

## **11.1 Chief Executive Officer Attachments**

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## **11.1 Chief Executive Officer**

### **11.1.1 CR MELDRUM – COMPLETION OF DIPLOMA IN LOCAL GOVERNMENT**

Attachment 1 – WALGA Diploma in Local Government – course outline and costs for Cr Meldrum

**Diploma of Local Government (Elected Member) 52756WA  
Recommended Pathway and Schedule**

<b>Student Name:</b>	Julia Meldrum	<b>Local Government:</b>	Shire of Augusta-Margaret River
<b>Start Date:</b>	3-Oct-18	<b>Estimated Completion Date:</b>	2-Oct-20

### Stage 3

<b>Infrastructure Asset Management</b>	<b>Integrated Strategic Planning - Policy</b>	<b>Planning Practices - Advanced</b>	<b>Professionally Speaking</b>
Recommended Start Date: Dec-19	Recommended Start Date: Feb-20	Recommended Start Date: May-20	Recommended Start Date: Jul-20

**Estimated Stage Completion Date: Sep-20**

### Stage 2

<b>Effective Community Leadership</b>	<b>Integrated Strategic Planning - Essentials</b>	<b>Planning Practices - Essentials</b>	<b>CEO Performance Appraisals</b>
Recommended Start Date: Apr-19	Recommended Start Date: Jun-19	Recommended Start Date: Aug-19	Recommended Start Date: Oct-19

**Estimated Stage Completion Date: Dec-19**

### Stage 1

<b>Serving on Council</b>	<b>Understanding Financial Reports and Budgets</b>	<b>Meeting Procedures and Debating</b>	
Recommended Start Date: Nov-18	Recommended Start Date: Dec-18	Recommended Start Date: Jan-19	
	<b>Understanding Local Government*</b>	<b>Conflicts of Interest*</b>	
	Recommended Start Date: Oct-18	Recommended Start Date: Oct-18	

**Estimated Stage Completion Date: Apr-19**

\*eLearning only

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**Diploma of Local Government (Elected Member) 52756WA**  
**Actual Completion Dates**

**Student Name:** Julia Meldrum

**Local Government:** Shire of Augusta-Margaret

**Start Date:** 3-Oct-18

**Estimated Completion Date:** 2-Oct-20

Stage 1: Elected Member Essentials								
Related Units of Competency			Related Courses	Course Completion Date	Assessment Structure	Assessment Release Date	Assessment Due Date	Unit Completion Date
Code	Name							
Stage One (EM Essentials)	LGAGENE501A	Undertake councillor roles and responsibilities	Serving on Council	6-Nov-17	Elected Member Essentials Assessments			
			Conflicts of Interest (eLearning)					
			Understanding Local Government (eLearning)					
	LGAGENE302A	Effective decision making	Meeting Procedures and Debating	7-Nov-17				
	LGAGENE503	Perform the role of an elected member	Understanding Financial Reports & Budgets	24-Nov-17				
Stage Two (Intermediate)	BSBMGT502	Manage people performance	CEO Performance Appraisals					
	LGAGENE502A	Provide leadership within the council and community	Effective Community Leadership		ECL Assessment Cluster			
	BSBATSIL503	Manage conflict						
	BSBMGT616	Develop and implement strategic plans	Integrated Strategic Planning - Essentials					
	DLGLUP501A	Contribute to land use planning	Planning Practices – The Essentials	5-Feb-18	Planning Pracs Assessment Cluster			
Stage Three (Advanced)	DLGLUP501A	Contribute to land use planning	Planning Practices – Advanced	6-Feb-18				
	LGADMIN527A	Manage policy development	Integrated Strategic Planning - Policy					
	DLGSAM501A	Manage assets sustainably	Infrastructure Asset Management		Infrastructure Assessment Cluster			
			Professionally Speaking					

**Diploma of Local Government (Elected Member) 52756WA**  
**Fee Schedule**

**Student Name:** Julia Meldrum

**Local Government:** Shire of Augusta-Margaret River

**Start Date:** 3-Oct-18

**Estimated Completion Date:** 2-Oct-20

	Stage 1: Elected Member Essentials			
	Related Courses	Course Fees	Assessment Fees	Total
Stage One (EM Essentials)	Serving on Council	PO113607	\$675.00	\$1,065.00
	Conflicts of Interest (eLearning)	\$195.00		
	Understanding Local Government (eLearning)	\$195.00		
	Meeting Procedures and Debating	PO113607		
	Understanding Financial Reports & Budgets	PO113825		
Stage Two (Intermediate)	CEO Performance Appraisals	\$515.00	\$675.00	\$2,220.00
	Effective Community Leadership	\$515.00		
	Integrated Strategic Planning - Essentials	\$515.00		
	Planning Practices – The Essentials	PO115044		
Stage Three (Advanced)	Planning Practices – Advanced	PO115044	\$1,125.00	\$2,670.00
	Integrated Strategic Planning - Policy	\$515.00		
	Infrastructure Asset Management	\$515.00		
	Professionally Speaking	\$515.00		
			Total:	\$5,955.00

## **11.1 Chief Executive Officer**

### **11.1.2 SHIRE RESPONSE TO DLGSCI INTEGRITY AUDIT REPORT**

Attachment 1 – Department of Local Government, Sport and Cultural Industries Shire of Augusta Margaret River Integrity Audit Report – Document E1812079

Attachment 2 – Shire's Table of Comments provided to the Department in Response to Draft Audit Report

Attachment 3 – Revised code of Conduct (13 June 2018) including track changes on page 18

Attachment4 – Remedial Action Plan Arising from the Audit



Department of  
**Local Government, Sport  
and Cultural Industries**

# **SHIRE OF AUGUSTA MARGARET RIVER 2018**

## **INTEGRITY AUDIT REPORT**

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## EXECUTIVE SUMMARY

The Department of Local Government, Sport and Cultural Industries recommended the Shire of Augusta Margaret River would benefit from an Integrity Audit. The Audit focussed on general purchasing and procurement processes, statutory registers, delegations, policies and disclosures of interest in returns, gifts, code of conduct and other identified matters of compliance.

The Augusta Margaret River Shire systems and processes are generally sound. The shire strives to develop its systems and process whenever it considers there is need for improvement.

The Augusta Margaret River Integrity Audit found that the local government was not entirely compliant with some provisions of the *Local Government Act 1995* (the Act) and associated regulations, and there is scope for improvement in its standard of practice in some areas.

The Shire maintains all registers required by the Act. The content of those registers must comply with the relevant legislative provisions and be readily available to members of the public in that legislative format. The information contained in those registers needs to be regularly reviewed including the format and content of its policies, and delegations.

## SUMMARY OF RECOMMENDATIONS

### RECOMMENDATION 1:

That the Shire introduce procedures to improve its record keeping practices in regard to supporting greater transparency and accessibility to written records that clearly demonstrates the local government's compliance with its procurement policy and practices.

### RECOMMENDATION 2:

That the Shire continue with its current practice of regular review of its policies.

### RECOMMENDATION 3:

That council withdraw the instrument of Delegation 1 "Administrative structure of the local government" as the delegation relates to a duty that only the council can exercise.

### RECOMMENDATION 4:

That the Shire provide advice and support to relevant persons on the appropriate information to disclose in financial interest returns, and continues the current practice in reviewing delegations to ensure that returns are lodged by the appropriate employees.

**RECOMMENDATION 5:**

That the Shire continue to seek further training and to be updated on gifts, especially after the legislation has changed, from accredited bodies for elected members and staff in regard to gifts and financial interest using specific scenarios applicable to the Shire regarding gifts and matters concerning financial interest.

**RECOMMENDATION 6:**

That the Shire reviews its Code of Conduct for elected members (councillors and committee members) to ensure that it includes all matters relevant to the conduct of elected members as prescribed in the *Local Government Act 1995* and associated Regulations, including the matters described in the Public Sector Commission's "Guide to Developing a Code of Conduct".

**RECOMMENDATION 7:**

That the CEO reviews the policy and procedures for the use of Shire's corporate credit cards to ensure that best practice with proper audit standards are aligned with the recommended procedures contained in the Department's Use of Corporate Credit Cards Operational Guideline No.11.

## INTRODUCTION

The Shire of Augusta Margaret River covers an area of 2,138 square kilometres and is situated 274 kilometres south west of Perth. It is located in the lower south west region of Western Australia along the Bussell highway. Local industries include: dairy, fishing, timber, viticulture, aquaculture, cottage industries, tourism, surfing, timber crafts and artisan industries.

The Augusta Margaret River Shire consists of seven elected member positions with no wards. The Shire's main administrative civic centre is located in Margaret River. The administration of approximately 216 employees are managed by the Chief Executive Officer, Mr Gary Evershed, with the Council led by the Shire President Mrs Pamela Townshend.

As part of the Department's compliance and monitoring process, a probity audit was arranged with the Shire of Augusta Margaret River to examine its general level of compliance in its processes and practices. Representatives from the Department visited the Shire to conduct an Integrity Compliance Audit. The audit was undertaken by Mr Stuart Fraser, Principal Advisory Officer and Mr Andrew Borrett, Senior Project Officer and Ms Marina Sucur, Senior Project Officer who visited the Shire's offices at Margaret River on 19 to 21 March 2018.

During that visit relevant documents and registers were examined together with the Shire's procedures. This report examines certain areas of statutory compliance and also comments on matters relating to administrative best practice.

As a result of the Integrity Audit, this report outlines certain processes of the Shire and examines the level of compliance with the Act and associated regulations relating to

those processes. The report makes specific recommendations in circumstances where the Shire is not compliant with statutory requirements.

The report also recommends process improvements where the Shire's processes do not reflect best practice.

## THE IMPORTANCE OF INTEGRITY

The concept of integrity has to do with perceived consistency of actions, values, methods, measures, principles, expectations and outcome. In the context of accountability, integrity serves as a measure of willingness to adjust value system to maintain or improve its consistency when an expected result appears incongruent with observed outcome. Probity is the evidence of ethical behaviour in a particular process. Probity is defined as complete and confirmed integrity, uprightness and honesty. It contributes to sound processes that accord equal opportunities for all participants.

Strengthening integrity translates to strengthening ethics, transparency, accountability and professionalism. This is considered integral in protecting public resources, enhancing public sector performance and supporting the local government's role in orchestrating development and providing basic services.

Processes must be conducted with probity in mind to enable all parties to deal with each other on the basis of mutual trust and respect. Adopting an ethical, transparent approach enables the business of government to be conducted fairly, reasonably and with integrity. Probity rules must be clear, open, well understood and applied equally to all parties to the process.

Maintaining a high level of probity in a local government's processes protects the reputation of not only the Council, but also the administration. This is important as a local government's activities involve the management and control of public money, and may be subject to considerable public scrutiny.

## SCOPE OF THE AUDIT

An examination of the registers and documents listed above concluded that the Shire needs to review some of its policies and general administrative procedures.

