

CITY OF SOUTH PERTH

GOVERNANCE FRAMEWORK

FEBRUARY 2022



Elected Members and employees of the City of South Perth (the City) are committed to the democratic process and the principles of good governance.

This document outlines the City's Corporate Governance Framework.

Part 1: Corporate Governance in Local Government

1. Governance defined

Purpose

This Governance Framework has been prepared to ensure compliance with all relevant legislation, including the *Local Government Act 1995* (the Act) and the pursuit of best practice as a democratic local government.

It is an overview of the governance program that has been put in place so that Elected Members and employees can meet their governance responsibilities. It also enables the community and stakeholders to have an understanding of governance and demonstrates how all people associated with the City can participate.

What is governance?

Governance is the act of governing. It encompasses all the processes for making and implementing decisions, that define expectations, grant power or verify performance. Governance is how the City of South Perth ensures and enhances good government principles throughout the organisation, in order to maintain the trust of the community.

It impacts on all sectors of the community and the practice of good governance is considered critical for ensuring that:

- The City meets legal and ethical compliance
- Decisions are made in the interests of all stakeholders
- The City behaves as a good corporate citizen should.

It is defined by the following principles:

Good governance is accountable

Accountability is vital. The City has an obligation to report, explain and be answerable for the consequences of decisions made on behalf of the community.

Good governance is transparent and open

The community and stakeholders should be able to follow and understand the decision-making process. This means they will be able to clearly see how and why a decision was made – what information, advice and consultation Council considered, and which legislative requirements (when relevant) Council followed.

Good governance follows the rule of law

This means that decisions are consistent with relevant legislation or common law and are within the powers of Council.

Good governance is responsive

The City should always try to serve the needs of the entire community while balancing conflicting interests in an appropriate, timely and responsive manner.

Good governance is equitable and inclusive

Our community's wellbeing derives from the community's satisfaction that Council has considered their interests in the decision-making process. This means that all groups, particularly the most vulnerable, should have opportunities to participate in the process.

Good governance is effective, efficient and sustainable

The City should implement decisions and follow processes that make the best use of available employees, resources and time, to ensure the best possible results for the community.

Good governance is participatory

Anyone affected by or interested in a decision, should have an opportunity to participate in the process for making that decision, whether this is by being provided with information, or consultation to provide them with an opportunity to give their opinion or recommendations.

Excellence in Local Government governance:

- underpins the level of confidence people have in governments and public service
- impacts on the quality of output
- is a 'value added' activity
- ensures that Local Government meet their legislative responsibilities
- is a strong reminder of ultimate accountability of government and the public sector community it serves

By following good governance principles, the Council, the Chief Executive Officer, employees and the community can be confident that the City is being run efficiently, is sustainable and is carrying out the objectives, policies and plans of Council.

Part 2: Governance Statement

1. Introduction

Local governments are experiencing increased scrutiny of their operations and activities, creating a need for full and open disclosure of their governance systems. As with the private sector's long-standing focus on governance issues, the City must consider the principles of systems integrity, role delineation, accountability and strategic management, in order to develop suitable governance frameworks that ensure effective, transparent and sustainable administration of the City's affairs.

This Corporate Governance Framework provides information about the Council, Elected Members and administration; the relationships that exist and how they work together to achieve good governance.

The framework links their roles under the *Local Government Act 1995* (the Act) and other relevant legislation, the suite of governance documents and the functions performed by the City. It provides guidance and information to the major participants in the governance processes of the City.

Supported by this framework, Elected Members and the Chief Executive Officer are able to:

- Provide strong, effective leadership
- Maintain quality service delivery and the effective use of resources
- Adhere to the City's values and defined strategies
- Deliver effective stewardship of the City's assets, including infrastructure assets
- Provide systems that ensure compliance with relevant statutes
- Encourage innovation and continuous improvement throughout the organisation
- Deliver services in line with agreed performance measures.

The Governance Framework is underpinned by:

- a) The City's commitment to best practice by adopting the Australian Business Excellence Framework and promoting continuous improvement for employees and other participants.

The Australian Business Excellence Framework outlines the necessary structures and processes that guide how members and officers fulfill their duties and sets out clear boundaries for participant's roles, in terms of their responsibilities and purpose. It also enables accurate measurement of the City's performance in achieving defined strategic goals.

- b) The City's Integrated Strategic Planning (ISP) Framework and other strategic documents.

The ISP Framework demonstrates how the City plans to sustainably and strategically meet the needs of its community, while focusing on place shaping (built/physical environment) and wellbeing and a greater level of community engagement. It was formulated through the Our Vision Ahead process, which documented the community's priorities, aspirations and vision for the City and helped shape and create a shared vision for the City of South Perth. This involved extensive community consultation with approximately 1450 community members contributing.

2. Corporate Governance Model

The following diagram represents the City's internal/external stakeholder governance model.



3. Roles, Responsibilities and Council Composition

3.1 The Role of Council

The roles, functions and objectives of councils are set out in the *Local Government Act 1995* as follows. The role of the Council [Section 2.7]:

The Council as a body corporate -

- a) governs the affairs of the City of South Perth;
- b) is responsible for the performance of the City of South Perth's functions;
- c) oversees the allocation of the finances and resources of the City of South Perth; and
- d) determines the City of South Perth's policies.

The following Council roles and responsibilities have been interpreted from the Act, in conjunction with the City's Governance Framework.

- a) Governs the affairs of the City of South Perth

How strategic planning mechanisms are used by the Council to ensure the continuing viability and performance of the City, by setting appropriate strategic goals for the organisation and monitoring the City's performance against them.

- b) Is responsible for performance of the functions of the City of South Perth

The Council bears ultimate responsibility for the performance of the City's functions. It can exercise this through the development of appropriate governance frameworks including delegations of authority and determining an appropriate organisational structure.

