



TOWN *of*  
EAST FREMANTLE

# Governance Framework 2021



*Elected Members and employees of the Town of East Fremantle (the Town) are committed to the democratic process and the principles of good governance.*

*This document outlines the Town's Corporate Governance Framework.*



<b>Responsible Directorate:</b>	Office of the CEO
<b>Reviewing Officer:</b>	CEO
<b>Decision making Authority:</b>	Council
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## CORPORATE GOVERNANCE IN LOCAL GOVERNMENT

### 1. Governance Defined

#### 1.1 Introduction

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

The practice of good governance is increasingly seen as critical for ensuring that:

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

The framework is endorsed by Council at an Ordinary meeting held on 18 May 2021. 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 our community and stakeholders to have an understanding of governance and demonstrates how all people associated with our Council can participate.

#### 1.2 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 Town of East Fremantle ensures and enhances good government principles throughout our organisation, in order to maintain the trust of the community.

#### 1.3 What is good governance?

The Governance Institute of Australia (GIA) notes that good governance has four key components:

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

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

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

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

Good governance for the Town is about how well it provides goods, services and programs while also meeting its legislative, non-legislative requirements (e.g. internal standards) and community expectations. This is achieved by having the best possible decision-making processes and structures in place that are transparent and accountable, and having integrity when interacting with the community, businesses and with government.

Good governance in local government requires the following:

- Councils being elected by, representative of, and accountable to the community.
- Elected Members making decisions on behalf of and in the best interests of the community as a

whole.

- Policies and programs reflecting the mandate local governments have been given by their electors.
- Policy enactment arising from the Strategic Community Plan with appropriate performance management to assess the local government's progress.
- Community participation in decision-making.
- Elected Members providing leadership to the community and reflecting the community's collective aspirations.
- A management structure which implements the local government's goals in accordance with the local government's priorities and approved budget.
- Provision of services which meet the community's needs (sometimes in partnership with other levels of government, business or community organisations).
- Local government being well placed to facilitate coordination and integration at a local level.
- Cooperation between local governments and other spheres of government.

#### 1.4 Why is good governance important to the Town?

- It underpins the confidence that the community has in Council and its services.
- It affects the quality of our outputs – goods, services and programs.
- It is a value adding activity.
- It ensures that the Town meet its legislative responsibilities.
- It is a strong reminder to the Council that it is ultimately accountable to the community it serves.

#### 1.5 Governance Principles

The Town's framework is based on CPA's publication *Excellence in Governance in Local Government 2007* which provides four principles that provide a clear foundation for good governance:

- Culture and vision,
- Roles and Relationships;
- Decision-making and management; and
- Accountability;

Each principal is divided into sub-categories where the theory of the principle is explained and then the way the theory is put into action at the Town of East Fremantle.

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



## 2. Local Government defined

Local government in Western Australia is established under the *Local Government Act 1995* (LGA) and is the third sphere of government in Australia. Local government has legislative responsibility for many functions and activities that are relevant to a local community, including waste management, road maintenance and rates collection.

As the level of government often seen as the 'closest' to the community, local government activities relate to matters that are fundamental to people's lives and impact strongly on their quality of life. This includes organising local community events, providing community spaces and recreation areas and creating liveable neighbourhoods.

Each local government is a corporate body, a legal entity with power to do things for the local community. A local government can also sue and be sued. A local government is comprised of:

- a Council consisting of Elected Members;
- a Mayor; and
- the Administration that includes the CEO and employees.

The Mayor and Councillors form the Council, and the following principles apply:

- Elected Members are able to exercise authority as the Council after they are formally sworn in and when they meet formally as the Council.
- All lawful decisions are made at the Council meetings or through delegated authority (to CEO or the Council's Committees where applicable).

The Council operates within our system of democracy where representatives are elected to make decisions on behalf of the community as a whole. Elected Members carry out their duties with due diligence that includes taking account of all information available and listening to and evaluating community views on issues that come up for decision.

Elected Members acting individually do not have the authority to influence the activities, duties and operations of local government employees. Instead, staff deliver a range of services decided on by the Council as a whole and implement the decisions of the Council but are responsible to the Chief Executive Officer for their work performance.

Employees are formally accountable to the Council through the CEO, whose role is detailed in section 5.41 of the Act, and includes but is not limited to:

- advising Council;
- implementing Council's decisions;
- managing the services that the local government provides for its community; and
- being responsible for the day to day operations of the local government.

Except for the CEO who is appointed directly by Council, each and every other employee is employed through the executive function of the CEO as set out in section 5.41 of the Act.

### 2.1 Functions of local government

In order to consider the issue of good governance in the context of local government, it is also necessary to consider the functions of local government.

#### 2.1.2 Planning and monitoring achievement

Planning for the development and wellbeing of the community is a critical role for a local government. The Act requires local governments to develop and adopt a 'plan for the future', which sets overall direction for the Town through long-term planning. Examples include the Town's 10 Year Strategic Community Plan, the 15 Year Strategic (Resource) Financial Plan and the Four-Year Corporate Business Plan. The Town's

Integrated Planning Framework provides the direction for the ongoing management of Town activities.

### **2.1.3 Lawmaking and enforcement**

A local government makes decisions in areas over which it has legislative authority but cannot duplicate or contradict federal or state law. Laws made by local governments are called local laws and cover such issues as the activities permitted on public land, animal management and use of local government facilities. Local laws are enforced by employees.

A local government is also responsible for enforcing other legislation under which it has authority.

### **2.1.4 Administrative**

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

### **2.1.5 Policy development**

An important role of Council is to make policy decisions on behalf of the community. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing needs, and allocating appropriate resources. A policy is a decision of Council and sets out agreed views and direction concerning a particular area of responsibility.

### **2.1.6 Representation**

In a general sense, when Council meets it represents the views of the local government constituents on matters of concern to the community. Elected Members represent the interests of electors, ratepayers and residents of the district. Elected Members need to listen to and be interested in the wider community and not just the people in the ward who elected them.

### **2.1.7 Advocacy**

Local governments have a role advocating on behalf of their community to other spheres of government, statutory authorities and private interests whose activities may have an impact on the community.

### **2.1.8 Service delivery**

Local governments must ensure that services are delivered in the most efficient and effective manner. The Act provides a degree of autonomy to local governments to determine policies, in consultation with their communities, about the nature and level of services provided. A local government should ensure the delivery of quality services for which it has responsibility.



### 3. Community Defined

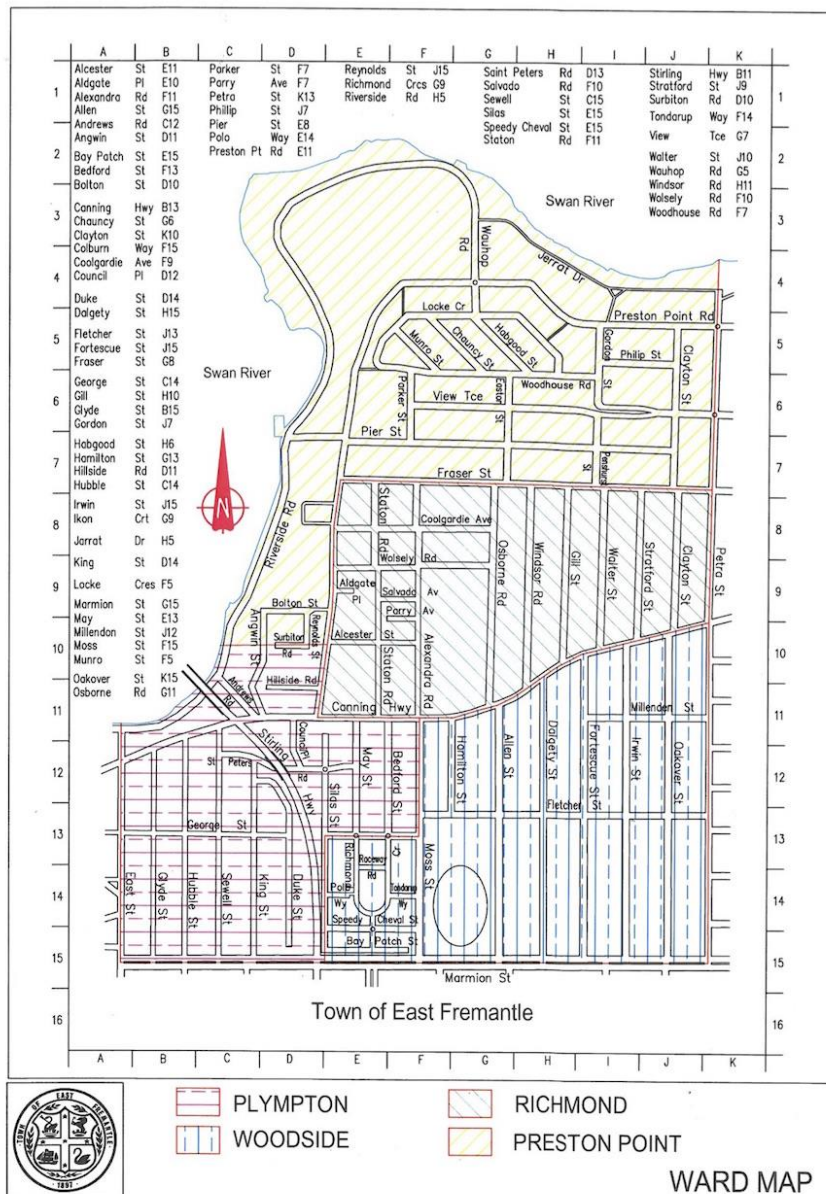
When used in relation to governance the collective term community does not refer to one single entity. Within the Town of East Fremantle there are many different communities and subsets within them. These can be identified through factors such as neighbourhoods or people with interests in common, lifestyle, sport, business, educational (school), developers, industry and such things as social values. Often such diverse communities do not share the same aspirations and goals as the needs and desires of people evolve and change.

A challenge for the Council is to govern so that the different and sometimes competing interests of the community can be recognised and taken into account.