The following is a summary of issues identified in the Integrity Audit:

- Purchasing and Procurement – improvements required in processes and record keeping practices.
- Delegations – review invalid delegations.
- Financial Interest – primary and annual returns.
- Gifts – receipt of tickets to events.
- Code of Conduct – review for elected members.
- Corporate Credit Cards – review procedures.

## Purchasing and procurement

### Tender Register:

#### Statutory Requirement

Regulation 17 of the *Local Government (Functions and General) Regulations 1996* states:

17. Tenders register

*(1) The CEO is responsible for keeping the tenders register and making it available for public inspection.*

*(2) The tenders register is to include, for each invitation to tender —*

*(a) a brief description of the goods or services required; and*

*[(b) deleted]*

*(c) particulars of —*

*(i) any notice by which expressions of interests from prospective tenderers was sought; and*

*(ii) any person who submitted an expression of interest; and*

*(iii) any list of acceptable tenderers that was prepared under regulation*

*23(4);*

*and*

*(d) a copy of the notice of the invitation to tender; and*

*(e) the name of each tenderer whose tender has been opened; and*

*(f) the name of any successful tenderer.*

*(3) The tenders register is to include for each invitation to tender the amount of the consideration or a summary of the amount of the consideration sought in the tender accepted by the local government.*

The Shire's Tender Register that was initially examined was a digital electronic copy which was provided on a USB thumb drive. The electronic copy of the Tender Register that was initially provided did not comply with Regulation 17 of the Local Government (Functions & General) Regulations 1996 as there were no details recorded in regard to a copy of the notice of invitation to tender i.e. copy of advertisement or details concerning the name of each tenderer whose tender has been opened. However, it is understood from enquiries with the Shire's officers that another electronic copy is kept on the Shire's intranet (Synergy system) which does comply with the regulations.

#### Issues Identified

It is considered that the manner in which the Tender Register is kept does not allow easy or convenient access to the register for the purposes of public inspection in accordance with section 5.94(u)(ii) of the Act and Regulation 29(1)(e) of the *Local Government (Administration) Regulations 1996*.

Shire staff confirmed that while the register may be inspected there would be difficulties for a member of the public to understand how to access the details in the register and obtain a suitable printed copy if requested.

## Tenders and Quotations:

### Statutory Requirement

Regulation 11(1) of the Local Government (Functions and General) Regulations 1996 states:

*Tenders are to be publicly invited according to the requirements of this Division before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$150 000 unless subregulation (2) states otherwise.*

After examining a sample number of significant purchasers that were over the tender threshold of \$150,000 which required the Shire to invite tenders before entering into a contract with the supplier for the supply of those goods or services, it is concluded that for the period under audit the Shire is in compliance with Regulation 11(1) of the *Local Government (Functions and General) Regulations 1996*.

Where the procurement of goods and services does not require a tender to be invited, a local government is to make purchases in accordance with the following regulation which determines what is to be contained in a local government's adopted Purchasing Policy.

Regulation 11A(3) of the *Local Government (Functions and General) Regulations 1996* states:

*A purchasing policy must make provision in respect of —*

- (a) the form of quotations acceptable; and*
- (b) the recording and retention of written information, or documents, in respect of —*
  - (i) all quotations received; and*
  - (ii) all purchases made.*

The following is an extract from the Shire's Purchasing Policy which provides for the limits and requirements in relation to obtaining quotations:

<b>Purchase Thresholds (excluding GST)</b>	<b>Minimum Requirements</b>
Less than \$1,000	Only applies to reactive building maintenance. No quotations are required. Value for money approach based on contractor availability to undertake repairs that ensure building security and availability for use.
Less than \$5,000	Two quotations (verbal).
\$5,000 to \$50,000	Three written quotations or purchase through the Local Government Purchasing Service of the WA Local Government Association (WALGA).
Above \$50,000 to \$150,000	Obtain at least three written quotations containing price and specification of goods and services (with the procurement decision based on value for money considerations) or purchase through the Local Government Purchasing Service of WALGA.
Above \$150,000	Public tender or purchase through the Local Government Purchasing Service of WALGA.

## Issues Identified

The audit found that some purchases made by the Shire were either not compliant with the Shire's Purchasing Policy relating to obtaining quotes or the Shire's record keeping practices required improvement.

The following are examples of where the necessary number of written quotations could either not be found or were not readily located within the Shire's records system.

Creditors Name	Description of Goods or Services	Purchase Order Number	Date and Invoice Number	Amount
Jason Signmakers	Signage 50xbollards	113850 One quote sought from WALGA preferred supplier Jason Signmakers	29/11/2017 Still needed 3 written quotes to comply with purchasing policy. Note that no exemption exists in the regulations from having to obtain quotes for procurements through WALGA.	\$11,660.00
Brooks Hire	Hire of multi-tyre roller Wallcliffe Road	108892 3 verbal quotes sought and 3 verbal quotes received from Coates Hire, Brooks Hire and Coalcliff Plant Hire.	31/05/2017	\$4,102.56
Brooks Hire	Hire of 5 tonne digger Urban area Karri Loop	109679 3 Verbal quotes were sought and received from Coates Hire, Brooks Hire and Conplant.	31/05/2017	\$4,395.60
Cowara Contractors P/L	Crew and machinery Treeton Road	114928 Quotes sought via email from Leeuwin Civil, Cowra contractors and Doust. Only Cowra could provide service, quote obtained from Cowra verbally with note made.	06/02/2018	\$21,720.26
Margaret River – Cowaramup Electrical (MRCE)	Electrical works at depot shed	113275 Only two quotes obtained as job was not expected to be more than \$5,000.	28/09/2017	\$5,940.00 (2 quotes sought MRCE & Lighting Ridge, should be 3 written quotes)
MRCE	MRYP – Power connection & decommission works.	113448 Variation to existing contract with MRCE.	05/01/2018 Three quotes obtained for initial job upgrade works at Gloucester Park.	\$11,220.00 (one quote obtained with file note COR/220)

Additional information was subsequently provided by officers of the Shire which has been added to the above table.

Although, it is noted that a File Note was created in regard to the engagement of MRCE for the work undertaken in regard to the Margaret River Youth Precinct Project (MYRP) which recommended the use of Margaret River-Cowaramup Electrical (MRCE), there did not appear to be any other quotes obtained to lend support to the reasons upon which the recommendation was made to engage MRCE.

It is further noted that the Audit team was advised that as part of improvements being made to the Shire's procurement process staff training was conducted in March 2018 in regard to ensuring all supporting documentation (i.e. RFQs, Quotes, Correspondence, Evaluations and Contracts) in the procurement process are to be saved electronically into SynergySoft Records and linked to the Purchase Order.

The Finance Section intends to conduct random monthly compliance checks to ensure that staff are following the required procurement record keeping processes.

## **Conclusion**

The Shire of Augusta Margaret River's record keeping in regard to procurement processes is in need of improvement. Whilst this appears to have already been recognised by the Shire it is important to ensure that all supporting documentation in the procurement process is evident and easily accessible in order to demonstrate that the Shire is compliant and has sound internal audit practices in place.

It was also noted that not all Shire staff were aware of the recent amendments to the *Local Government (Functions and General) Regulations 1996* in regard to establishing panels of pre-qualified suppliers.

It is suggested that when reviewing the Shire's Purchasing Policy that consideration be given to establishing a panel of pre-qualified suppliers in accordance with regulation 24AB of the Functions and General Regulations.

It is the auditor's view that the introduction of a panel of pre-qualified suppliers by the Shire would improve its procurement processes in facilitating a more effective and efficient procedure for procurement of goods and services which complies with the requirements of the regulations.

## **RECOMMENDATION 1:**

That the Shire introduce procedures to improve its record keeping practices in regard to supporting greater transparency and accessibility to written records that clearly demonstrates the local government's compliance with its procurement policy and practices.

## **Policies**

### **Statutory Requirement**

Section 2.7(2)(b) of the Act states:

*Without limiting subsection (1), the council is to —*  
*(b) determine the local government's policies.*

The Shire maintains a Policy Register under the headings of: CEO Policies; Infrastructure Services Policies; Sustainable Development Policies, and; Corporate and Community Services Policies. All appropriate policies have been reviewed within an appropriate timeframe and are available to be viewed on the Shire's website.

### **Conclusion**

The Shire has adopted a comprehensive set of policies that include those required by the *Local Government Act 1995* and Regulations for local governments to have in place when dealing with certain matters:

- Employee Payment on Finishing Employment (s5.50);
- Purchasing Policy (F&G Reg.11A(1));
- Pre-qualified Suppliers Panel (F&G Reg. 24AC)
- Regional Price Preference Policy (F&G Reg.24E)
- Provision of Motor Vehicle (Council Members) (Admin Reg. 34AD); and
- Gifts to Council Members (Retirement) (Admin Reg. 34AC).

It is also noted that the Shire Council and Administration have adopted a number of policies that demonstrate alignment with the Shire's Community Strategic Plan's five goals of Valuing the Natural Environment; Welcoming and Inclusive Communities; Managing Growth Sustainably; Vibrant and Diverse Community; and Effective Leadership and Governance:

- Business Excellence Framework;
- Community Stakeholder and Engagement;
- Cultural Diversity;
- Culturally Active Communities;
- Aboriginal Reconciliation; and
- Councillor Professional Development.

The format of the policies is generally good, with necessary information including objectives, application, dates and details of adoption and review.

## **RECOMMENDATION 2:**

**That the Shire continue with its current practice of regular review of its policies.**

## **Delegations**

### **Statutory Requirement**

Section 5.16 of the *Local Government Act 1995* (the Act) provides for a local government to delegate powers and duties to a committee, while section 5.42 allows the delegation of powers and duties to the Chief Executive Officer. Section 5.44 subsequently provides for the Chief Executive Officer to delegate powers and duties on to other employees.



Section 5.46 of the Act (in relation to delegations to the Chief Executive Officer and employees) states:

- (1) *The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.*
- (2) *At least once every financial year, delegations made under this Division are to be reviewed by the delegator.*

## Delegations Register

The Delegations Register contains 22 delegations from council to the CEO and 24 delegations from the CEO to other employees.

Generally, the delegations in the register were found to be in order except for the following delegations:

### Local Government Act 1995

**Delegation 1 Administrative structure of the local government:**  
Power of Delegation Under s5.42 LGA the **Council of the Shire of Augusta Margaret River** hereby delegates to the **Chief Executive Officer** the exercise of power and discharge of duties under s5.2 LGA to ensure there is an appropriate structure for administering local government including the power to change the structure as required to administer the local government.

#### Records to be kept by delegates:

Regulation 19 LG (Admin) Regulations 1996, requires delegates to keep a written record of how and when they exercise the power or discharge the duty and the persons directly affected. The delegate is to ensure that all evidentiary documents meet the requirements of r19 LG (Admin) Regulations 1996 and are retained on the Shire's record keeping database.