- c) Oversees allocation of the finances and resources of the City of South Perth

The Council exercises this role by adopting the City's budget and Strategic Financial Plan, as advised by City officers responsible for the professional development of appropriate financial controls and strategic documents.

- d) Determines the policies of the City of South Perth

The role of Council in setting policy is most effective when it consults with a professional organisation that implements policies through the development of appropriate management practices and work processes. Council policies should set the standards for the City's administration to achieve and make strategic policy decisions that guide officers in their decision-making processes.

To achieve the City's accountability, stewardship, sustainability and innovation objectives, Elected Members are at their most effective when they focus on the above, while at the same time, representing the interests of the community. They must also be involved in appointing the Chief Executive Officer and participating in that officer's performance review process.

Greater accountability and transparency is best achieved when:

Council deliberates and makes resolutions within a framework that is factually based, non-prejudicial and relevant to the issues at hand. It is fostered by Elected Members' standards and behaviour, especially those adhering to legislation governing the declaration of financial and other interests, whenever these arise, and any other associated implications for their participation in any debate.

The role of Council can be categorised into three key areas; legislative, executive and quasi-judicial.

Advocacy

The Council can advocate on its own behalf or on behalf of the community to another level of government/body/agency.

Legislative

The Council is responsible for adopting a set of local laws that reflect current community standards and provide for the good governance of the City. Council, when making local laws, must be aware of their legislative effect.

Executive

The Council is responsible for overseeing the executive functions of the City; determining appropriate policies, strategies and functions for the administration to implement.

Quasi-judicial

The Council is responsible for applying existing laws, including the *Local Government Act 1995*, *Planning and Development Act 2005* and other relevant legislation to specific facts and situations. A quasi-judicial role is one where they must act as judges rather than legislators.

3.2 The Composition of Council

The Council comprises nine members, including the Mayor.

Two Councillors are elected from each of the City's four wards.

The Mayor is elected by popular vote from throughout the entire City.

Local Government elections are conducted biennially (every two years) on a fixed date prescribed by the Act, with candidates elected to the office of Councillor or Mayor for a four year term.

Attachment 1 provides the eligibility criteria for nomination and current terms of office applicable to the Mayor and wards.

3.3 The Role of Mayor

The role of the Mayor as provided under the Section 2.8(1) of the Act, is as follows:

- a) *Presides at meetings in accordance with the Act;*
- b) *Provides leadership and guidance to the community in the district;*
- c) *Carries out civic and ceremonial duties on behalf of the local government;*
- d) *Speaks on behalf of the local government;*
- e) *Perform such other functions as are given to the Mayor or President by the Act or any other written law;*
- f) *Liaises with the Chief Executive Officer on the local government's affairs and the performance of its functions.*

3.4 The Role of Deputy Mayor

Section 5.34 of the Act enables the Deputy Mayor to perform the functions of the Mayor, if:

- a) *The office of Mayor or President is vacant; or*
The Mayor or President is not available, or is unable or unwilling to perform the functions of Mayor or President.

3.5 The Role of Councillors

Section 2.10 of the Act outlines the role of a Councillor 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 the Act or any other written law.*

Each individual Councillor has a legislative requirement to fulfil this role and how they perform the role is outlined in this Governance Framework.

Individually, Councillors have a responsibility to act as a conduit between the community and the City. Not only must they represent the interests of the broader community on the Council, but also as community leaders they must represent the interests of the City within the broader community.

Whilst Councillors may be elected from an individual ward, their primary obligation is to represent the interests of the broader community within the City. It is not appropriate for individual Councillor's constituent concerns to interfere with their decision-making processes in providing good governance of the City as a whole.

3.6 The Role of Chief Executive Officer

Section 5.41 of the Act outlines the Chief Executive Officer's functions as follows:

The CEO's functions are to -

- a) *Advise the Council in relation to the functions of a local government under the Act and other written laws;*
- b) *Ensure that advice and information is available to the 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 Mayor or 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 Mayor or President agrees;*
- g) *Be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to Section 5.37(2) in relation to senior employees);*

- h) Ensure that records and documents of the local government are properly kept for the purposes of the Act and any other written law; and*
- i) Perform any other function specified or delegated by the local government or imposed under the Act or any other written law as a function to be performed by the Chief Executive Officer.*

The Act enables Council to delegate in writing to the Chief Executive Officer, the capacity to exercise any of its powers or duties, **with the exception of** those relating to:

- a) Actions in which a decision of an absolute majority or a 75% majority of the Council is required;
- b) Acceptance of a tender which exceeds an amount as determined by the Council;
- c) Appointment of an auditor;
- d) Acquisition or disposal of any property valued at an amount exceeding an amount determined by the Council;
- e) Any of the Council's powers under Sections 5.98, 5.99 or 5.100 (determining fees, allowances and expenses of members and Committee members);
- f) Borrowing money on behalf of the City;
- g) Hearing or determining an objection of a kind referred to in Section 9.5;
- h) Authorising a person to sign documents on behalf of the local government;
- i) Carrying out any power or duty that requires the approval of the Minister or the Governor; or
- j) Such other powers or duties as may be prescribed.

The role of the Chief Executive Officer in the governance framework extends to:

- Providing policy advice to Council
- Implementing strategies, policies and decisions of Council
- Managing the operations of the City
- Maintaining the integrity of systems and processes required to ensure that the City's accountability and compliance obligations are met
- Appointing and managing the activities of the City's employees.

This clear separation of member and Chief Executive Officer roles and responsibilities as identified within the Act reinforces good governance principles. It also provides the basis for the City to adhere to all statutory requirements whilst meeting the expectations of its community.