### Council Representation

The Council supports a Ward system for election purposes and maintains equity through periodic reviews to retain a fair ratio of Councillors to electors in each of the Wards.

- 1 x Mayor
- 2 x Councillors - Preston Point Ward
- 2 x Councillors - Plympton Ward
- 2 x Councillors - Richmond Ward
- 2 x Councillors - Woodside Ward



## **4. Governance Principles**

For the purposes of the Town's Governance Framework, the principles contained in the *'Excellence in Governance in Local Government'* developed by CPA Australia have been adopted. The principles provide the foundation for good governance and a means for assessing the extent to which good governance is occurring at the Town. Contained under each principle in the following sections are a range of activities and actions put into operation at the Town to support that particular principle.

### **4.1 Principle One: Vision and Culture**

There is a clear vision and a Strategic Community Plan that is produced through a comprehensive and inclusive process, which is owned by all sectors of the community.

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

### **4.2 Principle Two: Roles and Relationships**

There is clarity about the roles within a local government and there exists a sophisticated approach to defining and implementing these.

There are effective working relationships that are promoted and supported within and between the Elected Members, the CEO and the organisation

### **4.3 Principle Three: Decision-Making and Management**

There are effective decision-making processes in place that reflect the transparency and accountability which underpin excellence in local government.

An adequate organisational structure should be in place that serves the Town's operations and progresses the organisation towards the achievement of the Town's strategic objectives.

There should be robust and transparent business management practices established and maintained to meet the Town's accountability to its community, particularly in terms of stewardship of community assets and finances, both now and into the future.

An effective approach to the identification, assessment, monitoring and management of risks should be established and maintained.

Effective delegations should be implemented and maintained to enable Council to focus on strategic issues.

### **4.4 Principle Four: Accountability**

The Town must account for its activities and have systems and processes that support accountability.

The Town should establish internal structures that provide for independent review of processes and decision-making to assist it meeting its accountability to stakeholders.

Consultation should be undertaken that is appropriate to the scope and potential impact of the matter. It should respect the position and opinion of all sections of the community. The outcomes of the consultation should be taken into account when the decision is made, and feedback should be provided to those who participated.

## 5. Principle One: Vision and Culture

### 5.1.1 Our Vision

Community's vision for the Town

*"Inclusive community and lifestyle, balancing growth and sustainability"*

Sustainability is defined as strategies and actions which provide the most positive environmental, social and economic impacts to best meet the needs of current and future generations.

### 5.1.2 Our Values

Elected officials and staff of the Town of East Fremantle work to the highest standards of ethics and behaviour and are guided by our Corporate Values, which are:



Good governance is achieved when Council, Elected Members and employees show leadership and reflect the above values. Values shape an organisation's culture and are the fundamental beliefs the Town considers to be important; are relatively stable over time; and have an impact on Elected Member and employee attitudes and behaviour.

### 5.1.3 Integrated planning and reporting framework

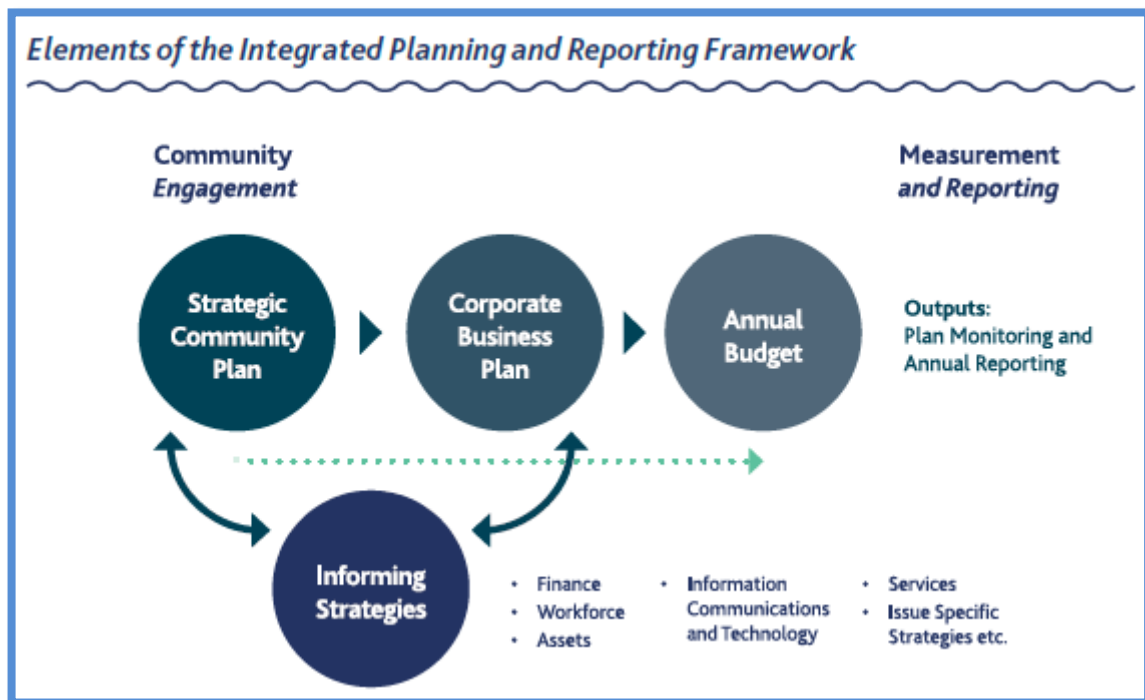
In October 2010, the LGA was amended to include a requirement for all local governments to follow an Integrated Planning and Reporting Framework (IPRF). This IPRF aims to ensure integration of community priorities into strategic planning by local government, as well as implementation of the objectives that have been set from these priorities.

The IPRF requires each local government to have three levels of integrated strategic planning, informed and supported by appropriate resourcing and asset management plans.

The key components of the IPRF are:

- Strategic Community Plan - Community vision, strategic direction, medium and longer term priorities and resourcing implications over 10+ years.
- Corporate Business Plan – Four year delivery program, aligned to the SCP
- Long Term Financial Plan - Long term financial plan to deliver the SCP strategies and CBP actions.
- Asset Management Plans - Approach to managing assets to sustainably deliver chosen service levels.
- Workforce Plan - Shaping workforce to deliver organisational objectives now and in the future.
- Issue or Area Specific Plans & Strategies - Any other informing plans or strategies (eg Sports & Recreation Plan, Foreshore Management Plan, EF Oval Redevelopment etc).
- Annual Budget - Financial statements, year 1 priorities and services.

The Long-Term Financial (Strategic Resource) Plan, Asset Management Plans and Workforce Plan are referred to collectively as the “core” informing strategies. The diagram below shows the relationship between these information strategies, community input, the Town’s vision and reporting mechanisms.



# 2020 – 2030

## Strategic Community Plan at a glance



*Our Strategic Community Plan responds to the community's key areas of interest. Our Vision and Objectives for each strategic priority area over the next 10 years are as follows:*

Strategic Priority Area	Vision	Objectives
 <p><b>Social</b></p>	<p>66 <i>A socially connected, inclusive and safe community.</i></p>	<p>99</p> <ul style="list-style-type: none"> <li>1.1 Facilitate appropriate local services for the health and wellbeing of the community</li> <li>1.2 Inviting open spaces, meeting places and recreational facilities</li> <li>1.3 Strong community connection within a safe and vibrant lifestyle</li> </ul>
 <p><b>Economic</b></p>	<p>66 <i>Sustainable, "locally" focused and easy to do business with.</i></p>	<p>99</p> <ul style="list-style-type: none"> <li>2.1 Actively support new business activity and existing local businesses</li> <li>2.2 Continue to develop and revitalise local business activity centres</li> </ul>
 <p><b>Built Environment</b></p>	<p>66 <i>Accessible, well planned built landscapes which are in balance with the Town's unique heritage and open spaces.</i></p>	<p>99</p> <ul style="list-style-type: none"> <li>3.1 Facilitate sustainable growth with housing options to meet future community needs</li> <li>3.2 Maintaining and enhancing the Town's character</li> <li>3.3 Plan and maintain the Town's assets to ensure they are accessible, inviting and well connected.</li> </ul>
 <p><b>Natural Environment</b></p>	<p>66 <i>Maintaining and enhancing our River foreshore and other green, open spaces with a focus on environmental sustainability and community amenity.</i></p>	<p>99</p> <ul style="list-style-type: none"> <li>4.1 Conserve, maintain and enhance the Town's open spaces.</li> <li>4.2 Enhance environmental values and sustainable natural resource use</li> <li>4.3 Acknowledge the change in our climate and understand the impact of those changes.</li> </ul>
 <p><b>Leadership and Governance</b></p>	<p>66 <i>A proactive, approachable Council which values community consultation, transparency and accountability.</i></p>	<p>99</p> <ul style="list-style-type: none"> <li>5.1 Strengthen organisational accountability and transparency</li> <li>5.2 Proactively collaborate with the community and other stakeholders</li> <li>5.3 Strive for excellence in leadership and governance</li> </ul>

## 5.2 Culture

A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues. It is also more likely that the organisation will retain high calibre employees who want to work and participate in the activities of the Town. The Town's culture should consist of the following elements in pursuit of excellence in governance:

### 5.2.1 Support for frankness, honesty and questioning

Elected Members are to debate issues openly and honestly. Employees are to provide frank and timely advice to the CEO and Executive Managers, who in turn are to provide sound and frank advice to Elected Members and Council.

### 5.2.2 Innovation

The Town considers new and better ways of going about its business in the achievement of its goals, through innovation which will be assessed critically by using appropriate risk management and other analysis.

The Town has dedicated itself to encouraging a climate of innovation and continuous improvement.

### 5.2.3 Effective management structures and practices

The Town is to have a management structure that meets its goals and needs and the structure is characterised by efficient and effective use of human resources with clear accountability.

Management practices and protocols reinforce accountability and outcomes and must also incorporate the nurturing of people's capacities to do their jobs.

### 5.2.4 Communication and engagement

The Town has effective communications policies, practices and protocols, internally and externally, and be open to, and encourage, feedback from all stakeholders and the community.