**Power to Sub-delegate** s5.44 LGA CEO may delegate powers and duties to other employees

References Power to delegate: s 5.42 LGA *Delegation of some powers or duties to CEO* s5.43 LGA *Limits on delegations to CEO* Power/duty delegated: s 5.2 LGA *Administration of local governments*

It should be noted that the register to be maintained under section 5.46 is to be a register of delegations made under the *Local Government Act 1995*. It is not intended to be a register of delegations made under other legislation, nor is it intended to be a register of authorised persons. It should also be noted that the *Caravan Parks and Camping Grounds Act 1995* does not contain any provision for delegation, though it does provide for appointment of authorised persons to perform certain functions.

### Issues Identified

Section 5.2 of the *Local Government Act 1995* states:

5.2. Administration of local governments

*The \*council of a local government is to ensure that there is an appropriate structure for administering the local government.* ***\*Emphasis Added***

The Act has been framed in a way that determines whether powers and duties can be delegated or not. If the term “council” is used then it is the council itself which must carry out that function. If the term “local government” is used, then it is possible that the power or duty may be delegated.

## **Conclusion**

Delegation 1 “Administrative structure of the local government” is considered an invalid delegation as section 5.2 of the Act Administration of local governments provides that council and not the local government has the duty to ensure that there is an appropriate structure for administering the local government.

## **RECOMMENDATION 3:**

That council withdraw the instrument of Delegation 1 “Administrative structure of the local government” as the delegation relates to a duty that only the council can exercise.

## **Financial Interests – Primary and Annual Returns**

The Shire’s Financial Interests Register contains Primary and Annual Returns completed and lodged by council members and staff, as well as any disclosures made at meetings. The Register was examined to determine whether all disclosures were included and the returns for the period 1 July 2016 to 30 June 2017 were completed correctly and lodged by the due date.

## **Statutory Requirement**

At meetings, council members and employees who provide advice or reports (or when performing delegated functions) are required to disclose relevant interests. In addition, council members and designated employees must disclose financial interests in Primary and Annual Returns.

Section 5.74(1) of the Act defines a ‘designated employee’ as:

- (a) a CEO; and*
- (b) an employee, other than the CEO, to whom any power or duty has been delegated under Division 4; and*
- (c) an employee who is a member of a committee comprising council members and employees; and*
- (d) an employee nominated by the local government to be a designated employee.*

Section 5.75 of the Act establishes lodging requirements for Primary Returns:

- (1) A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within three months of the start day.*
- (2) A CEO must lodge with the mayor or president a primary return in the prescribed form within three months of the start day.*
- (3) This section does not apply to a person who —*
  - (a) has lodged a return within the previous year; or*
  - (b) has, within three months of the start day, ceased to be a relevant person.*

Section 5.76 of the Act establishes lodging requirements for subsequent Annual Returns:

- (1) Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year.*
- (2) Each year, a CEO must lodge with the mayor or president an annual return in the prescribed form by 31 August of that year.*

Section 5.88 of the Act states:

- (1) A CEO is to keep a register of financial interests.*
- (2) The register is to contain —*
  - (a) the returns lodged under section 5.75 and 5.76; and*
  - (b) a record of the disclosures made under sections 5.65, 5.70 and 5.71, and be in the form that is prescribed (if any).*
- (3) As soon as is practicable after a person ceases to be a person who is required under section 5.75 or 5.76 to lodge a return, the CEO is to remove from the register all returns relating to that person.*
- (4) Returns lodged under section 5.75 or 5.76 and removed from the register under subsection (3) are to be kept by the CEO for a period of at least 5 years after the person who lodged the return ceased to be a council member or designated employee.*

## **Issues Identified**

In general, the Register is maintained in a logical and consistent order. The Shire's Financial Interests Register and scanned Primary and Annual Returns were provided electronically on a USB thumb drive. The audit team expressed concern that the computer access arrangements put in place by the Shire may not necessarily allow convenient access for the purposes of public inspection in accordance with section 5.94(b) of the Act. However, the Shire assured the auditors that all section 5.94 documents and information can be viewed on request via the computer in the customer service area.

There were far less written disclosure notices for meetings than was recorded in the Register, and those that were submitted were all from staff. The Minutes and Agenda Officer confirmed that most disclosures were verbal or emailed.

To encourage best practice in accordance with section 5.66 of the Act, all staff and councillors should submit a form where practicable. It may also assist to provide tick boxes on the form indicating the type of disclosure (e.g. proximity, financial, indirect financial).

The Shire has confirmed that disclosure of interest forms are made readily available to all staff and councillors and the disclosure form provides tick boxes indicating the type of interest being disclosed, such as proximity, financial or impartial.

Some submissions listed the nature of the interest as the subject (e.g. 'building licence' instead of 'financial').

During the return period it may be useful to refer persons completing returns to the Department's guidelines for clarification on the information to be provided. For example, some returns do not disclose any real property. The Act requires any interest in property to be disclosed, including a property in which the relevant person resides (even a residence provided as a condition of employment with the Shire). Where there is no change, it should say 'refer to Previous Return'.

It may also be useful to provide those persons completing returns with a template that ensures the correct period is identified, to ensure all returns reference the correct financial year return period.

The Shire advised that the current practice is to distribute the return form accompanied by an email that:

- details the return period; and
- refers persons completing returns to the Department's guidelines for clarification on the information to be provided.

## **Conclusion**

The Financial Interests Register is well maintained. However, it may be useful to remind relevant persons during the lodgement period about information to be disclosed. (Refer to *Operational Guideline 21 – Disclosure of Financial Interests in Returns*).

The Shire should also regularly review delegations to assess that returns are being lodged by the following appropriate employees:

- members of committees comprising both council members and employees;
- employees designated by council as having to lodge returns; or
- employees with delegated authority under the *Local Government Act 1995*.

## **RECOMMENDATION 4:**

That the Shire provide advice and support to relevant persons on the appropriate information to disclose in financial interest returns, and continues the current practice in reviewing delegations to ensure that returns are lodged by the appropriate employees.

## Gifts

### Statutory Requirement

Regulation 34B of the Local Government (Administration) Regulations 1996 states:

- (3) *A code of conduct is to contain a requirement that a person who is an employee and who accepts a notifiable gift from a person who —*
  - (a) *is undertaking or seeking to undertake an activity involving a local government discretion; or*
  - (b) *it is reasonable to believe is intending to undertake an activity involving a local government discretion, notify the CEO, in accordance with subregulation*
- (4) *and within 10 days of accepting the gift, of the acceptance.*
- (5) *A code of conduct is to require that the CEO maintain a register of notifiable gifts and record in it details of notifications given to comply with a requirement made under subregulation (3).*

Regulation 12 of the Local Government (Rules of Conduct) Regulations 2007 state:

- (4) *Notification of the acceptance of a notifiable gift is to be in writing and is to include —*
  - (a) *the name of the person who gave the gift; and*
  - (b) *the date on which the gift was accepted; and*
  - (c) *a description, and the estimated value, of the gift; and*
  - (d) *the nature of the relationship between the person who is a council member and the person who gave the gift; and*
  - (e) *if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) —*
    - (i) *a description; and*
    - (ii) *the estimated value; and*
    - (iii) *the date of acceptance, of each other gift accepted within the six month period.*
- (5) *The CEO must maintain a register of gifts in which details of notices received under subregulation (4) are recorded.*

**prohibited gift**, in relation to a person who is a council member, means —

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

(2) *A person who is a council member must not accept a prohibited gift from a person*

—

- (a) *who is undertaking or seeking to undertake; or*
- (b) *who it is reasonable to believe is intending to undertake, an activity involving a local government discretion.*

**prohibited gift**, in relation to a person who is an employee, means —

- (a) *a gift worth \$300 or more; or*

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

*(2) A code of conduct is to contain a requirement that a person who is an employee refrain from accepting a prohibited gift from a person who —*

*(a) is undertaking or seeking to undertake an activity involving a local government discretion; or*

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

### **Issues Identified**

The CEO of the Shire maintains a Register of notifiable gifts which contains details of gifts received by council members and employees. The information recorded in the Register is derived from councillor and employee disclosure of gift forms.

The following details in regard to disclosures of gifts in the form of tickets was included in the Gifts Register. One disclosure was made by an employee and the other by a council member.

## Employee Disclosure of Gift Form

Section 5.82 Local Government Act 1995

Name of employee making the disclosure: ...

**1. Description of gift (s5.82a LGA):**

2 tickets to Cinefest Oz opening event on 23 August - \$100 each  
1 ticket to Cinefest Oz Margaret River premier 24 August - \$65  
1 ticket to Cinefest Oz Margaret River premier – purchased by shire for partner – not accepted as a gift

**2. Name and address of person who offered the gift (s5.82b LGA):**

Name	Address
Cinefest Oz	PO Box 5185 West Busselton WA 6280

**3. Gift accepted:** Yes

**4. Date gift was accepted or declined (s5.82c LGA):** .....23 August 2017.....

**5. Estimated value of the gift at the time it was offered (s5.82d LGA):** ..... Two tickets valued at \$100 each - \$200 – one ticket valued at \$65 - \$265 in total

**6. Nature of relationship between the employee and person making the gift (s5.82e LGA):**

The Shire is a sponsor of the Cinefest Oz event and the sponsorship package includes tickets to enable the Shire to be represented at these events

Signed: .....

Date: .....



## Councillor Disclosure of Gift Form

Section 5.82 Local Government Act 1995

Name of councillor making the disclosure: .....

Ward: .....

**1. Description of gift (s5.82a LGA):**

1 Ticket to Cinefest Oz Margaret River Premier event 24 August 2017  
1 ticket to Cinefest Oz Gala dinner 26 August 2017  
1 ticket to Cinefest Oz Gala dinner 26 August 2017 - purchased by Shire for partner - not accepted as a gift

**2. Name and address of person who offered the gift (s5.82b LGA):**

Name	Address
Cinefest Oz	PO Box 5185 Busselton WA 6280

3. Gift accepted: Yes

4. Date gift was accepted or declined (s5.82c LGA): .....24/8/2017.....

5. Estimated value of the gift at the time it was offered (s5.82d LGA): ...\$225

**6. Nature of relationship between the councillor and person making the gift (s5.82e LGA):**

The Shire is a sponsor of the Cinefest Oz event and the sponsorship package includes tickets to enable the Shire President to attend the event to represent the Shire

Signed: .....

Date: .....

**\*Important note: Gift disclosure forms must be forwarded to the CEO within 10 days of receiving gift.**

Regulation 12 of the Local Government (Rules of Conduct) Regulations 2007 states - a notifiable gift must be declared to the local government, by a council member when the value of the gift is between (a) \$50 and \$300 and (b) a gift that is one of two or more gifts given to the council member by the same person within a period of six months that are in total worth between \$50 and \$300. Within 10 days of accepting the gift a Council member must notify the CEO of their acceptance in writing. Gifts worth \$300 or more are prohibited and are not to be accepted. Identical requirements apply to employees as provided under the Augusta Margaret River Shire Code of Conduct and Part 9 Codes of Conduct LG (Administration) Regulations 1996. The CEO must maintain a register of gifts.