However, it is also important for all parties to recognise and agree that maintenance of a close, effective and cooperative relationship between members, the Chief Executive Officer and employees will be critical to the achievement of key goals and objectives.

It is a requirement that initial contact by members on any matter is made through the Chief Executive Officer or Director or another person nominated by the CEO. A schedule of employees, who the CEO has identified as being suitable to be contacted is available to members.

Should a member wish to contact any other employee directly, a request shall first be made to the Chief Executive Officer or relevant Director, who will assess the request.

3.7 Employees

In undertaking its functions and responsibilities, Council is supported by the Chief Executive Officer and an Executive Management Team comprising the heads of three directorates, namely:

- Corporate Services
- Infrastructure Services
- Development and Community Services.

The Executive Management Team meets weekly as a basis for ensuring effective co-ordination of the City's operations and implementation of Council resolutions.

These meetings are complemented by regular Directorate and Operational Management Team meetings and Departmental Managers' meetings. Such forums are considered important, both in enabling management information dissemination and feedback by employees, thereby promoting a *whole of organisation* approach for the City in the fulfillment of its functions and responsibilities.

3.8 Council as a Corporate Body

Under Section 2.5 of the Act, a Local Government is a legal entity (body corporate) with perpetual succession (continues unaffected by death of leadership) and a common seal.

The City of South Perth protects its members and employees by mitigating their liability with liability insurance protection and incorporating effective risk management strategies and processes within the corporate governance framework.

Attachment 2 outlines the limitation of member liability.

Good corporate governance requires clear identification and definitions of responsibility and a clear understanding of relationships between the organisation's stakeholders and those responsible for managing its resources.

Effective risk management can be achieved by ensuring participants in the governance process are fully aware of their roles, responsibilities and accountabilities.

3.9 Elected Member Support

The Chief Executive Officer, through an effective support process, will ensure that elected members develop an understanding of their roles and responsibilities so they are able to add value and bring independent, informed and objective judgment to the governance decision making process of Council.

The CEO provides a comprehensive induction program upon their appointment and makes available to Elected Members (subject to budget provisions) appropriate resources for their continuing education and development programs as necessary to ensure effective representation of the community and key stakeholders and in accordance with Council policy. Individual support and advice is available through the CEO and relevant executive management.

4. Governance Principles

The foundations of the City's governance framework are in the strategies, policies and procedures established to meet legislative requirements, manage issues and relationships affecting the City while achieving the goals outlined in the strategic plans.

These detailed strategies and plans help the City work effectively for and with the communities and businesses to meet the needs and expectations of its residents and ratepayers and administer the City's affairs. Good governance requires accountable and sustainable strategic planning, and robust and transparent financial management, particularly concerning the stewardship of community assets.

These plans also serve to support the City's Vision and Values.

Vision

A city of active places and beautiful spaces. A connected community with easily accessible, vibrant neighbourhoods and unique, sustainable natural environment.

Values

The values are linked to the way the City conducts business.

We are: Respectful, Supportive, Unified and Accountable.

The governance foundations are outlined below and can be found on Council's website.

4.1 Integrated Planning and Reporting Framework

All local governments are required to have an integrated planning and reporting framework in place, following legislation put in place by the Department of Local Government in 2012.

The framework comprises:

Strategic Community Plan 2021 -2031

This is the overarching plan guiding the Council until 2031. It has a long-term focus and a strong emphasis on the community's aspirations, priorities and vision for the future. Community consultation identified key focus areas based around six themes, as the City's broad priorities.

These themes are:

Community: Our diverse, connected, safe and engaged community

Economy: A thriving City activated by innovation, attractions and opportunities

Environment (Built and Natural): Sustainable and urban neighbourhoods

Leadership: A visionary and influential local government

The Strategic Plan informs our Long Term Financial Plan 2015-2025.

Corporate Business Plan 2020 -2024

The Strategic Community Plan is the overarching 10 year plan for the City that sets out the vision, aspirations and objectives of the community. The Corporate Business Plan is the City's four year action plan that sets out the priorities by reference to the operations that are within the capacity of the City's resources for delivery of the objectives and aspirations of the community, as contained within the Strategic Community Plan.

Councillors are provided with a quarterly updates on the Corporate Business Plan to enable them to access the performance of strategic initiatives and to assist with decision-making.

Long Term Financial Plan 2015-2025

Set for ten years, the Long Term Financial Plan plays an important role in aligning the City's strategic direction within its organisational and financial capacity. It identifies the funding for proposed capital projects and operational services and programs. It also identifies potential funding sources to ensure that sufficient and appropriate sources of funding are available to pay for the identified initiatives.

Asset Management Plan 2013-2023

The Asset Management Plan identifies responsibilities, maintenance standards and inspection regimes required to manage civil liability. It demonstrates that the City, as the asset infrastructure authority, is responsibly managing the assets under its control.

Workforce Plan 2018/19 – 2022/23

The Workforce Plan is a key informing plan to enable delivery of the Corporate Business Plan through people resources. Workforce planning is completed to ensure the City has an efficient and effective workforce with the capability to deliver services and support the achievement of City priorities now and into the future.

The Workforce Plan provides the workforce management and resource strategies necessary to deliver the objectives, outcomes and strategies of the City's Strategic Community Plan.

Business Unit Plans

These plans enable the implementation of operational strategies/goals and feature performance measurement and reporting criteria for the City's business units.

Annual Budget and Annual Report

This 12-month budget provides a framework for the allocation of financial, physical and administrative resources required to pursue the City's objectives.

Budget reviews are conducted every three months and reflect changing circumstances and priorities.

The Annual Report has its basis in legislation, but enables the City to monitor, control and report on the outcome of its activities over a particular financial year.

Both the Annual Budget and the Annual Report are strongly aligned with the City's Strategic Community Plan.