### 5.2.5 Ethical standards of behaviour

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

Section 5.104 of the *Local Government Act* requires local governments to adopt the model code of conduct within three months of these Regulations coming into operation. The *Local Government (Model Code of Conduct) Regulations 2021* were gazetted on 2 February 2021.

*The Model Code of Conduct Regulations 2021* (Regulations) have been developed to give effect to the Amendment Act, and provide for:

- overarching principles to guide behaviour;
- behaviours and complaints which are managed by local governments; and
- rules of conduct, contraventions of which are considered by the independent Local Government Standards Panel (Standards Panel) where appropriate.

The purpose of the Model Code is to guide the decisions, actions and behaviours of members, both in Council and on Council committees, and of candidates running for election as a Council member. Members must comply with the provisions in the Model Code in fulfilling their role and responsibilities in Council and on Council committees, as set out in the Act.

On 3 February 2021, the *Local Government Regulations Amendment (Employee Code of Conduct Regulations) 2021* (*Employee Code Regulations*) introduced minimum requirements for local government employees in relation to gifts, conflicts of interest and disclosure. In addition, the Employee Code Regulations provide that a local government's code of conduct for employees must contain requirements

pertaining to:

- behaviour;
- disclosure of information;
- the use of information and resources;
- record keeping; and
- reporting and managing misconduct.

The Town of East Fremantle has adopted:

- Code of Conduct for Employees; and
- Code of Conduct for Council, Committee members & Candidates

A copy of both Codes of Conduct (Elected Members & Employees) can be found on the Town's website [www.eastfremantle.wa.gov.au](http://www.eastfremantle.wa.gov.au)

The community are entitled to expect that the following general principles be used to guide Elected Members, committee members and employees of the Town in their behaviours:

- Act with reasonable care and diligence.
- Act with honesty and integrity.
- Act lawfully.
- Avoid damage to the reputation of the Town.
- Be open and accountable to the public.
- Base decisions on relevant and factually correct information.
- Treat others with respect and fairness.
- Not be impaired by mind affecting substances.

The Council has adopted a *Statement of Business Ethics* to guide the way in which the Town interacts with providers and suppliers of goods and services to ensure that public resources are managed in an ethical, accountable and transparent manner. A copy can be found on our website.

### **5.2.6 Fraud, misconduct and corruption**

The Town expects Elected Members, Committee Members and employees act in accordance with the Code of Conduct and behave ethically and honestly when performing their functions and during their interactions with each other, the community and all stakeholders of the Town.

In support of the behavioural expectations, the Town has also developed a Fraud, Corruption and Misconduct Control Framework and Policy which articulates the Town's "zero tolerance" position on fraud and corruption. It also details the internal controls in place and the expectations that are placed on Elected Members, Committee Members, employees and the broader community, to prevent such activity and to identify and report such activity.

### **5.2.7 Confidentiality**

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

### **5.2.8 Disclosure of conflicting interests**

The nature of the Town's business may result in conflicts of interests arising between an individual's personal interests and the performance of their public or professional duties. Conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like. Conflicts of interests are not necessarily wrong, however it is not only important to ensure that real or potential conflicts are handled appropriately, but also perceived conflicts of interest.

Elected members, committee members and employees are to comply with the requirements for disclosure

of interests as prescribed in the Act, the Local Government Code of Conduct regulations, the Town's *Meeting Procedures Local Law 2016* and the Town's Codes of Conduct.

Elected Members, committee members and employees of the Town must ensure that there is no actual or perceived conflict between the fulfilment of their public or professional duties and their personal interests, which may include the interests of those persons closely associated to them.

### 5.2.9 Acceptance of gifts

The Town's Codes of Conduct and the Act contain provisions in respect of Elected Members, employees and committee members seeking and/or accepting certain types of gifts and gifts of a certain value while performing in their respective roles.

Both the Codes of Conduct and the Act detail the disclosure requirements for gifts accepted in a full and transparent manner.

The Local Government Regulations characterise gifts as either 'notifiable' or 'prohibited'.

A notifiable gift is valued between \$50 - \$300. That is, one or more gifts given by the same person within a period of 6 months that are in total valued between \$50 - \$300.

A prohibited gift is valued \$300 or more. That is, one or more gifts given by the same person within a period of 6 months that have a total value of \$300 or more.

These provisions do not apply to Elected Members or the CEO.

Elected Members and the Chief Executive Officer are required to disclose gifts which are valued over \$300 or are two or more gifts with a cumulative value over \$300 (where the gifts are received from the same donor in a 12-month period) within 10 days of receipt [Sections 5.87A & 5.87B *Local Government Act 1995*].

Any gift (or a series of gifts in a 12-month period) valued at over \$300 creates an interest as the donor becomes a closely associated person (section 5.62). A Council Member or CEO must not participate in any part of a Council or committee meeting relating to that matter without approval.

If the interest is from a gift valued at up to \$1,000 and full disclosure has been made, the Council, by absolute majority, can approve participation (section 5.68) but only in the following circumstances:

- those members decide that the interest is so trivial or insignificant as to be unlikely to influence the disclosing member or CEO's conduct in relation to the matter; or
- the interest is common to a significant number of electors or ratepayers in the case of disclosure by a Council member.

Only the Minister can make a decision to allow participation or the provision of advice or a report (section 5.69) for gifts that exceed \$1,000 within 12 months.

All notifiable gifts must be declared and recorded in accordance with the *Local Government Act 1995*.

All disclosures must be made to the CEO in a prompt and full manner and in writing within the appropriate register. These registers are made available for public inspection and in some cases are available for viewing on the Town's website.

In support of the gifts framework, WA local governments are also required to adopt a policy relating to the attendance of Elected Members and Chief Executive Officers at events such as concerts, conferences and functions. The policy must address the provision of tickets to events, payments in respect of attendance and approval of attendance by the Town; and the criteria for approval. Acceptance of such tickets can affect how Elected Members can participate and be involved in the decision-making process of meetings. A copy



of this policy is available on the Town's website at [www.eastfremantle.wa.gov.au](http://www.eastfremantle.wa.gov.au)

### 5.2.10 Induction programs

The Town's objective of a positive work culture is communicated to Elected Members and employees through effective induction programs. Induction and training for Elected Members is provided to assist in understanding the functions and role of local government, governance in local government and how to operate effectively to produce good outcomes for their community.

The Town's induction programs for both Elected Members and employees focus on:

- the differing and complementary roles of Elected Members and employees
- working relationships
- decision-making processes
- responsibility, accountability and delegations
- conduct and ethical standards of behaviour

In addition as a result of changes to the LGA introduced by the Amendment Act, Elected Members are now required to undertake mandatory training following their election. The mandatory training covers the following topics:

1. *Understanding local government;*
2. *Serving on council;*
3. *Meeting procedures;*
4. *Conflicts of interest; and*
5. *Understanding of financial reports and budgets*

Further to the mandatory training, Elected Members are encouraged to continually improve their knowledge and expertise to enhance the quality of representation and promote well-informed decision-making. This can be achieved by participating in conferences, programs and training courses specifically designed for professional development relating to their role and responsibilities in local government.

The Elected Members Continuing Professional Development Policy provides guidance on the professional development of Elected Members. The Town maintains a register of the training and professional development completed by Elected Members and this is available on the Town's website. The register is reported to Council annually in accordance with section 5.127 of the LGA.

## 6. Principle Two: Roles, Responsibilities and Relationships

### 6.1 Roles

An appreciation and understanding of the different roles of Council, the Mayor, Councillors, the CEO and employees, and strong communication and cooperation between all underpins good governance at the Town of East Fremantle. The relationship between Elected Members and the CEO must respect the diversity of opinion and the rights of all points of view to be heard with courtesy and respect.

The Town recognises that the Mayor has a general leadership role. The Act recognises the role of the Mayor, as the spokesperson for the Town, to carry out civic and ceremonial functions of the mayoral office, and to preside at meetings of the Council in accordance with the *Town's Meeting Procedures Local Law 2016*.

The Town places great importance on the role of the Mayor as Presiding Member of the Council to facilitate good decision-making.

The Town recognises the importance of the Mayor's leadership role in respect of ensuring good governance. Part of the Mayor's role is to ensure that all Councillors are a part of the decision-making process, and help Councillors to balance their accountabilities to their constituents, the Community as a whole and to the Council.

The Mayor should also facilitate good relationships between the Councillors and Administration and help to create an environment where good communication, systems and processes can thrive. Elected Members are to focus on outcomes, policy and strategy and in so doing are expected to:

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

Council recognises the CEO's role in managing the organisation to achieve the goals and strategies endorsed by Council, and the CEO is expected to fulfil these duties in such a way that promotes an organisational culture of openness, accountability, fairness and good communication.

The Act sets out a framework for the way in which local governments in general are to operate. It specifies the roles and responsibilities that are to be undertaken within each local government.

### 6.2 The role of Council

Under the Act the Council is charged with the following responsibilities:

- (a) Governs the Town's affairs.
- (b) Is responsible for the performance of the Town's functions.
- (c) Oversees the allocation of the Town's finances and resources.
- (d) Determines the Town's policies.

The following guidance is provided on the range of scope of the above responsibilities:

#### **Governs the Town's affairs**

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

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

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

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

The Council exercises this role by overseeing and adopting an Annual Budget and the Town's long term financial plan. Council is advised by the CEO who is also responsible for the development of appropriate financial controls, management protocols and practices.

### **Determines the Town's policies**

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

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.

## **6.3 The Composition of Council**

The Council comprises nine members, including the Mayor.

Two (2) Councillors are elected from each of the Town's four wards. The Mayor is elected by popular vote from throughout the entire Town.

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 (4) year term.

## **6.4 The Role of Mayor**

The role of the Mayor as provided under the Act [Section 2.8], is to:

- a) preside at meetings in accordance with the Act;
- b) provide leadership and guidance to the Town of East Fremantle community;
- c) carry out civic and ceremonial duties on behalf of the Town;
- d) speak on behalf of the Town;
- e) perform such other functions as are given to the Mayor by the Act or any other written law;
- f) liaise with the Chief Executive Officer on the Town of East Fremantle's affairs and the performance of its functions; and
- g) otherwise fulfil the role of Councillor.