Section 5.82 of the Local Government Act 1995 requires Councillors and designated employees to disclose within 10 days of receipt, a) a gift over the value of \$200, and b) a gift that is one of two or more gifts given to the Councillor or designated person by the same person within the year, that are in total worth over \$200. The disclosure is to be made in writing to the CEO. The CEO is to maintain a gift register and publish on the Shire's website.

Notifiable gifts received between the value of \$50 and \$300 must be disclosed to the CEO within 10 days of receiving gift. Notifiable gifts worth \$300 or more are prohibited and not to be accepted.

Gifts over the value of \$200 received by designated employees and elected members must be disclosed to the CEO within 10 days of receipt, and the information made available on the Shire's website.



It is noted that a fourth ticket to the event was purchased by the Shire for the partner of the employee and council member. A notation is made that the ticket for the partner is not accepted as a gift.

This situation should be considered very carefully as there does not appear to be any official function being performed by the employee or the elected member, it is also considered that this type of gift (sponsorship tickets) falls under the category of “notifiable” gifts which includes a cap on the value of the gift of \$300 or more that is referred to as a “prohibited” gift and cannot be accepted.

Another consideration is, even if the ticket purchased by the Shire for the partner’s benefit is not considered a gift, it is still of monetary value and items have been presented to Council in connection with the Shire’s funding of sponsorship for CinefestOz Film Festival.

It is considered that this may represent a financial interest for an elected member as the Local Government Act provides that a person who is the spouse, de facto partner or child of the relevant person and is living with the relevant person is a closely associated person to that relevant person. The Act then goes on to say that a relevant person has an interest in a matter if a person with whom they are closely associated has a direct or indirect financial interest.

A financial interest in a matter is defined as where there is a reasonable expectation that the matter, if dealt with in a particular way, by a local government, an employee or committee will result in a financial gain, loss, benefit or detriment for the person.

It is noted that the current *Local Government Act 1995* (the Act) reform process will introduce changes to the gift provisions which will necessitate the Shire to update its elected members and employees with those changes.

The Shire advised that it had at all times attempted to comply with the gift requirements in the Act and expressed a view that the current multiple gift requirements are complex, confusing and open to misinterpretation.

## **Conclusion**

While it could be accepted that the CineFestOz ticket provided to the relevant person’s partner is not deemed a gift in terms of the Act, it may still represent an interest in accordance with the financial interest provisions in the Act.

## **RECOMMENDATION 5:**

That the Shire continue to seek further training and to be updated on gifts, especially after the legislation has changed, from accredited bodies for elected members and staff in regard to gifts and financial interest using specific scenarios applicable to the Shire regarding gifts and matters concerning financial interest.

## Code of Conduct

### Statutory Requirement

Section 5.103 of the Act states:

#### *Codes of conduct*

- (1) Every local government is to prepare or adopt a code of conduct to be observed by council members, committee members and employees.*
- (2) Regulations may prescribe codes of conduct or the content of, and matters in relation to, codes of conduct and any code of conduct or provision of a code of conduct applying to a local government under subsection (1) is of effect only to the extent to which it is not inconsistent with regulations.*

### Issues Identified

The Shire has separate Codes of Conduct for elected members (councillors and committee members) and staff. While the elected member Code of Conduct is considered adequate in a number of areas, including provisions related to enforcement, it was last reviewed in September 2014 and needs to be updated to include changes made to the *Local Government (Rules of Conduct) Regulations 2007*, in January 2017 in relation to gifts.

A review should also include attention to the ability for an elected member, officer or any other person to report any reasonable suspicions of serious or minor misconduct on the part of Councillors, public officials or public officers to the Corruption and Crime Commission or Public Sector Commission. The Public Sector Commission has developed a guide to developing a code of conduct for local government. The guide is intended to assist in the development and review of codes of conduct, and focuses on a number of conduct areas. It is suggested that the Shire make use of that guide when reviewing its Code of Conduct for employees.

### Conclusion

The Shire's Code of Conduct for elected members (councillors and committee members) needs to be reviewed to ensure that it provides relevant and up-to-date information and advice.

The Shire advises that it recently reviewed its Code of Conduct for Councillors on 13 July 2018 and has made relevant changes to the section on gifts to bring it up to date with the *Local Government (Rules of Conduct) Regulations 2007*. It also includes information about reporting any serious misconduct on the part of councillors.

The Shire's Code of Conduct for employees, adopted in March 2018, is very comprehensive and is considered to be an example of best practice.

## **RECOMMENDATION 6:**

That the Shire continues to review its Code of Conduct for elected members (councillors and committee members) and employees to ensure that it is up to date with all matters relevant to the conduct of elected members and staff as prescribed in the *Local Government Act 1995* and associated Regulations, including the matters described in the Public Sector Commission's "Guide to Developing a Code of Conduct".

## **Corporate Credit Card**

### **Statutory Requirement**

Regulation 5(1)(d) of the *Local Government (Financial Management) Regulations 1996* states:

*Efficient systems and procedures are to be established by the CEO of a local government —*

*to ensure proper accounting for municipal or trust —*

- (ii) expenses paid or payable;*
- undertake reviews of the appropriateness and effectiveness of the financial management systems and procedures of the local government regularly (and not less than once in every four financial years) and report to the local government the results of those reviews.*

## **Good Practice – Guideline**

The Department's Operational Guideline No.11 "Use of Corporate Credit Cards" provides guidance on suggested good practice in regard to the use of local government corporate credit cards.

The following is an extract from the Department's Guideline:

**Policies and Procedures Governing the Use of Corporate Credit Cards**

*The following issues should be considered when developing policies and procedures for controlling the use of credit cards –*

### **General**

- an agreement should be signed by the cardholder and the local government which sets out the cardholder's responsibilities and legal obligations when using the credit card;*
- register of all current cardholders should be kept which includes card number, expiry date of the credit card, credit limit and details of goods and services the cardholder has authority to purchase;*
- all new and existing cardholders should be provided with a copy of the policies relating to the use of credit cards;*

### **Issues Identified**

The Shire has a policy in place (Policy CCSP 6) in regard to the use of corporate credit cards.

This policy includes guidelines relating to the use of a corporate credit card by employees who are authorised to incur expenditure on behalf of the Shire. The policy refers to maintaining a Register which is to record all credit cards issued and is to be stored in the Shire's record keeping system. The policy also specifies matters that apply to the issue and use of a corporate credit card.

It is noted that although there is no separate agreement signed by the relevant officers, each officer either has signed a copy of the policy to signify they have read and understood the Credit Card Policy and procedure or sent an e-mail to the Shire's Finance Section stating they have read and understood the Policy.

It is considered that this procedure does not support effective control over the use of corporate credit cards which is evident where one Senior Officer who was previously listed on the Credit Card Register for their credit card that expired in April 2015 was omitted from the Register in regard to the issue of their new replacement credit card.

### **Conclusion**

Due to what is considered ineffective practices that tend to leave the Shire exposed to risks associated with efficient control over the use of credit cards, the Shire's procedures in relation to corporate credit card use do not follow best practice or proper auditing standards as provided for in the Department's guidelines on Use of Corporate Credit Cards.

### **RECOMMENDATION 7:**

That the CEO reviews the policy and procedures for the use of Shire's corporate credit cards to ensure that best practice with proper audit standards are aligned with the recommended procedures contained in the Department's Use of Corporate Credit Cards Operational Guideline No.11.

## Comments in response to 2018 Shire of Augusta Margaret River Integrity Audit Report

<b>Findings and recommendations within report</b>	<b>Officer Comments</b>	<b>Requested amendments to report</b>
<b>Introduction – Page 2</b> Report refers to 'eight elected member positions with three wards'.	Information relating to eight elected member positions with three wards is incorrect. The Augusta Margaret River Shire consists of <u>seven</u> elected member positions with a <u>one wards</u> system (no wards).	Replace with 'seven elected member positions with a one wards system (no wards).'
Report refers to 'The Shire administration office is located in Margaret River'.	The Shire also has a small administration office located in Augusta, although almost all internal administrative functions are carried out at the Margaret River Civic Administrative Centre.	Add the underlined words 'The Shire <u>main civic</u> administration <u>centre</u> is located in Margaret River'.
<b>Purchasing and procurement – Tender Register –</b> Refer to text on Page 4, located under the heading <u>Issues Identified</u> .	The Tender Register is available for members of the public to examine on request. However, it is acknowledged improvements could be made to the way the Register could be examined by the public and a Register on the Shire's website is an option that will be considered.	No amendments required.
<b>Purchasing and procurement – Tenders and Quotations –</b> Refer to text on Page 6 located under the heading <u>Issues Identified</u> .	The Shire's Procurement Officer and Finance Officer have provided training to purchasing officers to reinforce the need to comply with the Purchasing Policy and retain proof of the purchasing process in the Shire's record keeping system. This process is one of continuous improvement. The Procurement Officer is also devoting more time to supporting purchasing officers in major purchasing areas such as the Works depot. With respect to the examples included in the table within the report, some additional information has been obtained to support the procurement process undertaken and the results are included in the following table. A copy of the source information referred to is available and can be provided on request.	Amend comments to acknowledge the additional information obtained by officers supporting the procurement processes undertaken, in the examples included in the table within the report.