4.2 Customer Consultation and Engagement

Customer Service Charter

The City delivers a wide range of services to the community and visitors. It receives more than 100,000 direct contacts a year from customers by telephone, in writing or in person, and it hosts more than 1 million visitors each year to the Perth Zoo, Australia Day celebrations and major events.

The City's Customer Service Charter reflects its commitment to the service standards provided to the community and visitors. It states what the City will commit to do and explains how feedback can be provided to improve service.

Stakeholder Engagement

The City is committed to informing, listening to and involving stakeholders in the decision making process.

Stakeholder engagement is a planned and purposeful process that encompasses a variety of techniques and methods. It provides opportunities for stakeholders to be involved in and contribute to decisions that affect their lives.

Stakeholder engagement is part of the City's core business, inviting the community and stakeholders to contribute to decision making, projects and plans. The City's approach to stakeholder engagement is based on the IAP2 (International Association for Public Participation) Public Participation Spectrum, which is considered best practice globally.

4.3 Ethics and Values

Ethical and values-based behaviour is a vital component of good governance. It is built into the governance framework through Corporate Values and a Code of Conduct for elected members and employees. This establishes clear parameters and standards of conduct.

4.4 Statutory Compliance

The City recognises that matters involving deliberations of Council, the implementation of resolutions and any reporting of performance/outcomes must be fully compliant with all legislation and regulations applicable to local government and as reflected in the Statutory Compliance Return.

Compliance is pursued by maintaining the integrity of key financially-based planning and reporting mechanisms underpinning the City's operations – notably, the Annual Budget and Annual Report, and supplemented by internally-based, performance measurement mechanisms such as Quarterly Reports.

Compliance with key financial and statutory requirements is assessed through the annual audit, conducted in accordance with the Act, by a professionally qualified external party appointed by the City.

4.5 Asset and Risk Management

The City actively pursues effective risk management and internal systems of control in the conduct of its business, to safeguard its assets, by implementing a number of specific and organisation wide initiatives.

These initiatives include:

- Policies and procedures relating to financial investments;
- Limits on the approval of operational and capital expenditure;
- A quality budget development and implementation program that entrenches sound financial management in the City's operations;
- A proactive approach to meeting statutory compliance objectives;
- Preparation and monitoring of an infrastructure assets management plan;
- Appropriate procedural and technological controls to ensure a safe, reliable and secure approach to knowledge management;
- A coordinated plan of providing insurance cover for all the City's operational risks;
- Responsible guidelines and practices established for Occupational Safety and Health, Equal Employment Opportunity and Sexual Harassment;
- Standardisation of corporate business practices by implementing the Australian Quality
- Council Business Excellence Framework; and
- Procedures that ensure quality, customer focused decision making while meeting the requirements of administrative law.

Activity 4.3.1 of the City's Corporate Plan refers to the City's Risk Management framework. This framework collates all the risk management initiatives so that a coordinated approach can be adopted, to minimise business, financial and physical risks to the City's operations.

The City maintains a wide range of assets including:

- Infrastructure assets;
- Real property;
- Financial assets;
- Information assets and intellectual property; and
- Natural and heritage assets.

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

Strategic initiatives including the five-year capital works program and an annual works program schedule provide the City with a basis upon which infrastructure assets are managed and developed.

Audit, Indemnity and Liability Insurance Protection

The City's performance in implementing effective risk management strategies and adhering to sound business practice, is reinforced through access to independent legal advice, the completion of an annual statutory compliance audit and the annual financial audit undertaken by professional, external auditors as required by the Act.

These strategies are intended to enable maintenance of comprehensive professional indemnity and public liability insurances, which are supported by appropriate insurance policies to ensure that the City is more than adequately safeguarded against unforeseen risks.

4.6 Performance Management and Review

The City has implemented a range of mechanisms to ensure that performance is measured and reviewed so that remedial action can be taken, where necessary.

Funding

From a strategic perspective and through the agency of its Strategic Financial Plan, the City has ensured that its priorities are sustainable and can be appropriately funded.

The City's primary aim is the maximisation of community benefit and value for money from expenditures and the use of assets.

The City is committed to identifying opportunities for introducing a 'user pays' fee charging model for appropriate functions and services, and developing strategies for implementing this philosophy while continuing to recognise community service obligations.

Performance Monitoring/Reporting/Strategic Planning/Business Planning/Quarterly Reporting

The City is committed to developing appropriate sustainable financial policies and strategic plans to ensure long term financial viability.

The City's level of 'rate competitiveness' is regularly benchmarked relative to other local governments. The level of dependence on rates, as the primary funding source for City programs, is monitored as part of the budget development process.

Financial performance of the City's operations is monitored through internal systems and processes, with reporting occurring at the Executive Management Team and Council levels.

The City's progress in implementing the Long Term Financial Plan, in terms of its effective coordination between strategic and operational elements is monitored through quarterly reporting to Council. Departmental Business Plan outcomes are also reported to Council.

To further enhance existing strategic initiatives and broaden perspective, the City has a corporate reporting performance management model, to outline the relationship between major stakeholders, corporate planning documents and processes.

The City also implemented a Business Planning Framework for major projects to ensure that all such projects are effectively planned, resourced and managed.

4.7 Business Excellence

The City is committed to pursuing business excellence as a basis for achieving best practice in customer service and quality in service delivery to its residents and ratepayers.

The City has adopted a Business Excellence Framework to promote improvement in quality of services, products and services with the objective of good management practice and best practice in the provision of services to the community.

The City has also initiated self-assessment processes inherent in implementation of the Framework, with a view to achieving accreditation.

The City is committed to ensuring the effectiveness and efficiency of its entire strategic framework, through review of ongoing programs and services. Central to achievement of these objectives is the preparation of an information technology and E-commerce strategy that identifies opportunities for the City to maximise use of technology.