The Mayor should be seen to support good governance by modelling good behaviour and ethics in fulfilling their leadership role. The Mayor has a pivotal role in both the pursuit and demonstration of good governance.

A very specific role that the Mayor has is in representing and advocating the decisions of the Council. Section 2.8(1)(d) of the Act provides that the Mayor speaks on behalf of the Town.

The position of Mayor is pre-eminent and when they speak they are considered by the community to be articulating the Council's views. The Mayor must put aside any individual views and clearly outline the views of a Council decision in an all-inclusive way.

Where the Mayor desires to speak contrary to the position of Council, he or she should clearly preface their comments that they are expressing an individual opinion and not on the Council's behalf.

The Mayor's role of presiding at meetings of the Council is a very responsible one in achieving a balance of opinion and outcomes that demonstrates leadership by Council in the community. The most important aspect of the role is a good understanding of meeting procedures and a detailed knowledge of the requirements relating to the conduct of meetings.

### **6.5 Role and responsibilities of the Deputy Mayor**

The Act [Section 2.9] enables the Deputy Mayor to perform the functions of the Mayor, if:

- a) the office of Mayor is vacant; or
- b) the Mayor is not available or is unable or unwilling to perform the functions of Mayor.

### **6.6 Roles and responsibilities of the Elected Members**

It is necessary to understand the legislative framework within which the Elected Members operate and from where they derive specific details of their roles and responsibilities. Elected Members, like Directors on a company board, have a fiduciary relationship with the Town. That is, they have a duty to act with fidelity, trust and in the interests of the Town and the overall community – not for themselves or other third parties.

An individual Elected Member has no authority to make decisions or to participate in the day-to-day management or operations of the Town. This includes making any form of representation on behalf of the Council or the Town, unless they are specifically authorised by Council to do so. The Model of Code of Conduct (Provision 19) also prevents Elected Members from undertaking tasks that contribute to the administration of the local government unless so authorised by the Council or the CEO.

### **Elected Members have no direct authority over employees with respect to the way in which they perform their duties.**

Under the Act [Section 2.10], the role of a Councillor is to:

- a) represent the interests of electors, ratepayers and residents of the Town;
- b) provide leadership and guidance to the Town of East Fremantle community;
- c) facilitate communication between the community and the Council;
- d) participate in the Town of East Fremantle's decision-making processes at Council and Committee meetings; and
- e) perform such other functions as are given to a Councillor by this Act or any other written law.

Individually, Councillors have a responsibility to act as a conduit between the community and the Town. 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 Town 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 Town. It is not appropriate for individual Councillor's constituent concerns to interfere with their decision-making processes in providing good governance of the Town as a whole.

### **6.7 The Role of Chief Executive Officer**

Under the Act [Section 5.42] the Chief Executive Officer's functions are to:

- a) advise the Council in relation to the functions of the Town of East Fremantle 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 Town of East Fremantle;
- e) liaise with the Mayor on the Town of East Fremantle's affairs and the performance of the Town's functions;
- f) speak on behalf of the Town if the Mayor 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 Town of East Fremantle are properly kept for the purposes of the Act, or any other written law; and
- i) perform any other function specified or delegated by the Town of East Fremantle 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 for the purposes of this paragraph;
- 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 Town;
- g) hearing or determining an objection of a kind referred to in Section 9.5;
- h) carrying out any power or duty that requires the approval of the Minister or the Governor; or
- i) 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 Town
- maintaining the integrity of systems and processes required to ensure that Town's accountability and compliance obligations are met
- appointing and managing the activities of the Town's staff.

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 Town 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 staff will be critical to the achievement of key goals and objectives.

It is a requirement that initial staff contact by members on any matter is made through the Chief Executive Officer or Executive Manager or another person nominated by the CEO.

In summary the CEO is responsible for:

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

The table below depicts the separation of roles between the Council (governing the affairs of the local government) and the CEO (managing day-to-day operations):

COUNCIL	CEO
Sets direction	Provides professional and technical advice to the Council
Responsible for the performance of the local government's functions	Implements the decisions of Council
Decides on matters of policy	Liaises with the Mayor
Ensures that services and facilities are integrated with and do not unnecessarily duplicate other public services	Manages the day-to-day operations
Oversees the allocation of the Town's finances and resources	Responsible for the employment and management of employees
Monitors the Town's performance through the CEO to ensure efficiency and effectiveness in service provision	Monitors the performance of employees to ensure efficiency and effectiveness in service provision

## 6.8 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 & Community Services
- Technical Services
- Regulatory Services.

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

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

Good governance requires all employees to think carefully about their decisions and actions, to be interested and to be active participants in the Town's management and outcomes. It is not only senior management and Council that is responsible for governance matters – every element that forms part of the Town is responsible for good governance. The quality of the Town's governance heavily relies on each employee taking individual responsibility as well as being part of a collective team effort.

In carrying out their duties, employees achieve good governance when:

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

## 6.9 Working relationships

Elected Members are members of a team, elected by their constituents to work collectively in the interests of the whole community. Good governance is dependent on a mature and constructive working relationship between Elected Members.

Elected Members should behave in a manner that generates community trust and confidence in them as individual Elected Members and enhances the role and image of both the Council and the Town. Elected Members are expected to:

- conduct their ongoing relationship with other Elected Members, employees and the community with respect and courtesy
- act within the law at all times
- act in good faith and not for improper or ulterior motives
- act in a reasonable, just and non-discriminatory manner
- undertake their role with reasonable care and diligence.

## 6.10 Working relationships between the Mayor and Councillors

The relationship between Mayor and Councillors is critical to good governance and effective relationships between the Mayor and Councillors will help to achieve the outcomes within CBP 2020-2024 and to promote the credibility of the Town.

In summary the important aspects of the Mayor/ Councillor relationship are as follows:

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

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

Through this facilitation role, the Mayor can manage conflict and differing opinions in a constructive manner. The complexity and diversity of opinion in the community, and therefore of Elected Members, can be made to work in the broader interest of the Town as a whole, rather than be a source of division.

The Mayor is also a first point of contact for Councillors who wish to achieve a particular goal and this is especially true for newly elected Councillors who may be unfamiliar with a local government setting. Among other things, the nature of any local government business involves the need to bring together many diverse and sometimes-conflicting goals. By advising, supporting and facilitating negotiations, the Mayor can assist this process considerably, and in so doing, assist Councillors to meet their accountabilities to their communities.

This advisory and support role of the Mayor for other Councillors is possibly the single most important contribution to good governance a Mayor can make. It requires great skill and experience and as such, is critical to the overall operation of Council.

### **6.11 Working relationships between the Mayor and CEO**

The Mayor and CEO work closely together and the relationship should be characterised by openness and good communication, with each keeping the other informed about important and relevant issues.

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

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

While the Act does not detail how the liaison is to occur, this liaison function should be seen in the context of the separation of powers described in the Act, between the governing role of Council and the managing role of the CEO.

The Mayor and the CEO are to adopt an approach that suits their particular circumstances and needs. The overall essential principles that should be followed are the ability to effectively communicate and to have a large degree of trust in each other as well as respecting each other's opinion and role.

The essential principles for an effective Mayor/CEO relationship are as follows:

#### Communication

- Both parties are in a position to brief and inform the other about information each is privy to and which would assist the other in performing their role. Deciding on what information is important and what should be passed onto each other must be negotiated and understood.
- Regular meetings – over and above those scheduled to discuss specific issues or problems – are necessary to enhance planning and communication.
- The 'no surprises' principle should apply. The Mayor and CEO should brief one another so that neither is caught off guard within other forums.

#### Role clarity

- The Mayor and the CEO need to understand and respect one another's role. A clear understanding of their different roles is absolutely crucial and should be a subject of ongoing discussion.
- There is a differential of power, which should be acknowledged. While the Mayor has status and leadership capacity, the position has no direct authority in its own right. On the other hand, the CEO has direct authority through the Act. Elected Members cannot just 'fix' problems that come to their attention, while the CEO has this capacity.

### **6.12 Working relationships among Elected Members**

When thinking of a Parliament, people often envisage an adversarial environment in which political groupings try to beat their opponents through debate. In contrast, the 'small group' nature of Council ideally features an environment where good relationships, respect and an appreciation of constructive diversity, lead to good decision-making.

All Elected Members have issues of particular concern and interest to them. Given the open nature of the local government system and the absence of a political party structure which exist at the State and Federal levels of government, Elected Members need to work together to achieve satisfactory outcomes. Given this interdependency, Elected Member relationships should be characterised by mutual respect and an acknowledgement that, while they may not agree on all issues, they are all doing important and often difficult work.



At times, the very nature of local government business leads to conflict. How this conflict is addressed has implications for good governance. The role of the Mayor has been discussed, and this role, together with an appreciation of the particular dynamics at play, should assist in facilitating good governance.

With regard to behaviour at Council and committee meetings, Elected Members should model good constructive relationships and show personal respect for one another. There is not the requirement to agree with every Elected Members' opinion, but there is the need to respect those opinions and allow other members to be free to express their point of view.

Elected Members need each other to achieve their individual and collective goals. Effective relationships between Elected Members assist in achieving a successful Council, a pleasant working environment and a Council with public credibility. Features of an effective relationship include the following:

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

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

Elected Members need support to manage pressures in such a way that their constituents feel their issues or concerns are being heard, but also need to appreciate that their demands cannot always be met. Advice and support on consultation and engagement, good systems that refer requests and queries to the relevant area for advice, and responsive services and processes all assist in furthering good governance.

Elected Members need to understand that the role of the CEO is to implement Council's goals, decisions, strategies and manage the Town's services as well as advise and support Council.

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

While the Elected Members and the CEO have different roles, this is not to say that each does not have a legitimate interest in the other's role. It is crucial that appropriate channels for information, discussion and consultation be developed to allow for each other's interests to be discussed freely and openly shared.