	<table><tr><th>Supplier</th><th>Invoice</th><th>Amount</th><th>EFT</th><th>PO</th><th>Procurement Process</th><th>Procurement Info attached</th></tr><tr><td>Jason Sign Makers</td><td>183179</td><td>\$ 11,660.00</td><td>EFT62546</td><td>113850</td><td>One Quote sought from WALGA Preferred Supplier Jason Sign Makers, Quote received via email.</td><td>Quote from Jason Sign Makers</td></tr><tr><td>Brooks Hire</td><td>135355</td><td>\$ 4,102.56</td><td>EFT 59865</td><td>108892</td><td>3 Verbal Quotes were sought from Coates Hire, Brooks Hire and Coalcliff Plant Hire. 3 Verbal Responses received, please see File Note</td><td>File Note N158718</td></tr><tr><td>Brooks Hire</td><td>135339</td><td>\$ 4,395.60</td><td>EFT 59865</td><td>109679</td><td>3 Verbal Quotes were sought from Coates Hire, Brooks Hire and Conplant. 3 Verbal Responses received, please see File Note</td><td>File Note N158718</td></tr><tr><td>Cowara Contractors</td><td>63922</td><td>\$ 21,720.26</td><td>EFT63443</td><td>114928</td><td>Sought Quotes via email from Leeuwin Civil, Doust and Cowara Contractors. Leeuwin Civil were unavailable, Doust did not have Equipment ( Broom and Roller), Cowara Contractors were the only Supplier that could provide service in our timeframe to reasonable rates. Quote was received over the phone and File Note is now attached to Records.</td><td>File Note N158718</td></tr><tr><td>Margaret River Cowaramup Electrical</td><td>33395</td><td>\$ 5,940.00</td><td>EFT62058</td><td>113275</td><td>Only two quotes sought as Purchasing Officer did not expect the job to cost more than \$5000.00 excl. GST. Cheapest quote from Margaret River Cowaramup Electrical accepted</td><td>Quote from MR Cowara Electrical and Lightning Ridge Electrical (already provided)</td></tr><tr><td>Margaret River Cowaramup Electrical</td><td>33812.1</td><td>\$ 11,220.00</td><td>EFT63689</td><td>113448</td><td>This was a variation to a existing contract with MRCEs to complete electrical upgrade works at the adjoining Gloucester Park. For this work, three quotes were sought from Blackwood Electrical, MRCEs and ABBS Electrical. MRCEs was chosen based on providing the best price.</td><td>RFQ for Gloucester Park Works, three Quotes received in response. Quote from MR Cowara Electrical for Variation to include Zone Room Electrical Works and Email Trail. (all were saved in SynergySoft)</td></tr></table>	Supplier	Invoice	Amount	EFT	PO	Procurement Process	Procurement Info attached	Jason Sign Makers	183179	\$ 11,660.00	EFT62546	113850	One Quote sought from WALGA Preferred Supplier Jason Sign Makers, Quote received via email.	Quote from Jason Sign Makers	Brooks Hire	135355	\$ 4,102.56	EFT 59865	108892	3 Verbal Quotes were sought from Coates Hire, Brooks Hire and Coalcliff Plant Hire. 3 Verbal Responses received, please see File Note	File Note N158718	Brooks Hire	135339	\$ 4,395.60	EFT 59865	109679	3 Verbal Quotes were sought from Coates Hire, Brooks Hire and Conplant. 3 Verbal Responses received, please see File Note	File Note N158718	Cowara Contractors	63922	\$ 21,720.26	EFT63443	114928	Sought Quotes via email from Leeuwin Civil, Doust and Cowara Contractors. Leeuwin Civil were unavailable, Doust did not have Equipment ( Broom and Roller), Cowara Contractors were the only Supplier that could provide service in our timeframe to reasonable rates. Quote was received over the phone and File Note is now attached to Records.	File Note N158718	Margaret River Cowaramup Electrical	33395	\$ 5,940.00	EFT62058	113275	Only two quotes sought as Purchasing Officer did not expect the job to cost more than \$5000.00 excl. GST. Cheapest quote from Margaret River Cowaramup Electrical accepted	Quote from MR Cowara Electrical and Lightning Ridge Electrical (already provided)	Margaret River Cowaramup Electrical	33812.1	\$ 11,220.00	EFT63689	113448	This was a variation to a existing contract with MRCEs to complete electrical upgrade works at the adjoining Gloucester Park. For this work, three quotes were sought from Blackwood Electrical, MRCEs and ABBS Electrical. MRCEs was chosen based on providing the best price.	RFQ for Gloucester Park Works, three Quotes received in response. Quote from MR Cowara Electrical for Variation to include Zone Room Electrical Works and Email Trail. (all were saved in SynergySoft)	
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<p><b>Purchasing and procurement –</b></p> <p>Refer to text on page 7, located under the heading <u>Conclusion</u>, and the following Recommendation:</p> <p><b>Recommendation 1: That the Shire introduce procedures to improve its record keeping practices in regard to supporting greater</b></p>	<p>This is acknowledged as an area of improvement for the Shire and this process has commenced by conducting procurement workshops/training with purchasing officers to explain record keeping requirements. How to guides for procurement record keeping are also available on the Procurement page on the Shire’s Intranet. Templates have also been prepared to simplify and facilitate the recording of purchasing decisions, evaluations and justifications, particularly for lower value purchases. This education process will be ongoing and will be supported with procedures.</p> <p>Panels of pre-qualified suppliers are an option to be included within a revised Purchasing Policy which is planned to be provided to Council for approval by December 2018.</p>	No amendments requested.																																																	

transparency and accessibility to written records that clearly demonstrates the local government's compliance with its procurement policy and practices.		
<b>Policies – Page 8</b> <b>Recommendation 2: That the Shire continue with its current practice of regular review of its policies</b>	It's pleasing to be acknowledged for the Shire's current practice of the: <ul style="list-style-type: none"> <li>• regular review of policies; and</li> <li>• the development of policies, required under the LG Act and Regs, and the policies which demonstrate alignment with the 5 goals of the Shire's Community Strategic Plan's.</li> </ul>	No amendments requested.
<b>Delegations – Administrative Structure of the Local Government – Page 9</b> <b>Recommendation 3: That council withdraw the instrument of Delegation 1 “Administrative structure of the local government” as the delegation relates to a duty that only the council can exercise.</b>	It is noted that all major restructures undertaken at the Shire have been endorsed by Council. However, the Shire intends to amend its Delegation Register as per the recommendation.	No amendment requested.
<b>Delegations – Administering Local Laws</b>  Refer to text located under the heading <u>Issues Identified</u> on pages 10 and 11 and the following recommendation:	Delegation 2, Administering Local Laws, refers to any AMR Local Law made under Division 2 of Part 3 LGA. Therefore, Delegation 2 does not apply to the Shire's Health Local Laws made under the s342 of the <i>Health Act 1911</i> .  The Shire's Health Local Laws 1999 were made under s342 of the <i>Health Act 1911</i> (now known as <i>Health (Miscellaneous Provisions) Act 1911</i> ) and in accordance with the procedures set out in Part 3, Division 2 of the <i>Local Government Act 1995</i> .	Delete Recommendation 4 and all comments relating to it.

<p><b>Recommendation 4: That council withdraw the instrument of Delegation 2 “Administering Local Laws” and replace it with an authorisation as there is no provision in the Health Act 1911 for delegations and the local law also refers to the council as carrying out the function.</b></p>	<p>The Shire is aware of the use of the term ‘Council’ within the Health Local Laws 1999, for example, under Part 4 – Waste Food and Refuse clause 38(2) <i>that the Council may grant or refuse an application under this Section subject to conditions relating to –</i></p> <p>These types of applications are rare, and when they arise, they are required to be determined by Council. The Shire’s Health Local Laws will be reviewed upon the implementation of the final stage of the <i>Public Health Act 2016</i>.</p>	
<p><b>Financial Interests – Page 12</b></p> <p>Refer to the following text, also located under the heading <u>Issues Identified</u> on page 12 of the report, ‘In general, the Register is maintained in a logical and consistent order..... Although the Register complies with the requirements of section 5.88, it may not necessarily allow convenient access for the purposes of public inspection in accordance with section 5.94(b) of the Act.’</p>	<p>The Shire appreciates the comments regarding the Financial Interests Register complying with the requirements of s5.88 LGA and being maintained in a logical and consistent order.</p> <p>In regards to the documents listed under s5.94 LGA which are not published on the Shire’s website, such as Primary and Annual Returns, persons may attend the Shire office and upon request, use the computer available for the public in the customer service area to inspect electronic copies of the documents, or may have hard copies printed for their inspection.</p>	<p>Either remove the comments that state that the register may not necessarily allow convenient access or amend to acknowledge that all s5.94 can be viewed on request on the computer in the customer service area.</p>
<p><b>Financial Interests – Page 12 continued</b></p>		



<p>Refer to the following text, also located under the heading <u>Issues Identified</u> on page 12 of the report 'There were far less written disclosure notices for meetings that was recorded in the Register, and those that were submitted were all from staff. The Minutes and Agenda Officer confirmed that most disclosures were verbal or emailed. To encourage best practice in accordance with section 5.66 of the Act, all staff and councillors should submit a form where practicable. It may also assist to provide tick boxes on the form indicating the type of disclosure (e.g. proximity, financial, indirect financial). Some submissions listed the nature of the interest as the subject (e.g. 'building licence' instead of 'financial'.'</p>	<p>Disclosure of interest forms are readily available to all staff and Councillors, and the disclosure form contains a tick box indicating the type of interest - proximity, financial, or impartial (see Attachment 1).</p>	<p>Amend the comments to acknowledge that the Shire has disclosure of interest forms readily available to all staff and Councillors, and the disclosure form provides tick boxes indicating the type of interest - proximity, financial, or impartial.</p>
<p><b>Financial Interests – Page 12 continued</b> Refer to the following text, also located under the heading <u>Issues Identified</u>, on page 12 of the report 'In addition, it may be useful to remind councillors about</p>	<p>The minutes of the 8 March 2017 Ordinary Meeting, where Cr Smart declared a proximity interest but was allowed to participate as Council deemed the matter trivial, are attached (see Attachment 2).</p> <p>In addition to seeking a Ministerial exemption section 5.68 of the LGA allows the remaining members of Council to allow a disclosing member to be present or participate in the decision making procedures relating to the matter if the disclosing member has disclosed the extent of</p>	<p>Remove the example relating to the 8 March 2017 Ordinary Meeting on page 12.</p>

<p>the operation of financial interests. For example, in the Ordinary Council Meeting of 8 March 2017, a councillor declared a proximity interest but was allowed to participate as council deemed the matter trivial. If a financial or proximity interest is declared, and there is no Ministerial exemption, then the councillor must leave the room and not vote on the issue.'</p>	<p>the interest and the remaining members decide the interest is trivial or common to a significant number of ratepayers.</p> <p>In accordance with s5.68, Cr Smart disclosed the nature of his interest and the extent, and then requested that the matter be treated as trivial, in line with s5.68(1)(b)(i), and that the other members allow him to participate in the discussions and decision making process. Cr Smart left the Chambers and the remaining members resolved the following:</p> <p><b>That the matter of Cr Smart's proximity interest be considered trivial under the <i>Local Government Act 5.68</i> and Cr Smart be permitted to participate in the decision making process.</b></p> <p>A Ministerial exemption is not required in this circumstance, as the process outlined above is permitted under s5.68 LGA.</p>	
<p><b>Financial Interests – Pages 12-13 continued</b></p> <p>Refer to the following text, also located under the heading <u>Issues Identified</u>, pages 12-13 of the report, 'During the return period it may be useful to refer persons completing returns to the Department's guidelines for clarifications on the information to be provided. For example, some returns do not disclose any real property. The Act requires any interest in property to be disclosed, including a property in which the relevant person resides (even a residence provided as a condition of</p>	<p>The distribution of annual and primary returns are accompanied with an email outlining details of the disclosure period, e.g. 1 July 2016 to 30 June 2017, and also provides reference to the relevant Department of Local Government Guidelines on Disclosure of Financial Interests in Returns, which can be provided if clarification of information to provide in the returns is needed. (see email in Attachment 3).</p> <p>We also suggest that instead of using the phrase 'refer to Primary Return' where there is no change, the phrase 'refer to previous return', be used to capture the instances where a change in a financial interest has been disclosed in a previous annual return, but had not yet occurred when the primary return was being completed.</p>	<p>Amend the comments to acknowledge that the current practice is to distribute the return form accompanied by an email that:</p> <ul style="list-style-type: none"> <li>• details the return period; and</li> <li>• refers persons completing returns to the Department's guidelines for clarification on the information to be provided.</li> </ul> <p>And where there is no change when completing a form, the phrase 'refer to previous return' should be used.</p>