Adoption of the Business Excellence Framework, has promoted continuous improvement in the City, supported by the implementation of self- assessment regimes and utilisation of nationally based criteria enabling benchmarking of operations/services.

Also important, is the involvement of internal/external stakeholders in various aspects of the strategic planning/development processes, to determine future priorities and the allocation of resources.

5. Corporate Values and Standards

5.1 Values

In setting its governance and strategic frameworks, the City has committed to conduct its business according to four identified organisational values being:

- Accountable
- Respectful
- Supportive
- Unified

As the City's leaders, the Mayor, Elected Members and Chief Executive Officer are committed to ensuring that these values are created and sustained through all parts of the City's operations and functions and by demonstrating the values through their behaviour.

5.2 Codes of Conduct

The City of South Perth has adopted a Code of Conduct for Elected Members, Committee Members and Candidates and a Code of Conduct for employees in accordance with the legislative requirements of the Act. Both Codes of Conduct are available on the City's website.

The Code establishes the minimum appropriate standards for the honest and ethical behaviour of elected members, committee members and employees.

The Codes are not a replacement for any act, regulation or local law. If there is a conflict between the Codes and the provisions of any act, regulation or local law, the latter provisions prevail.

Elected Members, committee members and candidates and employees are required to familiarise themselves with the Code and ensure they observe and behave in accordance with its provisions.

The Chief Executive Officer is to ensure that the Code is brought to the notice of all employees. Employees must observe the Code's contents as part of the conditions of their contract of employment.

In view of the open and accountable environment within which Western Australian Local Government operates, the Code occupies an important role in promoting good governance.

A fundamental tenet of the Code is that it involves self-regulation and relies upon elected members and the Chief Executive Officer to ensure the City is accountable and transparent and that the business of the Council is conducted in an environment of openness and honesty.

5.3 Rules of Conduct Legislation

The Local Government (Model Code of Conduct) Regulations 2021 were introduced to provide statewide principles to guide the behaviour of elected members and specific rules of conduct that must be adhered to. The Regulations apply only to elected members and breaches of the Rules of Conduct can result in sanctions.

The Regulations list eight general principles to guide Council members' behaviour. 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) identify and appropriately manage any conflict of interest; and
- e) avoid damage to the reputation of the local government.

The Regulations' Rules of Conduct of Council members, as referred to in Section 5.104 of the Act, cover:

- a) Misuse of local government resources
- b) Securing personal advantage or disadvantaging others
- c) Prohibition against involvement in administration
- d) Relations with local government employees
- e) Disclosure of information
- f) Disclosure of interests

Copies of the Local Government (Rules of conduct) regulations are available on the Government of Western Australia Department of Justice Parliamentary Counsel's Office website.

https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_s52479.html

5.4 Conflicts of Interest

The Act, Rules of Conduct Regulations and the City's Code of Conduct all deal with financial and conflicts of interest and requires that:

- a) Elected Members and employees will ensure there is no actual or perceived conflict or incompatibility between their personal interests and the impartial fulfilment of their public and professional duties.
- b) Where an elected member or employee has a conflict of interest referred to in (a) above, then that elected member or employee will openly and fully disclose the conflict of interest.
- c) Discretionary employees will notify the Chief Executive Officer when dealing with a matter in which they have a direct or indirect conflict of interest and when dealing with relatives and closely associated persons. In such cases, discretionary employees will disqualify themselves from dealing with the matter.
- d) Where a report on a matter is submitted to Council by an employee, a disclosure of interest by the discretionary employee will be made in the report, where it could be perceived that the discretionary employee has an influence in the City's dealing with the matter.
- e) Employees will not engage in private work with or for any persons or body with an interest in a proposed or current contract with the City without first making a disclosure to the Chief Executive Officer or Council. In this respect, it does not matter whether advantage is in fact obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.
- f) Elected Members and employees will lodge written notice with the Chief Executive Officer, describing an intention to undertake a dealing in land or otherwise take action within the district, which may be in conflict with the City's function. This provision does not apply to dealings with the Elected member's or employee's principal place of residence.
- g) Elected Members will make a disclosure before dealing with a matter that involves relatives or closely associated persons and will disqualify themselves from dealing with such a matter.

5.5 Disclosure of Conflicts of Interest

- a) Where disclosure of a conflict of interest is required by law, the Code, or otherwise seems appropriate, it should be made promptly, fully and in writing.
- b) In addition to disclosure of financial or non-financial interests, an elected member or employee:
 - i) attending a Council meeting; or
 - ii) giving advice to a Council meeting,will disclose any interest they have in a matter to be discussed at the meeting.
- c) Where a conflict of interest is disclosed under (b) above, the disclosure will be made at the meeting immediately before the matter is discussed or at the time the advice is given, and will be recorded in the minutes of the meeting.

5.6 Financial Interests

Elected members must disclose certain financial interests:

- In matters before Council and Committee meetings
- In Primary and Annual Returns
- In Related Party Disclosures Form

Elected Members need to inform themselves about their obligation to disclose because there are a number of offences that can be committed. Fines of up to \$10,000 or imprisonment of up to two years can be imposed.

Disclosures at meetings and in Primary and Annual returns are recorded in a register to which the public has access. This enhances the accountability of elected members to the public. At the same time, protection is given to elected members because it is an offence for a person to publish information from the register unless under specified circumstances.

The Financial Interests Handbook, detailing the financial interest provisions of the Act, is available from the [Department of Local Government, Sport and Cultural Industries](#).

