Augusta Margaret River, all Councillors and committee members need to commit their efforts in the performance of their official duties to positive achievements. Energy expended in dwelling on perceived mistakes or tensions of the past where no official action is proposed or is predicated by the law, only detracts from what can be achieved. While respecting the role of constructive debate and reasonably based dissent by Councillors, if Councillors or committee members feel they cannot become part of a Council team dedicated to good government and constructive decision-making, in the interests of the residents of the district, they should reconsider their position.

4.2. HONESTY AND INTEGRITY

Councillors and committee members will:

(a) Observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;

(b) Bring to the notice of the President or CEO any dishonesty or possible dishonesty on the part of any other Councillor or committee member, and in the case of an employee, to the Chief Executive Officer; and

(c) Be respectful, frank and honest in their official dealings with each other.

In certain circumstances, a Councillor or committee member is able to lodge a complaint with the CEO, which concerns the conduct of a Councillor regarding a minor breach of the LG (Rules of Conduct) Regulations 2007.
The CEO is Council appointed Complaints Officer for forwarding such complaints to the Standards Panel, as appointed by the Minister under the *Local Government Act 1995*.

Councillors and the CEO have a mandatory requirement to report reasonable suspicions of serious misconduct such as bribery and corruption directly to the Corruption and Crime Commission. Reports can also be made to the Director General of the Department of Local Government, Sport and Cultural Industries, or to the Shire’s Public Interest Disclosure (PID) Officer (Manager Corporate Services).

### 4.3. PERFORMANCE OF DUTIES

Councillors and committee members will at all times exercise reasonable care and diligence in the performance of their duties, being consistent in their decision making and treating all matters on their individual merits. Councillors and committee members will be well informed about the functions of the Council and will treat all members of the community honestly and fairly.

### 4.4. COMPLIANCE WITH LAWFUL ORDERS

(a) Councillors and committee members will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.

(b) Councillors and committee members will give effect to the lawful policies of the Shire of Augusta Margaret River, whether or not they agree with or approve of them.

### 4.5. ADMINISTRATIVE AND MANAGEMENT PRACTICES

Councillors and committee members will ensure compliance with proper and reasonable governance practices and conduct, and ethical and responsible management practices.

### 4.6. CORPORATE OBLIGATIONS

Communications and Public Relations

(a) All aspects of communication by Councillors and committee members should be accurate, polite and responsible.

(b) As a representative of the community, Councillors and committee members shall not only be responsive to community views, they will also adequately communicate the attitudes and decisions of the Council. In doing so Councillors should acknowledge that:

- As a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
- Information of a confidential nature must not be communicated until it is no longer treated as confidential;
- Official advice of a technical nature relating to decisions of the Council on approvals, permits, licenses and decision made under other statutory functions, must only be communicated by a designated officer of the Shire; and
- Information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.
Access to Information
Councillors will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council and not for private purposes or any activity not consistent with the role of a Councillor.

4.7. RELATIONSHIPS BETWEEN COUNCILLORS OR COMMITTEE MEMBERS AND EMPLOYEES

An effective Councillor or committee member will work as part of the Council team with the Chief Executive Officer and other Shire employees. Teamwork will only occur if Councillors, committee members and employees have a mutual respect and co-operate with each other to achieve the Shire’s corporate goals and implement the Shire’s strategies. To achieve that position, Councillors and committee members need to:

(a) Accept that their role is in leadership, not in management or administration;
(b) Acknowledge that they have no capacity to individually direct employees to carry out particular functions. A Councillor or committee member must not direct or attempt to direct an employee to do or not to do anything or attempt to influence by means of a threat or the promise of a reward an employee’s conduct.
(c) Refrain from publicly criticising employees in a way that casts aspersions on their professional competence and credibility.
(d) Communicate with staff regarding Shire business related matters only in a polite and professional manner, and refrain from criticising staff members or fellow Councillors and committee members to staff members.
(e) Advise the CEO of any significant communications between Councillors and staff so that he or she is well informed to assist Council and committee deliberations and is up-to-date with what is happening within the organisation and the community.
(f) Raise the matter with the CEO where there is a perception that an employee has not carried out their duties competently and professionally. If the employee is the CEO then the matter should be raised with the Shire President and dealt with in accordance with the CEO’s contract of employment by Council as a whole if required.

4.8. RELATIONSHIP BETWEEN THE PRESIDENT AND THE CHIEF EXECUTIVE OFFICER

In accordance with section 5.41 of the Local Government Act 1995, the CEO is required to liaise with the President on the local government’s affairs and the performance of the local government’s functions. In developing and maintaining a relationship that accords with the Act, the President and the CEO will actively pursue a working relationship that encompasses the following:

- Open communication;
- Regular contact;
- Information exchange in a timely and frank manner;
- Regard for their individual leadership responsibilities;
- Commitment to developing understanding of each other’s views and opinions;
- Willingness to negotiate;
- Commitment to working through conflict;
- Sharing and encouragement of ideas and challenges; and
- A constructive approach that is undertaken in a positive manner.
4.9. RELATIONSHIP BETWEEN THE PRESIDENT AND COUNCILLORS

A constructive working relationship between the President and Councillors is essential in promoting the good governance of the Shire and achieving the strategic goals set by the Council. The President and Councillors shall, in good faith, behave in a manner that is consistent with acting in the best interests of the community.