<p>employment with the Shire). Where there is no change it should say 'refer to Primary Return'.</p> <p>It may also be useful to remind those persons completing returns with a template that ensures the correct period is identified, to ensure all returns reference the correct financial year.'</p>		
<p><b>Financial Interests – Page 13</b></p> <p>Refer to the following text, also located under the heading <u>Conclusion</u>, on page 13 of the report 'The Shire should also regularly review delegations to assess that returns are being lodged by the following appropriate employees:</p> <ul style="list-style-type: none"> <li>• members of committees comprising both council members and employees;</li> <li>• employees designated by council as having to lodge returns; or</li> </ul>	<p>The Shire's current practice is to review delegations once every financial year in accordance with s5.46 LGA. The timing of the review occurs in May/June each year, prior to the end of financial year. Following the review of the delegations, the list of designated employees are reviewed, to ensure that the returns are being lodged by the appropriate employees. The annual return forms are then distributed at the start of July each year.</p>	<p>Remove the following phrase from Recommendation 5:</p> <p><b>'and review delegations to ensure that returns are lodged by the appropriate employees.'</b></p> <p>as it is already current practice.</p>

<ul style="list-style-type: none"> <li>employees with delegated authority under the LGA.’</li> </ul> <p>And the following recommendation:  <b>‘Recommendation 5: That the Shire provide advice and support to relevant persons on the appropriate information to disclose in financial interest returns, and review delegations to ensure that returns are lodged by the appropriate employees.’</b></p>		
<p><b>Gifts – page 17</b>  Refer to the following text, also located on page 17, second paragraph in report, ‘The situation should be considered very carefully as there does not appear to be any official function being performed by the employee or the elected member, it is also considered that this type of gift (sponsorship tickets) falls under the category of “notifiable” gifts which includes a cap on the value of the gift of \$300 or more that is referred to as a “prohibited” gift and cannot be accepted. The ticket given to the partner of the</p>	<p>The Shire notes the comments and the issue identified in relation to the potential for the ticket purchased by the Shire for a partner to represent a financial interest in a situation where the Councillor’s ticket has been treated as a gift. In relation to the Shire employee, the CEO contract of employment provides for the “payment of reasonable expenses” in carrying out functions and being accompanied by a spouse particularly attending out of normal working hours functions as a Shire representative has always been considered a reasonable expense. Current policies and practices will be reviewed to eliminate any concerns raised.</p> <p>However the Shire strongly disagrees with the assertion that the value of gift received directly from the sponsor and the value of the ticket purchased by the Shire could be combined resulting in a prohibited gift. As the tickets come from different donors they could not be a single gift for the purposes of the conduct regulations.</p>	<p>The last sentence in the second paragraph on p17 be deleted.</p>

<p>person may still be considered a gift which in addition to the value of the other tickets, puts it in the prohibited gift category. ‘</p>		
<p><b>Gifts</b>  <b>Recommendation 6: That the Shire seek further training from accredited bodies for elected members and staff in regard to gifts and financial interest using specific scenarios applicable to the Shire regarding gifts and matters concerning financial interest.</b></p>	<p>The Shire had at all times attempted to comply with the gift requirements in the Act, but has found the multiple requirements in the Act complex and confusing and open to misinterpretation.</p> <p>The Shire questions whether the action in recommendation 6 would currently be an effective use of resources given the pending amendments to the Act in relation to gifts. Resources will be applied to reviewing current policies and practices.</p> <p>In the meantime the Shire has commissioned independent legal advice on how to deal with Councillor and employee attendance at Shire sponsored events to ensure that the Shire complies with the current requirements until the amendments have been proclaimed.</p> <p>The Shire has also sought an exemption under s5.69A LGA in relation to the consideration of the Shire’s icon events. Those members who were not exempt did not participate in discussion or decision making on the matter.</p>	<p>The comments and recommendation on p17 be amended to reflect the pending changes to the Act and the measure that have been taken by the Shire.</p>
<p><b>Code of Conduct</b></p> <p>Refer to text under the heading <u>Issues Identified</u> on page 18 and the following recommendation:</p> <p><b>Recommendation 7: That the Shire reviews its Code of Conduct for elected members (councillors and committee members) to ensure that it includes all matters relevant to the conduct of elected members as prescribed in the LGA and</b></p>	<p>The auditor’s comments regarding the Shire’s Code of Conduct for Employees being comprehensive and considered to be an example of best practice is pleasing.</p> <p>The Shire’s Code of Conduct for Councillors was recently reviewed and adopted by Council on the 13 July 2018 (see Attachment 4). The section on gifts was amended to include changes to the Local Government (Rules of Conduct) Regulations 2007.</p> <p>The Shire’s Code of Conduct for Councillors and Committee Members includes information regarding the ability for Councillors, officers or any other persons to report any reasonable suspicions of serious misconduct on the part of Councillors, public officials or public officers to the Corruption and Crime Commission (CCC), and the mandatory reporting by the CEO of any reasonable suspicions of serious improper or corrupt conduct to the CCC. It is noted that it does not contain information relating to the reporting of suspected minor misconduct by officers, to the Public Sector Commission. This information is conveyed in the Code of Conduct for employees.</p>	<p>Amend the recommendation and associated comments to reflect the recent review of the Shire’s Code of Conduct for Councillors and Committee Members, which now includes changes made to the LGA and associated Regulations relating to gifts.</p>

<p><b>associated Regulations, including the matters described in the Public Sector Commission's "Guide to Developing a code of Conduct".'</b></p>	<p>For clarity, the Shire will ensure that the Code of Conduct for Employees, and Code of Conduct for Councillors and Committee Members, shall both contain information relating to the reporting of suspected minor misconduct by employees, to the Public Sector Commission and suspected serious misconduct by employees and Councillors to the Corruption and Crime Commission.</p>	
<p><b>Corporate Credit Card – Page 19</b>  Refer to the following text also located under the heading <u>Issues Identified</u> on pages 19-20:  'It is considered that this procedure does not support effective control over the use of corporate credit cards which is evident where one Senior Officer who was previously listed on the Credit Card Register for their credit card that expired in April 2015 was omitted from the Register in regard to the issue of their new replacement credit card.  Due to what is considered ineffective practices that tend to leave the Shire exposed to risks associated with efficient control over the use of credit cards, the Shire's procedures in relation to corporate credit card use do not follow best practice or proper auditing</p>	<p>An independent internal audit review of the Shire's financial systems and procedures was completed by AMD Chartered Accountants in the first half of 2018. This review included reviewing credit card processes and procedures and tested transactions on a sample basis. This review identified one instance where a credit card transaction was not authorised (and procedures have been strengthened to ensure this does not recur) but did not identify any concerns with the Shire's processes or procedures. This report was provided to and accepted by the Audit and Risk Management Committee in June 2018.</p> <p>Additionally, the May 2018 report of the Office of the Auditor General on controls over use of corporate credit cards was reviewed by staff and was also provided to the Audit and Risk Management Committee in June 2018. Shire staff noted the local governments who were included within this review have generally accepted the recommendations and confirmed that where relevant policies and systems have been amended to improve practices. Shire staff advised the Committee they will obtain updated policies and procedures for review and to inform the amendments of the Shire's policies and procedures so they reflect best practice. This process may be completed by the end of the calendar year.</p>	<p>No amendments requested.</p>

<p>standards as provided for in the Department's guidelines on Use of Corporate Credit Cards.'</p> <p>And the following recommendation:</p> <p><b>Recommendation 8: That the CEO reviews the policy and procedures for the use of Shire's corporate credit cards to ensure that best practice with proper audit standards are aligned with the recommended procedures contained in the Department's Use of Corporate Credit Cards Operational Guideline No. 11.</b></p>		
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# CODE OF CONDUCT

## FOR COUNCILLORS AND COMMITTEE MEMBERS



Adopted by Council 13 June 2018

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## Alignment with Community Strategic Plan

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



### **Goal 1**

Valuing the natural environment



### **Goal 2**

Welcoming and inclusive communities



### **Goal 3**

Managing growth sustainably



### **Goal 4**

Vibrant and diverse economy



### **Goal 5**

Effective leadership and governance

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## INTRODUCTION

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

The general function of the Shire of Augusta Margaret River is to provide good government for the community it serves. This Code is complementary to the fundamental aims of the *Local Government Act 1995*, which are:

- (a) Better decision-making by local governments;
- (b) Greater community participation in the decisions and affairs of local governments;
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

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

## STATUTORY ENVIRONMENT

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

## RULES OF CONDUCT AND OTHER LEGISLATION

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

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

## GENERAL PRINCIPLES

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

*General principles to guide the behaviour of Councillors and Council appointed committee members include that a person in his or her capacity as a Council or committee member should --*

- (a) act with reasonable care and diligence; and*
- (b) act with honesty and integrity; and*
- (c) act lawfully; and*
- (d) avoid damage to the reputation of the local government; and*
- (e) be open and accountable to the public; and*
- (f) base decisions on relevant and factually correct information; and*
- (g) treat others with respect and fairness; and*
- (h) not be impaired by mind affecting substances.*

# 1. ROLES

## 1.1. ROLE OF COUNCIL

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

*(1) The Council —*

- (a) directs and controls the local government's affairs; and*
- (b) is responsible for the performance of the local government's functions.*

*(2) Without limiting subsection (1), the Council is to —*

- (a) oversee the allocation of the local government's finances and resources; and*
- (b) determine the local government's policies.*

## 1.2. ROLE OF COUNCILLORS

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

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

*A Councillor —*

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

A Councillor is a part of the team in which the community has placed its trust to make decisions on its behalf. The community is therefore entitled to expect high standards of conduct from its elected representatives. In fulfilling the various roles, Councillors' activities will focus on:

- (a) Achieving a balance in the diversity of community views to develop an overall strategy for the future of the community;
- (b) Achieving sound financial management and accountability in relation to the Local Government's finances;
- (c) Ensuring that appropriate mechanisms are in place to deal with the prompt handling of residents' concerns;
- (d) Working with other governments and organisations to achieve benefits for the community at both a local and regional level; and
- (e) Having an awareness of the statutory obligations imposed on Councillors and on local governments.

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

### 1.3. ROLE OF COMMITTEE MEMBERS

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

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

### 1.4. ROLE OF EMPLOYEES

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

*The CEO's functions are to –*

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

The CEO will ensure that:

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

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

## 2. CONFLICT AND DISCLOSURE OF INTEREST

### 2.1. CONFLICT OF INTEREST

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

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

#### Financial Interest

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

#### Proximity Interest

A person has a proximity interest in a matter if the matter concerns —

- (a) A proposed change to a planning scheme affecting land that adjoins the person's land; or
- (b) A proposed change to the zoning or use of land that adjoins the person's land; or
- (c) A proposed development of land that adjoins the person's land.