It is a requirement that:

- a) Elected Members and employees will faithfully observe the principles of disclosure of financial interest, as contained within the Act and the Standing Orders Local Law.
- b) Elected Members and employees who have a direct or indirect financial interest in a matter, which is the subject of a report or advice, will disclose to the Chief Executive Officer or Council receiving the report, the fact that such an interest exists.
- c) The onus is on elected members and employees to identify possible conflicts of interest or financial interest and to determine whether such interests, to which no exemption applies, exist.

5.7 Disclosure of Interests Affecting Impartiality

In addition to financial interests, Elected Members must declare any interest, which the community may perceive, would affect their ability to act with impartiality.

Interests that commonly fall within this definition are when an elected member is a member of a group, club or association and that organisation requires Council to make a decision on an application it has made. In addition, if a member's parents, siblings or children (not living at home) have an item before Council, it would be wise for the elected member to disclose an interest affecting their impartiality.

It is important to note that if an elected member has an interest affecting impartiality, once they have declared their interest, they may still take part in debate and vote on the matter.

The Department has produced guidelines in relation to interests affecting impartiality.

5.8 The Declaration and Recording of Gifts

The Local Government (Administration) Regulations 1996 define prohibited gifts as anything over the threshold amount of \$300. That is, one or more gifts given by the same person or body within a 12 month period that have a total value of \$300 or greater.

The Regulations require that a Code of Conduct must contain guidelines for employees regarding accepting, recording, storing, disclosure and use of information relating to gifts.

The City's Code of Conduct sets out the following guidelines for accepting gifts:

ACCEPTABLE GIFTS AND HOSPITALITY \$49 and under	Can be accepted without reporting it. Carefully consider the appropriateness of accepting any gifts, regardless of the value.	Once the acceptance of a gift has been disclosed, it will be recorded in the City's Record Keeping System and will be used as required by law and for reporting purposes, and will be retained and disposed of in accordance with the City's Recordkeeping Plan. If you are ever unsure if it is appropriate to accept a gift, it's important you seek clarification prior to accepting the gift or hospitality.
NOTIFIABLE GIFTS AND HOSPITALITY \$50 - \$299 Multiple gifts from the same person/ body within a 12 month period which total between \$50 and \$299.	Employees are required to notify the CEO via the Governance Business Unit within 10 days of accepting the gift, using the gift disclosure form.	
PROHIBITED GIFTS AND HOSPITALITY Over \$300 Multiple gifts from the same person/ body within a 12 month period which total over and \$300.	Cannot be accepted.	

6. Meetings and Reporting Structures

6.1 Agenda and Minutes

As required under the Act and associated regulations, the City prepares Agendas for Council meetings and ensures that the documentation is available to members on the Friday, prior to a scheduled Council meeting.

In keeping with the City's commitment to openness, transparency, accountability and engaging with the community, agendas are made available for the public to view on the City's website and in hard copy, on the Friday prior to a scheduled Council meeting.

Unconfirmed minutes are to be made available for inspection by members of the public. The content of the minutes is to include:

- Names of those members present
- Where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure
- Details of each motion moved at the meeting, the mover and outcome of the motion

- d) Details of each decision made
- e) Reasons for each decision made that is significantly different from the relevant written recommendation
- f) A summary from each question raised by members of the public and a summary of the response to the question
- g) In relation to each disclosure made in accordance with the Act the extent of the interest

The minutes are publicly available by the Friday following a meeting.

6.2 Council Meetings

The City of South Perth operates on a monthly Council meeting cycle as a basis for decision-making and management for its operations.

Ordinary Council Meetings are open to the public (except as otherwise prescribed under the Act) and are generally convened at 6.00 pm on the fourth Tuesday of each month.

The conduct of meetings is governed by the City of South Perth Standing Orders Local Law 2007 (Standing Orders). Business at the meetings is based on an agenda prepared by the City's administration; incorporated within are reports and recommendations relating to matters requiring consideration and resolution.

The Standing Orders incorporated within the Local Law are designed to:

- a) Provide the rules and guidelines, which apply to the conduct of meetings of Committees, Council and Electors' meetings.
- b) Ensure that all meetings of Council and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and the Standing Orders.
- c) Result in:
 - Better decision making by Council;
 - The orderly conduct of meetings dealing with Council business;
 - Better understanding of the process of conducting meetings dealing with Council business; and
 - The more efficient and effective use of time at meetings.

6.3 Agenda Briefing Meetings

Agenda Briefing Sessions are convened on a monthly basis and occur on the Tuesday prior to the Council meeting, to provide a forum for elected members to obtain further information from officers, in respect to any business listed on the agenda. Despite being informal, Briefing Sessions are subject to certain rules, which:

- Ensure that no decisions are made.
- Ensure that elected members do not canvass for votes, discuss voting patterns or take straw polls. The focus of discussions is on the provision of information by officers on agenda items.
- Provides an opportunity for elected members to seek assistance where amendments to motions are proposed.
- Allows deputations by members of the public to be heard.

Notes of the meeting are to be kept and are included in the following weeks Council Agenda.

6.4 Councillor Briefing Sessions

Councillor Briefing Sessions are held when required, to update elected members on some of the more important projects that the City is involved in and the progress that has been made on them.

No decisions are made at Councillor Briefing Sessions. Notes of the Councillor Briefing Session are made available to elected members to serve as a record of the session.

6.5 Advisory Committees and Advisory Groups

The City operates advisory groups to provide recommendations on the management of key community assets and facilities. Advisory groups comprising community and stakeholder representatives and resourced by the City's technical and administrative officers, have also been established to progress key strategic projects.

As part of the City's aim of maintaining ongoing, effective community participation in decision making, consultative committees are also established on an 'as needs' basis, to provide input and feedback in the development of major proposals and initiatives.