The relationship should be based on mutual respect and characterised by:

- Respect for the President as Presiding Member of Council meetings and the reciprocal fair and consistent application of the Standing Orders to all Councillors;
- Courteous, respectful and assertive, but not aggressive, discussion;
- Minimal chatter and irrelevant remarks in meetings;
- Reciprocal relationships whereby the President and Councillors behave in an open, respectful and inclusive manner, treating each other equally and without fear or favour.

4.10. PRESIDING MEMBERS

Accepted procedures for conducting meetings and the required standards of behaviour during meetings are outlined in the Shire of Augusta Margaret River Standing Orders Local Law 2011. The Presiding Member shall effectively manage proceedings by balancing Councillors’ question time and rigorous debate with efficient progression through the meeting’s agenda. The Presiding member is to ensure that the Standing Orders are applied in a fair and consistent manner to all Councillors and committee members.

4.11. APPOINTMENTS TO EXTERNAL ORGANISATIONS

Councillors may be appointed as delegates of Council and/or the Shire to an external association, committee, group or organisation. Appointment to such a representative role requires that Councillors:

(a) Clearly understand the basis of their appointment;
(b) Only express opinion or influence which is consistent with the resolutions, policies and practices of the Shire when attending a meeting or voting;
(c) Provide regular reports on the activities of the external organisation, and
(d) Conduct themselves with the highest degree of integrity, propriety and behaviour, consistent with the expectations of this Code of Conduct.

4.12. ATTENDANCE AT EXTERNAL CONFERENCES, TRAINING AND FUNCTIONS

Councillors and committee members may be required as delegates of Council to attend external conferences, seminars, training events or various functions and presentations. Councillors and committee members attending such events do so on behalf of the Shire of Augusta Margaret River and should conduct themselves with the highest degree of integrity, propriety and behaviour consistent with the expectations of this Code of Conduct. Councillors and committee members shall not do anything which may reflect adversely on the Shire of Augusta Margaret River or bring the Shire or Council into disrepute.

4.13. USE OF SHIRE OF AUGUSTA MARGARET RIVER RESOURCES

Councillors and committee members will:

(a) Be scrupulously honest in their use of the Shire of Augusta Margaret River’s resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or...
4.14. **DRESS CODE FOR COUNCILLORS AND COMMITTEE MEMBERS**

The Councillors and committee members of the Shire of Augusta Margaret River understand that when they meet formally or when they represent Council at Shire or external functions they are acting in an official capacity and as representatives of the wider community. Councillors should therefore dress appropriately for the occasion. Whilst Council does not have a minimum dress standard, individual Councillors and committee members should dress in line with the above principle when they are representing Council or attending meetings.

4.15. **ADHERENCE TO THE EQUAL OPPORTUNITY ACT 1984**

The *Equal Opportunity Act 1984 (WA)* and subsequent amendments made it unlawful to discriminate against people on the grounds of sex, marital status, pregnancy or breastfeeding, gender history, family responsibility or family status, sexual orientation, race, religious or political conviction, disability, age or on the grounds of publication of persons details on Fines Enforcement Registrar’s Website. The Shire of Augusta Margaret River will ensure compliance with the principles and provisions of the *Equal Opportunity Act 1984 (WA)* and other applicable anti-discrimination legislation.

All people have a right to work in and to participate in Shire activities and to access Shire services in a non-discriminatory way and in an environment that is free from harassment. Harassment of any form will not be tolerated in the Shire of Augusta Margaret River. Any Councillor or committee member found to be committing harassment will be subject to counselling and potentially to appropriate disciplinary proceedings through the State Equal Opportunity Commission or Federal Human Rights and Equal Opportunity Commission.

4.16. **ELECTION CANDIDATES**

Community members wishing to be elected to Council are strongly encouraged to adhere to this Code of Conduct during local government election periods. The Code of Conduct provides pertinent guidelines for the conduct of election candidates who are not presently Councillors.

4.17. **DEALING WITH PROPONENTS**

(1) In this clause:
“Proponent” means a proponent of a Proposal and includes a person who represents the interests of a Proponent;

“Proposal” means:
(a) a proposed subdivision of land;
(b) a proposed development of land;
(c) a proposal involving the exercise of discretion under a planning scheme or under a planning policy or structure plan adopted under a planning scheme;
(d) a proposed change to a planning scheme including a proposed change to the zoning of land; or
(e) a proposed change to a planning policy or structure plan adopted under a planning scheme.

(2) This clause 4.17 applies where a proposal is, or is likely, to be considered by Council or a committee of Council.