#### Impartiality Interest

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

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

Specifically:

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

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

### 2.2. FINANCIAL AND PROXIMITY INTERESTS

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



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

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

### 2.3. INTERESTS AFFECTING IMPARTIALITY

- (a) An impartiality interest is to be made in writing to the CEO prior to the meeting, or it is to be declared verbally at the meeting immediately prior to the item being discussed.
- (b) The disclosure is to be recorded in the minutes of the meeting.
- (c) A member who has disclosed an interest affecting impartiality is not required to leave the meeting if they consider themselves able to set the matter aside and judge the item on its merits and without bias.
- (d) In accordance with regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007*, a Council or committee member is excused from the requirement to disclose an impartiality interest if the failure to disclose occurs because the person:
  - (i) did not know he or she had an impartiality interest in the matter; or
  - (ii) did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the person then discloses the interest as soon as possible after the discussion has begun.

### 2.4. PRIMARY AND ANNUAL RETURNS

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

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

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

## 3. PERSONAL BENEFIT

### 3.1. USE OF CONFIDENTIAL INFORMATION

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

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

### 3.2. INTELLECTUAL PROPERTY

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

### 3.3. IMPROPER OR UNDUE INFLUENCE

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

### 3.4. GIFTS

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

- a) Gifts accepted from a person who is undertaking or seeking to undertake an activity involving local government discretion – LG (Rules of Conduct) Reg 12 and
- b) All gifts received under s5.82 LGA.

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

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

*Definitions:*

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

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

- (a) *that cannot be undertaken without an authorisation from the local government; or*
- (b) *by way of a commercial dealing with the local government;*

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

- (a) *a gift from a relative as defined in section 5.74(1) of the Act; or*

(b)	<i>a gift that must be disclosed under regulation 30B of the Local Government (Elections) Regulations 1997; or</i>
(c)	<i>a gift from a statutory authority, government instrumentality or non-profit association for professional training;</i>
(d)	<i>a gift from WALGA, the Australian Local Government Association Limited or the Local Government Managers Australia WA Division Incorporated.</i>
<b>“notifiable gift”</b> , in relation to a person who is a Councillor, means –	
(a)	<i>a gift worth between \$50 and \$300 (i.e. of value no greater than \$299); or</i>
(b)	<i>a gift that is one of 2 or more gifts given to the Councillor by the same person within a period of 6 months that are in total worth between \$50 and \$300;</i>
<b>“prohibited gift”</b> , in relation to a person who is a Councillor, means -	
(a)	<i>a gift worth \$300 or more; or</i>
(b)	<i>a gift that is one of 2 or more gifts given to the Councillor by the same person within a period of 6 months that are in total worth \$300 or more.</i>

- (1) A person who is a Councillor or committee member must not accept a prohibited gift from a person -
  - (a) who is undertaking or seeking to undertake; or
  - (b) who it is reasonable to believe is intending to undertake, an activity involving a local government discretion.
  
- (2) A person who is a Councillor or committee member and who accepts a notifiable gift from a person –
  - (a) who is undertaking or seeking to undertake; or
  - (b) who it is reasonable to believe is intending to undertake, an activity involving a local government discretion,
 must, within 10 days of accepting the gift, notify the CEO of the details of the acceptance as outlined below.
  
- (3) Notification of the acceptance of a notifiable gift is to be in writing and is to include -
  - (a) the name of the person who gave the gift; and
  - (b) the date on which the gift was accepted; and
  - (c) a description, and the estimated value, of the gift; and
  - (d) the nature of the relationship between the person who is a Councillor and the person who gave the gift; and
  - (e) if the gift is a notifiable gift under paragraph (b) of the definition of “notifiable gift” (whether or not it is also a notifiable gift under paragraph (a) of that definition) –
    - (i) a description; and
    - (ii) the estimated value; and
    - (iii) the date of acceptance,
 of each other gift accepted within the 6 month period.
  
- (4) The CEO must maintain a register of gifts and record the details provided in the notification of acceptance.

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

## All Gifts - s5.82 LGA

### Definitions:

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

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

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

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

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

## 3.5. CONTRIBUTIONS TO TRAVEL

### Definition:

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

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

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

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

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

from a person, then they become a ‘Closely Associated Person’. This means that for any person who has given a Councillor a declarable gift or travel contribution and is seeking a Local Government decision in a

matter, then the Councillor is 'closely associated' to that person and must disclose either a financial or proximity interest and withdraw from all debate and voting on that issue. (Closely associated persons defined in s5.60 LGA).

### 3.6. DISCLOSURE OF ELECTION CAMPAIGN CONTRIBUTIONS

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

- (a) A "gift" includes a gift of money, a gift which is non-monetary but of value, a gift in kind or an inadequate financial consideration or the receipt of a discount (where the difference or the discount is more than \$200 worth), financial or other contribution to travel, the provision of a service for no consideration or for inadequate consideration, and a firm promise or agreement to give a gift at some future time.
- (b) A gift does not include a gift by will; a gift by a relative; a gift that the candidate would have received notwithstanding his or her candidature; or the provision of volunteer labour.
- (c) The disclosure of a gift is to be made to the CEO of the local government in the manner prescribed and in doing so identify specified information as outlined in the next clause.
- (d) Details about each gift are to be disclosed on the prescribed form and submitted within three days of receiving the gift. Information to be supplied includes the name of the candidate, the name and address of the donor, the date the gift was promised or received, the value of the gift and a description of the gift.
- (e) The disclosure period commences six months prior to the relevant election and finishes three days after the election day for unsuccessful candidates, and on the start day for financial interest returns for successful candidates.
- (f) The CEO is to establish and maintain an electoral gift register. Disclosure forms are to be placed in the electoral gift register upon receipt by the CEO in a manner that clearly identifies and distinguishes the candidates. The electoral gift register is to be kept available for public inspection.
- (g) A maximum penalty of \$5,000 may be imposed on a candidate who fails to comply with the disclosure requirements.

## 4. CONDUCT OF COUNCILLORS AND COMMITTEE MEMBERS

### 4.1. PERSONAL BEHAVIOUR

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

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- in the public interest;
- (vi) In order to maintain “qualified privilege”, a Councillor or committee member should ensure that comments made are in context and pertinent to the business of local government and are relevant to the item on the agenda or on the agenda at the public meeting at the time. Any statements which are made maliciously, or without due regard as to whether they represent the truth would jeopardise the defence of “qualified privilege”; and
- (vii) Always act in accordance with their obligation of fidelity to the Council.
- (b) Councillors and committee members will represent and promote the interests of the Shire of Augusta Margaret River, while recognising their special duty to the community. Councillors will represent the whole community first and the interests of pressure groups or individuals only in a context of the greater community good.
- (c) To fully achieve all that is possible for the residents of the Shire of Augusta Margaret River, all Councillors and committee members need to commit their efforts in the performance of their official duties to positive achievements. Energy expended in dwelling on perceived mistakes or tensions of the past where no official action is proposed or is predicated by the law, only detracts from what can be achieved. While respecting the role of constructive debate and reasonably based dissent by Councillors, if Councillors or committee members feel they cannot become part of a Council team dedicated to good government and constructive decision-making, in the interests of the residents of the district, they should reconsider their position.

## 4.2. HONESTY AND INTEGRITY

Councillors and committee members will:

- (a) Observe the highest standards of honesty and integrity, and avoid conduct which might suggest any departure from these standards;
- (b) Bring to the notice of the President or CEO any dishonesty or possible dishonesty on the part of any other Councillor or committee member, and in the case of an employee, to the Chief Executive Officer; and
- (c) Be respectful, frank and honest in their official dealings with each other.

In certain circumstances, a Councillor or committee member is able to lodge a complaint with the CEO, which concerns the conduct of a Councillor regarding a minor breach of the *LG (Rules of Conduct) Regulations 2007*.

The CEO is Council appointed Complaints Officer for forwarding such complaints to the Standards Panel, as appointed by the Minister under the *Local Government Act 1995*.

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

#### 4.3. PERFORMANCE OF DUTIES

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

#### 4.4. COMPLIANCE WITH LAWFUL ORDERS

- (a) Councillors and committee members will comply with any lawful order given by any person having authority to make or give such an order, with any doubts as to the propriety of any such order being taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the Chief Executive Officer.
- (b) Councillors and committee members will give effect to the lawful policies of the Shire of Augusta Margaret River, whether or not they agree with or approve of them.

#### 4.5. ADMINISTRATIVE AND MANAGEMENT PRACTICES

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

#### 4.6. CORPORATE OBLIGATIONS

Communications and Public Relations

- (a) All aspects of communication by Councillors and committee members should be accurate, polite and responsible.
- (b) As a representative of the community, Councillors and committee members shall not only be responsive to community views, they will also adequately communicate the attitudes and decisions of the Council. In doing so Councillors should acknowledge that:
  - As a member of the Council there is respect for the decision making processes of the Council which are based on a decision of the majority of the Council;
  - Information of a confidential nature must not be communicated until it is no longer treated as confidential;
  - Official advice of a technical nature relating to decisions of the Council on approvals, permits, licenses and decision made under other statutory functions, must only be communicated by a designated officer of the Shire; and
  - Information concerning adopted policies, procedures and decisions of the Council is conveyed accurately.



#### Access to Information

Councillors will ensure that information provided will be used properly and to assist in the process of making reasonable and informed decisions on matters before the Council and not for private purposes or any activity not consistent with the role of a Councillor.

### 4.7. RELATIONSHIPS BETWEEN COUNCILLORS OR COMMITTEE MEMBERS AND EMPLOYEES

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

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

### 4.8. RELATIONSHIP BETWEEN THE PRESIDENT AND THE CHIEF EXECUTIVE OFFICER

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

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



## 4.9. RELATIONSHIP BETWEEN THE PRESIDENT AND COUNCILLORS

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

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

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

## 4.10. PRESIDING MEMBERS

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

## 4.11. APPOINTMENTS TO EXTERNAL ORGANISATIONS

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

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

## 4.12. ATTENDANCE AT EXTERNAL CONFERENCES, TRAINING AND FUNCTIONS

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

## 4.13. USE OF SHIRE OF AUGUSTA MARGARET RIVER RESOURCES

Councillors and committee members will:

- (a) Be scrupulously honest in their use of the Shire of Augusta Margaret River's resources and shall not misuse them or permit their misuse (or the appearance of misuse) by any other person or

body;

- (b) Use the Shire of Augusta Margaret River's resources entrusted to them effectively and economically in the course of their duties;
- (c) Not use the Shire of Augusta Margaret River's resources, including the services of Shire employees, for private purposes unless properly authorised to do so, and appropriate payments are made as determined by the Chief Executive Officer in accordance with Council policy.
- (d) Will only claim or accept travelling and sustenance expenses arising out of travel related matters which have a direct bearing on the services, policies or business of the Shire of Augusta-Margaret River in accordance with Shire of Augusta Margaret River's policy and the provisions of the *Local Government Act 1995*.
- (e) Be mindful that staff resources at the Shire are limited due to the size of the Shire and the workloads imposed by providing services and administering the Shire, and refrain from imposing excessive workloads on busy staff.