6.6 Qualified Privilege for Members in the Performance of their duties

Members, in the performance of their duties, are only protected by a qualified privilege in certain circumstances. This qualified privilege allows members to make public comment on issues under consideration, either at a Council meeting or Council briefing session. Qualified privilege provides members with limited protection from actions in damages for defamatory statements.

The qualified privilege is available on occasions where a member has a moral, legal or social duty that is shared by the other members, as a result of their consideration of an issue in the performance of their duties. The exercise of their duty requires the member to make a communication to the Council to allow the other members to fulfil their duty.

This qualified privilege is limited to items under consideration by Council. Members can only claim it where they believe they are making a genuine and honest statement. Any maliciousness on behalf of the member claiming qualified privilege, may result in a finding that the member has misused the qualified privilege.

Members must be able to speak honestly, openly and frankly, taking into account all matters that are relevant to the items under consideration, when representing the interests of the community in Council decision making procedures, qualified privilege allows members to honestly raise genuine concerns, in the fulfilment of their duty to provide good governance for the community, without fear of an action in defamation.

6.7 Access to Information and Decision Making

The City is committed to fostering high levels of public awareness of its activities, by providing its residents and ratepayers with the broadest possible access to information.

In addition to meeting the statewide and local public notice requirements prescribed by the Act in respect to particular proposals and activities, the City also ensures that information is available via traditional and electronic means. These include:

City's website: www.southperth.wa.gov.au provides up to date information and service delivery to ratepayers and residents.

City's bi-monthly Peninsula Newsletter: a primary mechanism for disseminating information and encouraging feedback on key strategies, projects and significant City events.

City's fortnightly Peninsula Snapshot: provides timely information about what is happening in the City.

Official notice board at City's Administration Centre: relevant information is regularly posted on the board.

Local media: local newspapers and other media are used to inform residents and ratepayers about important issues and Council activities.

Social media: Facebook, Twitter and Instagram are utilized by the City to inform a broader audience of Council related news.

Public consultation with the City's residents and ratepayers occurs through a range of mechanisms such as direct information provision, consultation, public comment, Special Meetings and Annual General Meetings.

7. Planning and Development Functions of the Council

7.1 Town Planning Schemes

A Local Government is required under the *Planning and Development Act 2005* to have in place a Town Planning Scheme for the district. A Local Government Town Planning Scheme is required to be consistent with the Metropolitan Region Scheme, which is administered by the State Government. The Local Government Town Planning Scheme must also take into consideration State Government Town Planning Strategies, Plans and Policies.

A Town Planning Scheme provides a legal framework for a range of functions including:

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

The provisions of a Town 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 Transport and Planning provides final approval to the contents of a Town Planning Scheme and once gazetted, a Scheme comes into operation and has the force of law. Authority to operate its Town Planning Scheme is delegated to the Local Government by the State Government.

A Town Planning Scheme requires review every five years. This is to ensure that the Scheme continues to meet changing community needs and expectations. This review process is facilitated by the Local Government and involves community consultation.

At the present time the City operates under Town Planning Scheme 6, which was gazetted in April 2003 and is amended as the need arises.

Amendments can be made to an operative Town Planning Scheme, which 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 Transport and Planning provides the final decision in relation to a Scheme Amendment.

A range of local planning policies is also used to support and guide the implementation of the Scheme. These planning policies include the City's Local Housing and Local Commercial Strategies, as well as a Heritage List. Planning policies can be developed to also provide guidance, detail and consistency of treatment with respect to amenity and other relevant planning issues.

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

The role of a Council in administering a Town Planning Scheme includes:

- Consideration of development applications
- Consideration of subdivision proposals
- Consideration of Town Planning Scheme Amendment proposals (whether suggested by the City or by a customer)
- Enforcement of Town Planning Scheme provisions
- Development of planning policies
- Review of existing Town Planning Scheme
- Formulation of new Town 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 elected Members with detailed information relating to the particular Town 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 elected 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', the City's professional planning officers have 'delegated authority' to make various determinations.

Some development applications are also referred to the City's Design Advisory Consultants for advice on the design and appearance of buildings.

Town Planning decisions involving land within the Swan Canning Riverpark, must be consistent with, and have regard to, the requirements of the Department of Biodiversity, Conservation and Attractions, who have jurisdiction over land adjoining the Swan and Canning Rivers.

7.2 Consideration of Development Applications

When Council considers a development or planning application, it undertakes a quasi-judicial role. It is required to consider the information the applicant has provided and test it against the provisions of the Town Planning Scheme and any other relevant planning instruments or policies. It is guided in its consideration by the professional advice of its technical officers.

The Council has particular responsibilities under the Town Planning Legislation.

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

The City employs specialist-planning officers to draft reports and provide Council with the information it needs to consider a development or planning application and the relevant law that is applicable.

When deciding on planning matters, Council must take reasonable care to ensure that the following principles are adhered to.

- a) 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 and then participates in the decision making process without a full understanding of the issues at hand, may jeopardise the validity of the decision making process.
- b) Councillors must ensure that 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.
- c) If Council resolves a planning matter contrary to the recommendation made by its technical officers, then the reason for resolving differently must be recorded in the resolution. The reasons must be based upon valid planning considerations.
- d) Council has a responsibility 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 significant, though an opportunity to make a submission in person to a relevant meeting may be appropriate, where it is requested by a person with a significant interest.

Any submission must be made on the basis of town planning principles. Council has the role of testing submissions, whether made by the applicant or another party, and the applicant must be given the right of reply.

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.

8. Local Laws, Policies, Management Practice and Delegations

The City has adopted a number of local laws, policies, delegations and management practices to guide the administration in the conduct of the City's operations. The policy and delegation regimes are key components of the City's governance framework.

8.1 Local Laws

The Act outlines the process by which the City may adopt local laws. This legislative role allows the City to adopt local laws that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws. When adopting local laws Council must be aware that they operate with the force of legislation which the City has an obligation to enforce.