(3) A Councillor or committee member must:
(a) Indicate to the Proponent that the application will be considered on its merits without fear or favour based on relevant statutory planning considerations;
(b) Not make any statements or express any views to a Proponent or a person interested in a Proposal which purports to be on behalf of Council or the Shire;
(c) Avoid one on one meetings and site visits with Proponents without independent witnesses in favour of staff organised deputations to all Councillors and staff organised site visits;
(d) Be aware of the motives and interests of a Proponent and be aware of which person, organisation or company that the Proponent is representing;
(e) Not give any undertaking to a Proponent or any person interested in the Proposal;
(f) Not do or say anything which could be viewed as giving a Proponent preferential treatment;
(g) Ensure that persons interested in a Proposal are treated fairly and consistently;
(h) Be alert to attempts by Proponents and parties interested in a proposal to encourage members to consider matters which are extraneous or irrelevant to the merits of the decision under consideration.
5. ENFORCEMENT OF THIS CODE

5.1. REPORTING BREACHES

(a) A person may, if they become aware of any conduct by either a Councillor or committee member, which they reasonably believe involves a breach of this Code of Conduct, make written complaint to that effect to the President or the Chief Executive Officer.

(b) A Councillor or committee member is also able to lodge a complaint on the required forms, concerning the conduct of a Councillor regarding a minor breach of the LG (Rules of Conduct) Regulations 2007 to the CEO as the Council appointed Complaints Officer for forwarding to the Standards Panel as appointed by the Minister under the Local Government Act 1995.

(c) All aspects of a report of a breach of this Code of Conduct must be kept strictly confidential by both the person making the report, the person in receipt of the report and the person about whom the complaint is made. Unless the matter is an allegation of serious misconduct covered under the Corruption, Crime and Misconduct Act 2003, the Standards Panel process is to be used as a guide and the person about whom the complaint is made is to be advised as to the content of the complaint as soon as possible and of the name of the person who has made the complaint.

5.2. DEALING WITH BREACHES

Breaches of this Code of Conduct will be investigated and handled in a manner which is consistent with the principles of the presumption of innocence, procedural fairness and natural justice.

Alleged breaches of the Code of Conduct by a Councillor or committee member shall be dealt with by requesting the Councillor or committee member who is the subject of the allegations to attend an interview with a panel comprising the President, and Deputy President and/or the CEO if requested by the President. The person complained against will be given every opportunity to refute and explain the events and provide any mitigating circumstances for the alleged conduct and to be accompanied by another person of their choice.

In the case of a complaint against the Shire President the matter will be brought to the attention of all Councillors through a confidential briefing session by the complainant or the CEO if requested by the complainant. Complaints forwarded to the Standards Panel under the LG (Rules of Conduct) Regulations 2007 shall be dealt with by the Panel.

A breach of the Code of Conduct if proven on the balance of probabilities to the satisfaction of the panel may result in the Councillor or Committee Member being counselled by the Shire President.

Repeated breaches may be referred to the Council by the President, Deputy President or CEO for discussion and potentially the consideration of a censure motion or in the case of a Committee Member the cancellation of their appointment to the committee by Council decision.

In cases where investigation gives rise to reasonable suspicions that the breach constitutes serious improper conduct such as bribery, corruption or other misconduct, as outlined in the Local Government Act 1995, then the matter will be forwarded for further investigation by the Department for Local Government, Sport and Cultural Industries and the Corruption and Crime Commission.

The Council and CEO in the case of a Councillor or committee member making a complaint and the CEO in the case of an employee making a complaint are to ensure that the Councillor, committee member or employee who reports an allegation of unacceptable or illegal behaviour of a Councillor or committee member (that is, a whistleblower) is not in any way disadvantaged or victimised because of their actions.
Councillors must be aware that the *Corruption, Crime and Misconduct Act 2003* provides for the mandatory reporting of reasonable suspicions of serious improper or corrupt conduct to the Commission. The CEO has a mandatory requirement to report to the Corruption and Crime Commission reasonable suspicion that serious misconduct is occurring.

A Councillor, officer or any other person may report any reasonable suspicions of serious misconduct on the part of Councillors, public officials or public officers to the Corruption and Crime Commission.

Voluntary reporting can be made to the Shire’s Public Interest Disclosure Officer. Penalties will prevail if a person who makes a complaint under the *Public Interest Disclosures Act 2003*:

(a) Has his or her safety or career prejudiced, or threatened to be prejudiced;
(b) Is intimidated or harassed; or has an act done to his or her detriment because of having assisted the Commission, or furnished information to the Commission.
Declaration by elected member of Council

(r.13 (1) (c)) (Form 7)

Local Government Act 1995

Local Government (Constitution) Regulations 1998

Councillors make this solemn declaration to abide by the Rules of Conduct when they are elected into office.

Declaration by elected member

I______________________________________ of _______________________________________

having been elected to the office of President / Deputy President / Councillor of the Shire of Augusta Margaret River declare that I take the office upon myself and will duly, faithfully, honestly, and with integrity, fulfil the duties of the office for the people in the district according to the best of my judgment and ability, and will observe the Local Government (Rules of Conduct) Regulations 2007.

Declared at ________________ on _____ / ______ / 20_____

By ____________________________

Before me: ____________________________
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