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

Individual Elected Members must not seek to foster special relationships with employees for the sole purpose of seeking information that may not otherwise be available to all Elected Members.

Some issues to consider in respect of this relationship include the following:

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

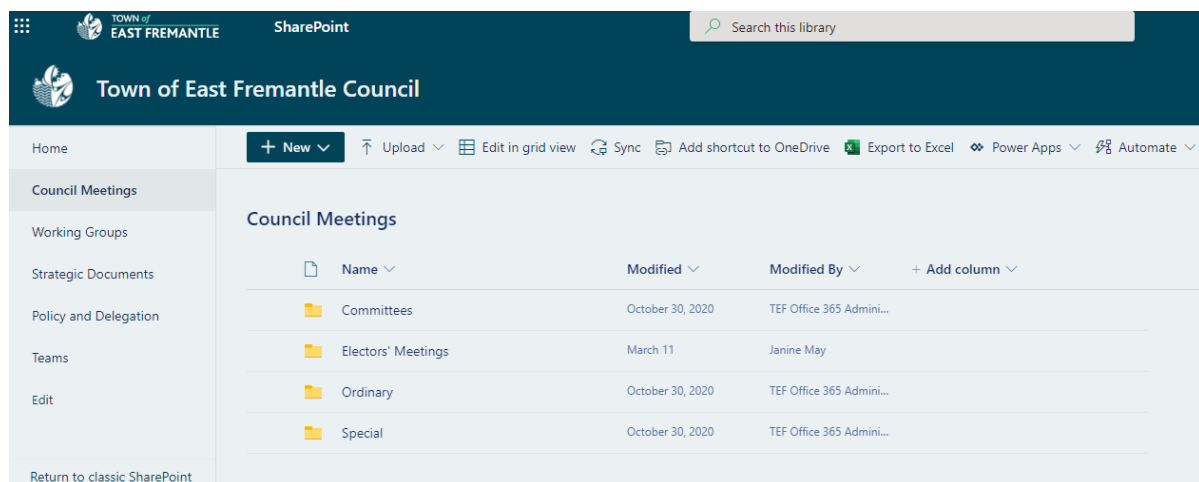
## 6.15 Elected Member access to information

One of the areas that can cause issues for Elected Members is their ability to access information held by the Town. Section 5.92 of the Act provides that an Elected Member can have access to any information held by the Town that is relevant to the performance of their functions under the Act or any other written law.

However, this provision does not give an Elected Member an automatic right to have access to all records held by the Town as any information must be relevant to the performance of an Elected Member's role. In this respect requests for information held by the Town are to be referred to the CEO who is to determine if the information is to be released, on the basis that he or she is satisfied that the requested information is relevant to the Elected Members' role and functions.

Notwithstanding, section 5.96 of the Act provides that if any person can inspect certain information then Elected Members may also request a copy of that information. An Elected Member is also entitled to be given access to records that are accessible to other persons under the *Freedom of Information Act 1992*.

The Town has created via Sharepoint a repository that provides all of Council's statutory and other documents, such as Agendas, Minutes, Policies, Delegations, Strategic Documents....etc



The screenshot shows the SharePoint interface for the Town of East Fremantle Council. The top navigation bar includes the Town of East Fremantle logo, the text 'SharePoint', and a search box labeled 'Search this library'. Below the navigation bar, the page title is 'Town of East Fremantle Council'. The main content area displays a list of 'Council Meetings' with columns for Name, Modified, and Modified By. The list includes folders for Committees, Electors' Meetings, Ordinary, and Special. The 'Modified' column shows dates like 'October 30, 2020' and 'March 11'. The 'Modified By' column shows names like 'TEF Office 365 Admini...' and 'Janine May'. A left-hand navigation pane lists various site sections: Home, Council Meetings, Working Groups, Strategic Documents, Policy and Delegation, Teams, Edit, and Return to classic SharePoint.

Name	Modified	Modified By
Committees	October 30, 2020	TEF Office 365 Admini...
Electors' Meetings	March 11	Janine May
Ordinary	October 30, 2020	TEF Office 365 Admini...
Special	October 30, 2020	TEF Office 365 Admini...

## Effective relationships - summary

The information in this section provides an insight into the role Elected Members, the CEO and employees need to play in developing effective relationships. There are fundamental role differences between the Council, Elected Members, the CEO and employees. The focus of Council and Elected Members should be on strategy, policy and outcomes. That is, who is to benefit from the Town's activities and in what way.

The CEO and employees role is to focus on advice, implementation and operations.

Taking into account these role differences, the features of an effective relationship between the Elected Members and the CEO and employees are:

- a mutual understanding, acceptance and respect for each others' roles
- a preparedness to identify, discuss and resolve issues and problems if and when they arise
- on the part of the organisation, a respect for and commitment to democratic governance and the primacy of Council in the local government structure.

## 7. Principle Three: Decision- Making and Management

### 7.1 Effective decision-making

The Council can only make decisions by resolution, that is, a motion being considered at a properly convened meeting and passed by the required majority vote. Many of the decisions made by the Town (including Council and employees) are subject to administrative law, and therefore subject to challenge or appeal.

The principles of administrative law are:

- to act in good faith
- to take into account only relevant considerations
- to act reasonably
- to provide procedural fairness.

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

The decision-making framework for local governments is controlled through the Local Government Act 1995 and subsidiary legislation. The framework also provides for:

- Ordinary Council Meetings (held monthly, excluding January)
- Special Council Meetings (held as needed)
- Committee Meetings (held as established by Council)
- Audit Committee Meetings (mandatory)
- Electors' General Meeting (mandatory)
- Electors' Special Meetings (by request)

The Council is entrusted with a variety of decision-making roles. It operates under 'head of power' principles that mean it can only make decisions within its jurisdiction. Under the *Local Government Act 1995* the Chief Executive Officer is required to advise the Council on its functions under legislation.

The Council has authority or discretion to make decisions relating to:

**Advocacy** - when Council advocates on its own behalf or on behalf of our community to another level of government/body/agency.

**Executive** - when Council sets direction and includes oversight eg adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.

**Legislative** - when Council adopts local laws, local planning schemes and policies.

**Quasi-Judicial** - when Council determines an application/matter that directly affects a person's rights or interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial decisions include development applications, building permits, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.

### *Particular issues surrounding quasi-judicial decisions*

Elected Members must remain objective and deal impartially with applicants or affected persons when quasi-judicial decisions are involved. Determinations are to be based on sound legislative rationale and on available evidence. If they involve development applications the decision is made under the provisions of the local planning schemes and any discretions allowed under the schemes. If other decisions then the relevant laws are applied. Elected Members will consider existing laws and policies and to avoid prejudicing the eventual decisions.

Elected Members cannot 'prejudge' a matter by deciding or telling others how they will vote before evaluating the officer report and listening to the debate at the meeting.

### **Meetings are open to the public**

As a general rule meetings of Council and committees are open to the public. There are certain circumstances - controlled by legislation - in which a meeting or part of a meeting can be closed to the public.

### **Public Question Time**

Members of the public are entitled to ask questions and have these responded to during Public Question Time. For ordinary Council meetings, the questions must relate to the functions of local government. For special meetings, questions can only relate to the matter to be considered at that meeting. A summary of questions and answers is included in the minutes.

### **Quorum**

In order for a decision to be valid, a quorum of at least 50% of the members of Council or a committee must be present before business can be transacted.

## **7.2 Council meeting schedule**

Council operates the following four weekly meeting cycle, (except in January when Council is in recess):

### **(Week 1) Town Planning Committee**

The Town operates a Town Planning Committee which meets on the first (1<sup>st</sup>) Tuesday of each month (excluding January) and has delegated authority to make planning decisions on behalf of the Council.

### **(WEEK 2) Councillor Briefing forums**

Councillor Briefing Sessions are held on the second Tuesday of each month (excluding January), to update Elected Members on current and potential projects. Session outcomes are frequently a formal report for Council consideration at an Ordinary meeting, which enables elected members to have a greater level of knowledge and understanding of the topic.

No decisions are made at Councillor Briefing forums.

### **(Week 3) Council Meetings**

The Town of East Fremantle 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 6.30 pm on the third Tuesday of each month (excluding January).

Good decision-making at a Council meeting is enhanced when the meeting is well run. This requires a clear and informative agenda, good chairing and facilitation by the Presiding Member, adherence to meeting procedures and adherence to statutory requirements. There should also be a strong commitment to Council meetings being open to the public so that the community is fully informed and, where appropriate,

involved in the decisions and affairs of Council.

Elected Members, the CEO and Executive Managers attend all Council meetings.

#### **(WEEK 4) – No scheduled meetings**

##### **Other Meetings – Committees/Advisory Groups**

The Audit & Risk Committee meets as and when required and has no delegated authority. The formation of this committee is a statutory requirement pursuant to the *Local Government Act 1995*.

Council has adopted Terms of Reference for the Audit Committee, which outlines the responsibilities and functions of the Audit Committee, as specified in the *Local Government Act 1995*, *Local Government (Audit Regulations) 1996*, and Department's Operational Guideline No. 9. The Terms of Reference include the following responsibilities:

- Risk Management
- Business Continuity
- Internal Control
- Financial Report
- Compliance
- Internal Audit
- External Audit
- Reporting Responsibilities

The Public Art Panel meets every 3 months and has no delegated authority.

The Climate Action Reference Group (CARG) meet monthly and has no delegated authority.

The Community Design Advisory Committee – meets as required to review development applications, and has no delegated authority.