When a local law is proposed, the community has an opportunity to submit comments. After the purpose and effect of a local law is read out at a Council meeting, there is a six-week advertising and submission period. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local law is then considered by the Western Australian Parliamentary Committee on Delegated Legislation and listed in the Government Gazette. Local laws must also comply with the National Competition Policy principles adopted by agreement between local, state and federal governments.

Local Laws must be reviewed every eight years under the Act. The City undertook a comprehensive review of its suite of local laws in 2011.

The City maintains the following local laws:

- Dog Local Law 2016;
- Parking Local Law 2017;
- Penalty Units Local Law 2003;
- Public Places and Local Government Property Local Law 2011
- Standing Orders Local Law 2007
- Health Local Law 2002
- Town Planning (Height of Obstructions at Corners) General By Laws
- Waste Local Law 2017
- Cats Local Law 2016

8.2 Policies and Management Practices

Policies provide the administration with guidance for the implementation of processes.

These policies focus on setting standards in compliance with legislation, adopting values or guiding processes. They have been drafted broadly, to encourage innovation by the administration, in the development of practices and processes to implement the policies.

Management practices and processes are descriptive of the functions and tasks that are required to achieve each policy objective. Management practices are developed by the relevant business unit, approved by the Executive Management Team.

8.3 Delegations

Delegations of authority are required, to provide officers of the City with the power to exercise duties and make determinations. It is essential that the City's delegations are performed in a manner that is in accordance with the adopted governance framework and are compliant with the relevant legislation. The City is required to keep records on the exercise of its delegations.

Under the Act, both the Council and the Chief Executive Officer are given certain functions and duties to be discharged. In accordance with Section 5.42, Council may delegate authority to perform some of its functions and duties to the Chief Executive Officer.

The Chief Executive Officer may delegate to any other officer the authority to perform functions and duties that are exercisable by the Chief Executive Officer under the Act or that have been delegated to the Chief Executive Officer by the Council.

This accords with a governance framework whereby officers are responsible to the Chief Executive Officer and the Chief Executive Officer is responsible to Council. Similarly, the implementation of Council decisions and instructions is conducted by the Chief Executive Officer, who may delegate some of this responsibility to other officers of the City.

The judicious use of delegations, with appropriate policy and accountability frameworks, contributes to good governance by allowing the council to focus on strategic rather than operational issues.

Part 3: Key Governance Documents, Policies and Procedures

3.1 Integrated Planning Framework and Reporting

- City's Vision
- Strategic Community Plan
- Corporate Business Plan
- Long Term Financial Plan
- Workforce Plan
- Asset Management Plan
- Departmental Business Plans
- Annual Budget and Annual Report
- Departmental Quarterly Report
- Financial Monthly Report

3.2 Ethics and Values

- Elected Member and Officer Code of Conduct
- Rules of conduct Regulations
- Communication/Consultation Strategy
- Community Surveys

3.3 Statutory Compliance

- Statutory Compliance Return
- Annual Budget and Annual Report

3.4 Asset and Risk Management

- Independence of Decision Makers
- Policies, management practices and delegations
- Sound budgetary framework
- Procedural and technological safeguards
- Legislative and regulatory compliance
- Independent, external legal advice
- Quality, customer-focused decision making
- Assets register
- Capital works programs
- Audit, Indemnity and Liability Insurance Protection

3.5 Performance Measurement and Review

- Strategic Financial Plan
- Peer-based Benchmarking of Rate Competitiveness
- Integrated Strategic Planning and Reporting Framework

3.6 Business Excellence

- Business Excellence Framework
- Self-Assessment Programs
- Continuous Improvement

3.7 Customer Consultation

- Customer Service Charter
- Internal/External Customer Satisfaction Surveys
- Customer Action Request System (C.A.R.S)

Part 4: Attachments

4.1 Attachment One: Council Nominations Eligibility

There are no professional qualifications or pre-requisites for individuals to nominate for election to Council. A person is eligible provided that they are:

- At least 18 years of age;
- An elector of the district; and
- Not disqualified from being elected due to their incumbency as a representative of State or Federal parliament or due to insolvency, criminal convictions and membership of another council.

A person is unable to serve as an elected member of the Local Government of which he or she is an employee. However, they are able to stand as a candidate in any Council election and relinquish their employment in the event of their election to office.

Current Terms of Office of the Mayor and Councillors

As a consequence of the October 2021 elections, terms have been allocated to the Council as follows:

Position	Term expiring
Mayoral	October 2023
Mill Point Ward	
One member	October 2023
One member	October 2025
Moresby Ward	
One member	October 2023
One member	October 2025
Como Ward	
One member	October 2023
One member	October 2025
Manning Ward	
One member	October 2023
One member	October 2025

4.2 Attachment Two: Limitation of Member Liability

The City of South Perth has the legal capacity of a natural person. Therefore, the City may instigate legal proceedings in its corporate name and have proceedings taken against it.

Section 9.56 of the Act provides that:

- a) *a member of the Council or of a Committee of the Council, of a local government; and*
- b) *an employee of a local government; or a person appointed or engaged by a local government to perform functions of a prescribed office or functions of a prescribed class;*

is a protected person.

Further to this, the Act specifies that:

“An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under the Act or under any written law”. (2)

The Act also determines that [Section 9.56]:

“It does not relieve the local government of any liability that it might have for the doing of anything by a protected person”. (4)

It is important to also note that, under the Act:

- a) *a reference to the doing of anything includes a reference to the omission to do anything;*
- b) *a reference to the doing of anything by a protected person in the performance or purported performance of a function under any written law other than this Act is limited to a reference to the doing of anything by that person in a capacity described in subsection (1) (a), (b) or (c) as the case may be.*