#### 4.14. DRESS CODE FOR COUNCILLORS AND COMMITTEE MEMBERS

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

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

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

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

#### 4.16. ELECTION CANDIDATES

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

#### 4.17. DEALING WITH PROPONENTS

- (1) In this clause:

**“Proponent”** means a proponent of a Proposal and includes a person who represents the interests of a Proponent;

**“Proposal”** means:

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

- (2) This clause 4.17 applies where a proposal is, or is likely, to be considered by Council or a committee of Council.
- (3) A Councillor or committee member must:
  - (a) Indicate to the Proponent that the application will be considered on its merits without fear or favour based on relevant statutory planning considerations;
  - (b) Not make any statements or express any views to a Proponent or a person interested in a Proposal which purports to be on behalf of Council or the Shire;
  - (c) Avoid one on one meetings and site visits with Proponents without independent witnesses in favour of staff organised deputations to all Councillors and staff organised site visits;
  - (d) Be aware of the motives and interests of a Proponent and be aware of which person, organisation or company that the Proponent is representing;
  - (e) Not give any undertaking to a Proponent or any person interested in the Proposal;
  - (f) Not do or say anything which could be viewed as giving a Proponent preferential treatment;
  - (g) Ensure that persons interested in a Proposal are treated fairly and consistently;
  - (h) Be alert to attempts by Proponents and parties interested in a proposal to encourage members to consider matters which are extraneous or irrelevant to the merits of the decision under consideration.

## 5. ENFORCEMENT OF THIS CODE

### 5.1. REPORTING BREACHES AND SUSPECTED BREACHES OF THE CODE

- (a) A person may, if they become aware of any conduct by either a Councillor or committee member, which they reasonably believe involves a breach of this Code of Conduct, make written complaint to that effect to the President or the Chief Executive Officer.
- (b) A Councillor or committee member is also able to lodge a complaint on the required forms, concerning the conduct of a Councillor regarding a minor breach of the *LG (Rules of Conduct) Regulations 2007* to the CEO as the Council appointed Complaints Officer for forwarding to the Standards Panel as appointed by the Minister under the *Local Government Act 1995*.
- (c) All aspects of a report of a breach of this Code of Conduct must be kept strictly confidential by both the person making the report, the person in receipt of the report and the person about whom the complaint is made. Unless the matter is an allegation of serious misconduct covered under the *Corruption, Crime and Misconduct Act 2003*, the Standards Panel process is to be used as a guide and the person about whom the complaint is made is to be advised as to the content of the complaint as soon as possible and of the name of the person who has made the complaint.

### 5.2. DEALING WITH BREACHES

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

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

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

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

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

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

The Council and CEO in the case of a Councillor or committee member making a complaint and the CEO in the case of an employee making a complaint are to ensure that the Councillor, committee member or employee who reports an allegation of unacceptable or illegal behaviour of a Councillor or committee member (that is, a whistleblower) is not in any way disadvantaged or victimised because of their actions.

### 5.3 CORRUPTION, CRIME AND MISCONDUCT ACT 2003

Under the *Corruption, Crime and Misconduct Act 2003*, the CEO has a mandatory requirement to report suspected serious misconduct by Councillors and employees to the Corruption and Crime Commission and notify the Public Sector Commission of any suspected minor misconduct by employees.

A Councillor, employee or other person may report any reasonable suspicions of serious misconduct on the part of Councillors, or employees directly to the Corruption and Crime Commission, or minor misconduct on the part of employees directly to the Public Sector Commission.

### 5.4 PUBLIC INTEREST DISCLOSURE ACT 2003

The *Public Interest Disclosure Act 2003 (PID Act)* facilitates the reporting of improper or unlawful conduct relating to matters of public interest information. The *PID Act* provides protection and certain immunities for those who make a disclosure. Penalties will prevail if a person who makes a disclosure under the *PID Act*:

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

Public interest disclosures can be made to the Shire's Public Interest Disclosure Officer.

~~Councillors must be aware that the *Corruption, Crime and Misconduct Act 2003* provides for the mandatory reporting of reasonable suspicions of serious improper or corrupt conduct to the Commission. The CEO has a mandatory requirement to report to the Corruption and Crime Commission reasonable suspicion that serious misconduct is occurring.~~

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

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

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

## **Declaration by elected member of Council**

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

*Local Government Act 1995*

*Local Government (Constitution) Regulations 1998*

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

## **Declaration by elected member**

I \_\_\_\_\_ of \_\_\_\_\_

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

Declared at \_\_\_\_\_ on \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_

By \_\_\_\_\_

Before me: \_\_\_\_\_

## Document and version control table

<b>Strategic outcome</b>	Goal 5 Effective leadership and governance. 5.1.3 Ensure Councillors and employees demonstrate the importance of ethical behaviour and compliance with codes of conduct.	
<b>Responsible Directorate</b>	CEO	
<b>Authority of original issue</b>	Council	
<b>Date of original issue</b>	24 September 2014	
<b>Contact officer</b>	Governance Officer	
<b>Date of next review</b>	2021	
<b>Document No.</b>	N156930	
<b>Version</b>	<b>Date issued</b>	<b>Brief description</b>
1.0	24/9/2014	Reviewed and adopted Council
2.0	13/7/2018	Reviewed and adopted by Council – OM2018/133

## INTEGRITY AUDIT REMEDIAL ACTION PLAN

### Shire of Augusta-Margaret River

No.	Recommendation	Action	Completion Date	Shire's Comments on Status	Department's Comments
1	<p><u>RECOMMENDATION 1:</u></p> <p>That the Shire introduce procedures to improve its record keeping practices in regard to supporting greater transparency and accessibility to written records that clearly demonstrates the local government's compliance with its procurement policy and practices.</p>	<p>Tri-annual meetings to be held with procurement staff to reinforce the Shire's procurement requirements.</p> <p>The Finance Section conducts random monthly compliance checks to ensure that staff are following the required procurement record keeping processes.</p> <p>The Shire's Purchasing Policy to establish a panel of pre-qualified suppliers in accordance with regulation 24AB of the Functions and General Regulations.</p>	<p>9 &amp; 14 March and 9 August</p> <p>Monthly</p> <p>12 December OCM</p>	<p>Procurement training was held on 9 &amp; 14 March 2018 – all purchasers . Also 9 August 2018 –Specifically for Depot staff</p> <p>Monthly reviews of purchasing orders implemented</p> <p>Draft procedures being advertised internally for staff feedback</p>	
2	<p><u>RECOMMENDATION 2:</u></p> <p>That the Shire continue with its current practice of regular review of its policies.</p>	<p>The Shire continues to maintain a schedule and program for reviewing and updating policies.</p>	<p>Schedule of reviews to be compiled each financial year</p>	<p>Policy review items to be listed in Operational Plan</p>	
3	<p><u>RECOMMENDATION 3:</u></p> <p>That council withdraw the instrument of Delegation 1 "Administrative structure of the local government" as the delegation relates to a duty that only the council can exercise.</p>	<p>Council report to be authored by the CEO withdrawing delegation</p> <p>That Council receives an annual briefing and subsequent report on the organisational structure and any identified limitations to effective administration, as part of the annual budget consideration process.</p>	<p>12 September, 2018 OCM</p> <p>May – June 2019</p>	<p>This has been actioned through a report to the 12 September 2018 OCM with a Council resolution passed to withdraw Delegation 1.</p> <p>This will be included in the budget cycle for 2019-20</p>	



4	<p><u>RECOMMENDATION 4:</u></p> <p>That the Shire provide advice and support to relevant persons on the appropriate information to disclose in financial interest returns, and continues the current practice in reviewing delegations to ensure that returns are lodged by the appropriate employees.</p>	<p>Councillors and staff are encouraged to use the Disclosure of Interest forms provided to register written disclosures to the CEO prior to the relevant meetings</p> <p>To continue to provide Councillors and staff updated information for completing primary and annual returns including notification to use "refer to previous return" if there is no change from the previous year's return.</p> <p>That the CEO continues the current practice in reviewing delegations to ensure that the appropriate employees lodge returns.</p>	<p>24 October 2018</p> <p>June 2019</p>	<p>Forms to be placed on councillor tables in the Chamber as well as in pigeonholes. President to draw Crs attention to the forms when "Disclosures of Interest " item is discussed on agenda.</p> <p>Governance Officer will disseminate information on completing Annual Returns</p>	
5	<p><u>RECOMMENDATION 5:</u></p> <p>That the Shire continue to seek further training and to be updated on gifts, especially after the legislation has changed, from accredited bodies for elected members and staff in regard to gifts and financial interest using specific scenarios applicable to the Shire regarding gifts and matters concerning financial interest.</p>	<p>That the CEO seeks Ministerial exemptions for Councillors when considering the adoption of a policy on event sponsorship gifts or the purchase of tickets to facilitate attendance where there may be a potential financial interest involved.</p> <p>That the CEO develops a policy on the acceptance of gifts and the purchase of tickets for Council consideration taking into account the legislative changes proposed.</p> <p>Elected members and staff seek further training and updates, especially after the legislation has changed, from accredited bodies about gifts and financial interest using</p>	<p>25 July 2018 OCM</p> <p>12 December 2018 OCM</p> <p>2019</p>	<p>Ministerial exemption granted to consider report on events sponsorship</p> <p>Governance and Legal staff are currently developing policy</p> <p>Training will be identified in 2019 after the changes are adopted</p>	

		specific scenarios applicable to the Shire.			
6	<p><u>RECOMMENDATION 6:</u></p> <p>That the Shire reviews its Code of Conduct for elected members (councillors and committee members) to ensure that it includes all matters relevant to the conduct of elected members as prescribed in the Local Government Act 1995 and associated Regulations, including the matters described in the Public Sector Commission's "Guide to Developing a Code of Conduct".</p>	<p>That Council adopts the revised Code of Conduct for Councillors and Committee Members contained in the attachments with track changes on page 18 to include expanded information on the <i>Corruption, Crime and Misconduct Act 2003</i> and the <i>Public Interest Disclosures Act 2003</i>.</p>	24 October 2018	Currently in agenda for the 24 October OCM	
7	<p><u>RECOMMENDATION 7:</u></p> <p>That the CEO reviews the policy and procedures for the use of policy and procedures for the use of Shire's corporate credit cards to ensure that best practice alignment with proper audit standards and the recommended procedures contained in the Department's Use of Corporate Credit Cards Operational Guideline No.11.</p>	<p>That the CEO conducts a review of the policy and procedures for the use of Shire's corporate credit cards to ensure that best practice in accordance with proper audit standards is adopted and aligned with the recommended procedures contained in the Department's Use of Corporate Credit Cards Operational Guideline No.11.</p>	Before March 2019	<p>Agreements to be developed based on best practice examples from other Shires</p> <p>CEO Contract for incoming CEO to include a section on use of credit cards</p> <p>Gaps between Shire procedures and best practice identified to be remediated</p>	