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

### **7.3 Agenda and Minutes**

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

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

Minutes of an Ordinary Council meeting are to be submitted to the next Ordinary Council meeting for confirmation. The Act provides scope for a Local Government to release Minutes in an unconfirmed form, in the interests of maintaining public information and accountability. Accordingly, the Town endeavours to make unconfirmed Minutes of its Council meetings publicly available within the statutory timeframes;

- Minutes of an Ordinary Council meeting - *within 14 days after the meeting is held*
- Minutes of a Committee meeting - *within 7 days after the meeting is held.*

## 7.4 Meeting procedures and conduct

The conduct of meetings is governed by the *Town of East Fremantle Meeting Procedures Local Law 2016*. Business at the Town of East Fremantle Council meetings is based on an agenda prepared by the Town'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 Council and meetings of Electors.
- 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 Meeting Procedures.
- c) result in:
  - *better decision making by Council and its committees ;*
  - *the orderly conduct of meetings dealing with Council business;*
  - *better understanding of the process of conducting meetings; and*
  - *more efficient and effective use of time at meetings.*

## 7.5 Lobbying and meetings with external parties

Lobbying is an acceptable and normal part of society and opportunities for stakeholders to communicate with Elected Members and employees occur as part and parcel of our society's democratic and accessible system of government. However, problems can arise when an Elected Member or employee is lobbied to consider factors, other than the relevant facts, they should appropriately consider when determining any matter as a decision-maker. Elected Members and employees are to recognise the difference between appropriate and inappropriate lobbying and the risks associated if they fail to resist inappropriate lobbying.

***Elected Members must not, when lobbied, commit or indicate their vote on a matter that is before Council, or intended to be considered by Council.*** Elected Members may offer understanding or otherwise but as decision-makers they are obliged to consider all relevant facts detailed in a report within an Agenda, including the debate at the meeting, prior to making their decision.

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

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

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

## 7.6 Decisions on land use planning and development

### Administrative role

The Town has particular decision-making responsibilities under planning legislation, other state laws and planning policies. The Council and employees are therefore responsible for applying and assessing factual situations and circumstances against the legislative regime detailed in the Act, the *Planning and Development Act 2005* and other relevant planning laws.

The controls and procedures for assessment of planning matters are set in place by a statutory framework and the Town is responsible for undertaking this role in accordance with the planning legislation and any other relevant laws. The Town is required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law and natural justice / procedural fairness. Elected Members must exercise their decision-making discretion over planning matters in a way that is mindful of this responsibility.

The Town employs specialist planning officers to prepare reports and provide Council with all the relevant information and facts of a particular planning matter and the relevant legislative provisions that are applicable.

There may be some occasions when Elected Members feel that they do not have enough information to make a decision and the best time to get additional information is prior to the meeting by contacting the CEO or relevant Executive Manager.

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

- a) Elected Members must read the report on the matter before voting at a Council meeting. An Elected Member who has not read the report and who participates in the decision-making process without a full understanding of the issues at hand may jeopardise the validity of the decision-making process.
- b) Elected Members must ensure when they debate a planning matter under consideration that they restrict themselves to the relevant matters of fact and law. These relevant matters will be contained and addressed in the 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 validity of the decision-making process.
- c) Council must be careful when making a resolution that is different to the organisation's recommendation. In resolving differently from the recommendation, Council is required to include reasons for the variation from the recommendation. These reasons must take into account the relevant considerations of fact and law and must not be based on irrelevant considerations.
- d) If a development has the potential to impact on neighbours and/or the locality, and where a statutory obligation exists, the Town has a duty to ensure that consultation occurs in relation to that development. The report of the organisation is to include details of any neighbour notification or consultation that has occurred. The Town must ensure that neighbours who may be adversely affected by a proposed development have had an adequate opportunity to make a submission and that any relevant matters that they raise have been considered in the decision-making process. An opportunity to make a written submission is generally sufficient, though an opportunity to make a submission in person to a relevant meeting may be appropriate where a person with a sufficient interest requests it.

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

Generally, Council as a body, and each Elected Member 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 facts and should not take into account irrelevant considerations.

### **Planning schemes**

Under the *Planning and Development Act 2005* local governments are required to have a planning scheme in place for their respective district. A local government's planning scheme (ToEF LPS #3) is required to be consistent with the Metropolitan Region Scheme, which is administered by the State Government and must

also take into consideration State Government planning strategies, plans and policies.

A planning scheme provides a legal framework for a range of functions including:

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

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

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

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

Local planning policies are also used to support and guide the implementation of the planning scheme. These planning policies are wide and varied and range from the installation of cubby houses to the installation of telecommunication facilities. 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 planning schemes incorporate by reference the Residential Design Codes (R-Codes), which is the planning policy of the State Government providing detailed development control for residential development. The State Government revises the R-Codes from time to time.

The role of Council in administering a planning scheme includes:

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

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



## **State Administrative Tribunal**

In certain circumstances applicants have rights of appeal to challenge a planning related decision of Council or an employee. It is therefore important for Elected Members to gain a full understanding of the issues and follow proper process before reaching a decision.

The State Administrative Tribunal (SAT) reviews decisions made by local governments regarding a range of matters including town planning and building approvals. Applications can be made to the SAT for a review of decisions made by local governments under a range of enabling laws.

## **Planning delegations**

The Town's planning scheme and State planning legislation permits Council to delegate its decision-making powers to certain qualified persons or committees, subject to certain conditions. This is important in terms of allowing those applications that meet certain criteria to be determined by employees. The criteria used for determining the types of development that can be decided by employees is set out in a Notice of Delegation, which is reviewed annually or earlier if so determined by Council.

All decisions made under delegated authority are binding and represent a 'Council decision'.

The Town provides the following planning delegations;

- a) Town Planning Committee – DA73 *Determination of Planning Applications or Advice to referral agencies or other planning authorities*
- b) Staff – DA29 *Determination of Applications for Planning Approval*

A copy of all delegations can be found on the Town's website [www.eastfremantle.wa.gov.au](http://www.eastfremantle.wa.gov.au)

## **Community Design Advisory Committee (CDAC)**

Council has established a Community Design Advisory Committee, the purpose of which is to provide independent technical advice and recommendations to the applicant and Council on design issues related to development applications the Town receives primarily relating to heritage applications and larger development proposals. The membership of the Community Design Advisory Committee comprises members from the community and relevant professional institutions representing:

- Architecture
- Building industry
- Town planning

The CDAC is chaired by an Elected Member (usually the chair of the Town Planning Committee) and technical support is provided to the CDAC by the Town's Planning Officers.

## **Development Assessment Panels**

Development Assessment Panels (DAPs) are the decision-making body for a certain type, class and/or value of planning applications the Town receives from time to time. Development Assessment Panels consist of three specialist independent members and two Elected Members nominated by the Town and approved by the Minister for Planning.

- **Mandatory DAP Applications (r.5):** An application for development where the estimated cost of development is \$10 million or more, and which is not an excluded development application. Such an application must be determined by a DAP (s.171A(2)(a) of the PD Act).
- **Optional 'Opt-in' DAP Applications (r.6 & r.7):** An application for development of a total value of more than \$2 million but less than \$10 million which is not an excluded development application and has not been delegated to the DAP by the relevant local government. Such an application must

be determined by a DAP when the applicant has elected to have the DAP determine the application (s.171A(2)(ba) of the PD Act)

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

The Town's planning specialists provide technical reports (RAR -Responsible Authority Report) to the Department of Planning, who in turn refer this report and any other information to the Development Assessment Panel, which will make a determination on the planning matter.

The Town of East Fremantle forms part of the Metro Inner-South Joint Development Assessment Panel (JDAP), which comprises of seven (7) Councils.

The Department of Planning is currently working on amendments to the DAP Regulations to facilitate the move to a reduced number of panels, permanent members and the introduction of the Special Matters DAP. A new Special Matters Development Assessment Panel will be established to consider complex proposals which could include proposals located in areas with significant tourism, unique aesthetic qualities or other unique features and will in the future take the place of the State Development Assessment Unit.

Proposals will be lodged directly with the Department of Planning, Lands and Heritage. It is proposed that the Department would receive the development proposals, consult with the relevant government authorities and referral agencies, and provide recommendations to the Special Matter DAP. It is envisaged that the Department would coordinate and monitor referral agencies timelines and advice. At this time, it is proposed that there will be a representative from the local government sector to ensure local matters and views are considered, however individual Councils may not be represented on the Panel. It is also proposed that the Government Architect sit on the Special Matters DAP to ensure good design for proposals.

### **State Development Assessment Units (SDAU)**

The State Government has introduced a new development application process for significant projects as part of the COVID-19 economic recovery plans.

Part 17 of the *Planning and Development Act 2005* (the Act) has been temporarily established by the Western Australian Planning Commission (the WAPC) as the new decision making authority for applications for significant development. A 'significant' development means any proposal (except for a warehouse) with an estimated cost of \$20 million or more.

Under these changes, developments that are defined as 'significant' can be submitted to the WAPC via the State Development Assessment Unit (SDAU) for approval, instead of being lodged with the local government for assessment and consideration by a Joint Development Assessment Panel (DAP).

It is intended that the SDAU will remain in place for 18 months from July 2020.

### **7.7 Declarations of interest**

One important aspect of the Town's decision-making responsibilities is how conflicts of interests are identified, recorded and treated throughout the organisation. It is not only important to ensure that real or potential conflicts of interests are handled appropriately, but also perceived conflicts of interests.

Interests can be categorised as being:

- financial interests

- proximity interests
- interests that may affect impartiality.

**It is an Elected Member's responsibility to decide whether or not to declare an interest.**

### **Financial interests**

It is a statutory obligation and duty of Elected Members and committee members to vote on every item of business discussed at meetings of Council or a committee (with delegated authority). However, an Elected Member or a committee member may be excluded from presiding and voting in the meeting if that person, or a person that is closely associated to them, has a direct or indirect financial interest in the subject under discussion.

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

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

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

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

### **Proximity interests**

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

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

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

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

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

### **Interests that may affect impartiality**

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

The disclosing of an interest that may affect impartiality is to be made immediately before the matter is discussed at a Council or committee meeting or in a written notice given to the CEO before the meeting. The disclosure of an interest that may affect impartiality does not affect the ability of the Elected Member to discuss or vote on the matter.

### **Disclosure of interests of employees**

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

Section 5.70 of the Act states that where an employee has an interest in any matter in which the employee is providing advice or a report directly to Council or a committee, they must disclose the nature of the interest when giving the advice or report. There is no requirement however for employees to leave meetings where interests have been disclosed.

In situations where an employee has been delegated a power or duty by the CEO, and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and must either disclose the nature of the interest to the CEO (or should the employee be the CEO, disclose the nature of the interest to the Mayor).

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

### **Primary Returns and Annual Returns**

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

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

At the end of each respective financial year, Elected Members and certain employees must complete an Annual Return, which discloses any changes to the information previously disclosed in their Primary Return or new interests that have accumulated since completing their Primary Return or last Annual Return.

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

### **Related Party Disclosures**

The Town is committed to complying with the disclosure requirements for related party transactions under the Australian Accounting Standards. Disclosure of relevant related party information will provide greater transparency and improve the quality of the financial reporting process.

A system has been implemented to identify, monitor and disclose related party transactions to manage the risk of non-compliance with the related party disclosure objectives of the Australian Accounting Standards.

### **Protection from liability**

Elected Members are not protected in the same manner as Members of Parliament for statements they make in the Council Chamber.

In a Council meeting, an Elected Member fulfils a public duty and is therefore given limited legal protection. However, unlike Members of Parliament, an Elected Member's privilege is qualified. This means that

protection is only provided as long as the statements are made in good faith. Statements made with malice or made recklessly are not protected by qualified privilege. Statements made by Elected Members outside Council and Committee meetings are unlikely to attract qualified privilege.

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

Provision 18 of the Model Code of Conduct also states that an Elected Member must not make improper use of their office as an Elected Member to cause detriment to the local government of any other person. This provision has relevance to what an Elected Member can say whilst performing in their role as an Elected Member.

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

## **7.8 Legislative framework**

The Town is constituted under the Act and has a formal geographical area, known as a district. The general function of the Town is to provide for the good government of people living and working within its district and includes legislative and executive powers and responsibilities given to it through the Act.

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

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

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

### **Delegations**

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

Under the Act both Council and the CEO are given certain functions and duties to be discharged. Council may delegate authority to the CEO to perform some of its functions and duties on its behalf. The use of delegated authority means that the large volume of routine work of Council can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

Delegated authority allows Council to concentrate on policy development, representation, strategic planning, and community leadership.

The CEO may delegate to any other employee the authority to perform functions and duties that are exercisable by the CEO under the Act or that have been delegated to the CEO by Council (with the exception of the power to delegate). This accords with employees being responsible to the CEO and the CEO being responsible to Council. Similarly, the implementation of Council decisions and instructions are conducted by the CEO, who may in turn require responsibility to be undertaken by other employees of the Town.

Delegations of authority are required in order to provide employees of the Town with the power to exercise duties and make determinations. It is essential that the Town’s delegations are performed in a manner that is in accordance with the delegation and is compliant with the relevant legislation. The Town is required to

keep records on the exercise of its delegations and delegations by Council are to be reviewed on an annual basis.

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

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

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

### **Authorised persons**

Under legislation, Council or the CEO (Delegation # DA21) can 'appoint' persons or classes of persons to perform particular functions. These persons are generally termed 'authorised persons' or some other similar term. Legislation or local laws may specify that an 'authorised person' can perform a particular function and those functions or duties are normally specified in the applicable provision.

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

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

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

### **Local laws**

Under the Act and as part of its legislative functions, Council is able to make local laws as a way of providing good governance to the community and which reflect current community standards.

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

The process for making a local law provides the community with a six-week advertising period to allow opportunity for comment on proposed local law. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local law is published in the Government Gazette and reviewed by the Western Australian Parliamentary Committee on Delegated Legislation. Local laws must also comply with the National Competition Policy principles adopted by agreement between local, state and federal governments.

The Town maintains local laws relating to:

- *Cat & Dog Local Law 2016*
- *Fencing Local Law 2004*

- *Local Government and Public Property 2016*
- *Meeting Procedures Local Law 2016*
- *Parking Local Law 2016*
- *Waste Local Law 2017*
- *Penalty Units Local Law 2016*

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

### **Policies**

Section 2.7(2)(b) of the Act states that the Council is to “*determine the local government’s policies*”. Policies provide the Council and the organisation with the ability and direction to make decisions that are considered to be consistent and unbiased. A policy can also provide detail on the manner in which the Town undertakes, or requires others to undertake, certain works or activities.

The Council has established the following level of policy:

- Council Policies - these are strategic policies that set governing principles and guide the direction of the organisation to align with community values and aspirations. These policies have a strategic, external focus and align with the vision and strategic direction of the Town.
- Town Policies - these policies are developed for administrative and operational requirements. They have an internal focus.

### **Executive functions**

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

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

A local government can, therefore, administer local laws and provide services and facilities in order to provide for ‘the good government of the district’.

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

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

### **7.9 Business management**

The management of corporate business within an organisation is important to the concept of governance. As part of the Town’s Integrated Planning Framework, the Town has developed a Four-Year Corporate Business Plan (CBP). The Four-Year Corporate Business Plan guides internal operational activities and serves as the Town’s rolling four year service and project delivery program which is aligned to the strategic direction and priorities set within CBP 2020 -2024. It also reflects actions within other informing strategies and the Town’s Four-Year Capital Works Program. Detail on specific projects and their milestones are then reported to Council and the community on a regular basis.

## 7.10 Financial management

### Role of the CEO

The CEO is accountable to Council for the financial performance of the Town. The CEO must ensure that certain fundamentals are in place including, but not limited to:

- appropriate financial systems, plans, strategies and protocols
- adequate resources to support the Town's activities and financial monitoring and performance
- suitable internal review and audit mechanisms
- an organisational culture where responsibility and accountability are clearly delineated and understood
- adherence to and compliance with legislative provisions.

### Financial management planning and principles

The Council is ultimately responsible for the financial management of the Town. Good financial management requires both Council and the organisation to play their role. The Town has developed a long-term financial plan (its 15 Year Strategic Financial Plan) that is consistent with strategic initiatives within CBP 2020-2024.

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

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

There is an emphasis on the role of Council in delivering their accountability for the financial state of the Town, which is accomplished through the:

- overseeing the progress of the Town's annual capital works
- Annual review of capital works projects and major strategic capital projects
- oversee the Town's financial management activities, funding proposals and long term strategic financial planning
- reviews and impacts on the Town's 15 Year Strategic Financial Plan.

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

### Annual Budget

One of the responsibilities of Council under the Act is to prepare, set and adopt the Town's Annual Budget. The Annual Budget can be viewed as the annual articulation of the Town's 15 Year Strategic Financial Plan and must also consider the priorities, projects and initiatives within CBP 2020-24. Based on the leadership of Council, it determines the Town's priorities for each year and the allocation of resources to achieve those priorities.

Under Regulation 33A of the *Local Government (Financial Management) Regulations 1996* the Town is required to conduct a review of its Annual Budget after considering the changes in its operating environment since the beginning of the financial year with a view to forecasting the financial impacts likely to arise for the remainder of the year. The review is to be conducted before 31 March each year.



## **Strategic Resource (Long Term Financial) Plan**

The 15 Year Strategic Financial Plan is a high-level informing strategy that outlines the Town's approach to delivering infrastructure and services to the community in a financially sustainable and affordable manner. It also demonstrates the Town's commitment to managing its operations in a sustainable way that minimises the financial impact on the Town's ratepayers.

The 15 Year Strategic Financial Plan represents the primary and key strategic financial planning document for the Town and has a direct bearing on the ability to plan for the future financial sustainability of the Town. It represents projections and estimates, based on many assumptions and is a primary planning tool for the development of future budgets for the Town.

Among other things, the plan summarises the financial impacts of the priorities, projects and objectives identified in CBP 2020-24 and assists in setting the future financial direction and decisions of the Town.

### **7.11 Asset management**

An organisation practices good governance when it manages its assets in a financially viable, efficient and sustainable manner. The Town has development Asset Management Plans for all major asset groups;

- Buildings
- Footpaths
- Parks & Reserves
- Roads

These plans provide a 10 year capital works program for the renewal and replacement of assets in a planned and prioritised way.

### **7.12 Organisational structure and human resource management**

Good governance is achieved when an organisational structure is in place that adequately serves the Town's operations, and those operations are planned to achieve the established goals and the strategic direction set for the Town. Part of the role of the CEO is to establish an organisational structure which will facilitate the delivery of projects and programs within the Strategic Community Plan.

The Town has adopted the Australian Business Excellence Framework to guide the continuous review of its leadership and management systems and as a methodology to identify and implement improvements.

The framework establishes the principles and practices for organisational excellence and sustainable performance. Alignment with the framework positions the Town as a best practice local government with strong leadership, outstanding practices, efficient processes and systems and a highly effective workforce.

To enable the Town to continue to provide high quality services to the community now and into the future it is critical that the Town develops and maintains a skilled, flexible and sustainable workforce.

Although Council determines the appropriate organisational structure through the annual budget process, it is the CEO's responsibility to manage the employees of the Town. The organisational structure needs to allow for flexibility to adapt to changing needs.

This process of planning for future workforce requirements enables the Town to respond to emerging challenges before they impact on services and operations. It also facilitates the preparation of detailed budgets and a long-term financial plan that support the delivery of efficient and affordable services.

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

### 7.13 Records management

The Town's corporate records are to be managed in accordance with the Town's Recordkeeping Plan and Records Management Policy.

All Elected Members, employees and contractors are responsible for maintaining complete, accurate and reliable evidence of all business transactions and ensuring all corporate documents are retained within the Town's official recordkeeping system at the point of creation regardless of the format, The Town's record keeping practices must be in accordance with:

- *State Records Act 2000*
- *Evidence Act 1906*
- *Freedom of Information Act 1992*
- *Local Government Act 1995*
- *Local Government Accounting Directions 1994.*

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

### 7.14 Risk management

The Town is responsible for providing a range of services to its community. All of these activities involve some form of risk, which must be managed to ensure that aims and objectives are achieved, services are delivered and that opportunities to deliver better and more cost-effective services are realised. If the Town is not aware of, or has not adequately assessed or managed some risks, it could result in financial loss, threats to public or employee safety or lead to substantial adverse publicity.

The Town is committed to ensuring that effective risk management remains central to all its operations while delivering its range of services to the community. The management of risk is the responsibility of senior management and all employees and is an integral part of the Town's organisational culture.

The Town has an established Risk Management Framework which reflects good practice and sound corporate governance principles and is consistent with the risk management guidelines and principles set out in Australian / New Zealand Standard for Risk Management (AS/NZS ISO 31000:2018). The Town also has a Risk Management Policy which describes the Town's commitment to ensuring that effective risk management remains central to all its operations.

## **8. Principle Four: Accountability**

### **8.1 Principle of accountability**

Excellence in governance is based on the principle that the people involved in providing governance, being the Elected Members and employees, are held to account for what they do and for the Town's performance.

The public trust placed in the Town and in its Elected Members to act in the public interest can be justified in the manner in which their duties have been performed.

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

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

The fundamental importance of accountability is that the Town exists to govern for and on behalf of its community. Systems and values must reflect this accountability.

Accountability systems that provide disclosure and review of decision-making and processes are integral to good governance and are reflected through:

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

### **8.2 Performance management and reporting**

The Council is accountable for monitoring performance in the achievement of the Town's strategic direction, goals and financial outcomes which are set through CBP 2020-2024, the 20 Year Strategic Financial Plan, the Four Year Corporate Business Plan and the Annual Budget.

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

#### **Quarterly progress reporting**

The Town has developed a reporting system to provide Council with the necessary information to enable it to assess performance against the various plans it has developed. The reporting system is a systematic and regular process that allows Council to take action to rectify any issues that arise and as such, be accountable to the community.

The Department of Local Government, Sport and Cultural Industries' Integrated Planning and Reporting Framework sets out the requirements for local governments to undertake planning and reporting on their activities. The process includes annual reporting to the community on achievements and outcomes. The Town's Corporate Business Plan, reviewed and adopted by Council each year, is in line with this requirement and focuses on the Town's actions and objectives within CBP 2020-24.

Quarterly progress reports against the Town's Corporate Business Plan provides Council and the community with a full assessment of the Town's progress in relation to the achievement of pre-determined milestones for major projects and programs.

Full progress reports against the Town's Capital Works Program are provided monthly as progress reports to Council.

### **Financial reporting**

Financial reporting is a basis for accountable financial management and it is required by the Act. Financial reporting undertaken at the Town is as follows:

- Monthly Financial Activity Statement - timely and accurate reports are essential to keep Council in an informed position to ensure the Town meets its financial responsibilities. In accordance with the Act and the *Local Government (Financial Management) Regulations 1996*, Council is required to prepare a monthly statement of financial activity reporting on the source and application of funds as set out in the Annual Budget.
- List of Payments - Council has delegated to the CEO the exercise of its authority to make financial payments from the Town's Municipal Fund and Trust Fund. Therefore, in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the CEO is prepared each month for Council, showing each account paid since the last list was prepared.
- Annual Financial Report - in accordance with the Act, the Town is required to prepare an Annual Financial Report each financial year which provides information about the Town's financial activities, income and expenditure. The Town's Annual Financial Report is to be audited by an external auditor and is to be considered by the Town's Audit Committee before being submitted to Council for adoption.

The Annual Financial Report is received and discussed by the community at the Annual General Meeting of Electors each year.

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

### **Annual Report**

In accordance with section 5.53 of the Act the Town is to prepare an Annual Report each financial year. Other than just financial information the Town's annual report includes, among other things, the auditor's report, internal information and an overview of the Town's 'plan for the future' (being CBP 2020-2024) including major initiatives that are proposed to commence or to continue.

The Town's Annual Report is the Town's key reporting document that satisfies the Annual Report requirements under the Act. It provides detailed information to all of the Town's stakeholders about how the Town intends to operate in a sustainable manner whilst addressing the many challenges it faces. The report reviews the progress made against the many initiatives outlined in CBP 2020-2024.

The Town also reports on an extensive range of sustainability indicators across social, environmental, economic and governance parameters to provide a balanced overview in line with the Global Reporting Initiative (GRI) guidelines. These indicators advise the community of the Town's key achievements and areas of focus, and serve to further emphasise the complex task of managing for a sustainable future.

The Electors of the Town's district are to receive the Annual Report at the Annual General Electors Meeting, held in either November or December each year. At this meeting, the community can ask questions of the Town on various aspects of the Annual Report.

### **CEO selection, performance review and termination**

The Council is accountable for managing the CEO's performance and is responsible for setting the CEO's performance plan and subsequently monitoring performance. Council is to communicate its expectations

to the CEO and is required to seek independent professional advice when undertaking the performance evaluation of the CEO.

The *Local Government Legislation Amendment Act 2019* included a requirement for model standards covering the recruitment and selection, performance review and termination of employment of local government Chief Executive Officers (CEOs). Council at its meeting held on the 16th March 2021 adopted the Model Standards for CEO Recruitment, Performance Review & Termination and a new policy in relation to appointing an Acting CEO.

The Council has established the Chief Executive Officer Recruitment and Performance Review Committee to assist it with this task of reviewing the CEO's performance.

### **Employee performance review**

In accordance with the Act the performance of all employees is to be reviewed at least once in relation to every year their employment. The Town's comprehensive Individual Development Achievement Program provides a mechanism for employee performance to be assessed as well as training and development opportunities to be identified.

## **8.3 Audits and oversight**

### **Compliance Audit**

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

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

### **Audit and Risk Committee**

The Act requires Council to establish an Audit Committee to oversee and advise the Council on matters of internal or external audit, risk management, financial reporting and legislative compliance functions of the Town. Such matters include developing and monitoring the Town's internal audit activities as well as reviewing the appropriateness and effectiveness of the Town's systems and procedures in relation to risk management, internal controls and legislative compliance.

The Audit and Risk Committee will also support the audit as required and have functions to oversee:

- the implementation of audit recommendations made by the auditor, which have been accepted by Council
- accepted recommendations arising from reviews of local government systems and procedures.

### **External Audit**

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

The audit report is examined by the Town and is to implement appropriate action in respect to the significant matters that may be raised and detail such action in a report to be submitted to the Minister for Local Government within three months of the Town receiving the audit report. This report is also published on the Town's website.

## 8.4 Community consultation and stakeholder engagement

The Town recognises that consultation is a two-way interactive process that provides opportunities for the Town and the community to clarify information, raise issues and discuss ideas and options. Consultation is an important dimension that informs and enhances the Town's decision-making processes.

As a community leader, Council should define the Town's directions and priorities for a sustainable future by:

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

### Community consultation

The Council has an adopted ***Communication and Engagement Strategy 2020-2024***, the objective of which is to outline the Town's commitment to actively involving the community in the Town's planning, development and service delivery activities.

Elected Members and employees responsible for a consultation process should not make their personal views known on any matter during a formal consultation process as this may taint decision-making when Council is required to make a formal decision on the matter.

### Social media

The Town will also use social media platforms such as Facebook, LinkedIn, Twitter and You Tube as a way of promoting corporate messages and public notices; interacting and engaging with the community; and sourcing valuable feedback on issues and events that are relevant to the community. Other electronic information and feedback systems and consultation mechanisms are also used from time to time.

The Town has developed social media guidelines on how it manages its own social media platforms and has also developed protocols for Elected Members and employees in the use of social media and using such platforms to communicate to members of the community.

### Stakeholder management

Strong stakeholder relationships are critical to the successful delivery of a number of key Town projects and activities, which require careful and ongoing management. In view of this the Town has developed a Stakeholder Management Plan to guide the Town in managing key relationships with primary stakeholders in line with agreed and endorsed strategic priorities and major projects.

The Stakeholder Management Plan aims to enhance and maximise the benefits of regular stakeholder engagement and outlines how the Town will develop a consistent and widely accepted organisational approach to the management of stakeholder relationships.

## 8.5 Customer Service and Complaints Management

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

## Service standards

The Town has adopted a Customer Service Charter which outlines the Town's customer service standards the community can expect from the Town. The charter demonstrates the Town's commitment to customer service excellence and the levels of customer service performance. The charter provides a mechanism of accountability for the Town's community. Customer service standards and performance is measured to ensure that the Town is delivering on its commitments.

The Town has a complaints management process which ensures an effective, transparent and timely method of responding to complaints regarding the Town's services, administrative actions, competitive neutrality, the conduct and performance of elected member or employee behaviour.

## Formal complaint and reporting mechanisms

The Town, being a public entity, is subject to a number of external complaint and reporting mechanisms that are in place to ensure all public entities, including local governments, perform in a way that demonstrates integrity and fairness and are in place to prevent, among other things:

- improper conduct
- action which may constitute an offence under a written law
- substantial, unauthorised or irregular use of or mismanagement of public resources substantial and specific risk of injury to public health, prejudice to public safety or harm to the environment
- matter of administration which could be investigated by the Ombudsman.

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

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

In accordance with Clause 15(2) of the *Local Government (Model Code of Conduct) Regulations 2021* and Town of East Fremantle Code of Conduct for Council Members, a policy for dealing with complaints about alleged breaches of the behaviour requirements included in Division 3 of the Town of East Fremantle Code of Conduct for Council Members, Committee Members and Candidates was adopted by Council on the 16<sup>th</sup> February 2021.

## Access to information

In accordance with section 5.94 of the *Local Government Act 1995*, any member of the public can access certain information held by the Town, but there is not an unfettered right of access to the Town's information. There are some documents not accessible (refer s5.95) to the public or available for viewing.

Section 5.96A provides that certain documents must be made available on the Town's website ([www.eastfremantle.wa.gov.au](http://www.eastfremantle.wa.gov.au)).

All Elected Members and employees should be aware of *Freedom of Information Act 1992* implications when creating documents, whether it is internal or external and must undertake proper record-keeping in the fulfilment of their duties and responsibilities while at the Town. As a general rule any written material generated by employees or Elected Members may become public knowledge and subject to a freedom of information request and investigation. Freedom of information gives individuals a right to access certain records held by both state and local government agencies.