



Governance

Corporate Governance Framework

October 2020

Version Control

Version	Date
Draft v1 – Working Document	24 September 2020
Submitted for Adoption	22 October 2020

Executive Summary

When the Shire of Dandaragan endorsed Envision 2029, our Strategic Community Plan it committed to providing an industry leading regional local government organisation promoting community confidence and support in the decision making process. An important aspect of this commitment is the establishment and adherence to a Corporate Governance Framework that supports transparent, participatory and statutory compliant decision making throughout the organisation.

This Corporate Governance Framework outlines how the Shire of Dandaragan will meet this commitment to a quality decision making process ensuring:

- 1) The Shire pursues and delivers a high standard of governance and decision making for the community.
- 2) Overall compliance of the Shire's decision making process with the Local Government Act 1995 and other applicable legislation.
- 3) Elected members are engaged in the development of strategy and policy from initiation to enactment.
- 4) Elected members are provided with accurate, relevant and timely information from the CEO to facilitate their decision making process.
- 5) Community members can participate in the decision making processes of the Shire of Dandaragan and access information which has informed the decision making process.

Contents

Executive Summary	2
Key Terms.....	4
Section 1: Introduction.....	5
Section 2: Roles and Responsibilities.....	7
Section 3: Strategic Planning	12
Section 4: Meeting Framework.....	13
Section 5: Matters Relating to Planning and Development	17
Section 6: Local Laws, Policy Manual & Delegations Manual.....	19
Section 7: Other Important Governance Matters	21
References	24

Key Terms

Act	The Local Government Act 1995
Administration	The operational arm of the Shire which includes the Employees and is headed by the CEO.
CEO	The Chief Executive Officer being the most senior officer in the Administration and who is directly accountable to the Council.
Community	The entire population of the District and as the context requires includes those who work in, or visit the District for recreational or similar reasons.
Council	The body constituting of all Elected Members sitting formally as a Council under the Act.
Councillor	An individual Elected Member of a local government.
Committee	A formal committee of the Council established under legislation.
Council Meeting	A formal meeting of Council conducted in accordance with the Act and applicable local law.
Corporate Business Plan	A four year plan (which is updated on an annual basis) that can be considered a contract with the Community detailing how the Shire will deliver on the commitments set out in the Strategic Community Plan.
Elected Member	An elected representative of the local government.
Employee	An employee of the local government including casual or contract employees.
Executive	The CEO and the Executive Managers.
Executive Manager	A senior position in the Administration directly responsible to the CEO and who are classified as "senior employees" in accordance with the Act.
Governance	Governance encompasses the system by which an organisation is controlled and operates, and the mechanism by which it, and its people, are held to account. Ethics, risk management, compliance and administration are all elements of governance.
Shire	The Shire of Dandaragan, including the Council and the Administration
Shire President	A Councillor elected by their fellow Councillors to hold the position as the elected leader of the local government for a term as specified by the Act.
Strategic Community Plan	An overarching plan that provides direction for all activities that guides the development and provision of the Shire's projects, services and programs over a ten year period.

Section 1: Introduction

What is Good Governance?

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

It is defined by the following principles:

Good governance is accountable

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

Good governance is transparent and open

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

Good governance follows the rule of law

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

Good governance is responsive

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

Good governance is equitable and inclusive

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

Good governance is effective, efficient and sustainable

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

Good governance is participatory

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

Section 2: Roles and Responsibilities

Roles

The general function of local government as prescribed in the Act is 'to provide for the good government of persons in its district'. This general function in conjunction with other expressed powers set out in the Act is the basis of the Shire's powers. The Act sets out a framework for the way in which local governments are to operate and also specifies the roles and responsibilities that are to be undertaken by various parties within a local government.

An understanding and acceptance of the different roles of Shire President, Councillors and employees, with cooperation between all parties, underpins good governance at the Shire. The relationship between Elected Members and the CEO respects the diversity of opinion and the rights of all points of view to be heard with courtesy and respect.

Specific roles are given to the Council, the Shire President, Councillors and the CEO in the Act.

The role of Council

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

Legislative:

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

Executive:

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

Quasi-judicial:

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

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

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

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

Governs the Shire's affairs:

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

Is responsible for the performance of the Shire's functions:

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

Oversees the allocation of the Shire's finances and resources:

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

Determines the Shire's policies:

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

The Role of Shire President

The Shire President has a general leadership role for Council and is the Shire's civic leader. The Act recognises the role of the Shire President, as the spokesperson for the Shire, to carry out civic and ceremonial functions of the Shire President's office, and to preside at meetings of Council. The Shire places great importance on the role of the Shire President as the Presiding Member of Council to facilitate good decision-making.

The Shire President's leadership role is very important when it comes to good governance. The Shire President is to ensure that all Councillors are a part of the decision-making process and are well and equally informed. The Shire President must also assist Councillors to understand the need to represent the interests of the entire community, not just their own locality's constituents.

The Shire President should also facilitate good relationships between the Councillors and the organisation and help to create an environment where good communication thrives.

The Role of Councillors

Elected Members are to focus on outcomes, policy and strategy, and in so doing, are expected to:

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

The Role of CEO

The Act recognises the CEO's role in managing the organisation to achieve the goals and strategies endorsed by Council, and the CEO is expected to fulfil these duties in a way that promotes an organisational culture of openness, accountability, fairness and good communication. Section 5.42 of the Act details the CEO's functions as follows:

- a) Advise the Council in relation to the functions of the Shire of Dandaragan under the Act and other written laws;
- b) Ensure that advice and information is available to the Council so that informed decisions can be made;
- c) Cause Council decisions to be implemented;
- d) Manage the day to day operations of the Shire of Dandaragan;
- e) Liaise with the Shire President on the Shire of Dandaragan's affairs and the performance of the Shire's functions;
- f) Speak on behalf of the Shire if the Shire President agrees;
- g) Be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to Section 5.37 (2) in relation to senior employees);
- h) Ensure that records and documents of the Shire of Dandaragan are properly kept for the purposes of the Act, or any other written law; and
- i) Perform any other function specified or delegated by the Shire of Dandaragan or imposed under the Act or any other written law as a function to be performed by the Chief Executive Officer

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

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

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

- a) Providing policy advice to Council
- b) Implementing strategies, policies and decisions of Council
- c) Managing the operations of the Shire
- d) Maintaining the integrity of systems and processes required to ensure that Shire's accountability and compliance obligations are met
- e) Appointing and managing the activities of the Shire's staff.

This clear separation of Councillor and Chief Executive Officer roles and responsibilities as identified within the Act reinforces good governance principles. It also provides the basis for the Shire to adhere to all statutory requirements whilst meeting the expectations of its community. However, it is also important for all parties to recognise and agree that maintenance of a close, effective and cooperative relationship between Councillors, the Chief Executive Officer and staff will be critical to the achievement of key goals and objectives.

It is a requirement that initial staff contact by Councillors on any matter is made through the Chief Executive Officer, Executive Manager or another person nominated by the CEO. A schedule of staff members, who the CEO has identified as being suitable to be contacted is available to members. Should a member wish to contact any other member of staff directly, a request shall first be made to the Chief Executive Officer or relevant Executive Manager, who will assess the request.

The Role of Employees

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

- Corporate and Community Services

- Infrastructure Services
- Development and Community Services.

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

While on duty employees are to give their time and attention to the Shire's business and ensure their work is carried out efficiently and effectively, so the standard of work reflects favourably on them and the Shire.

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

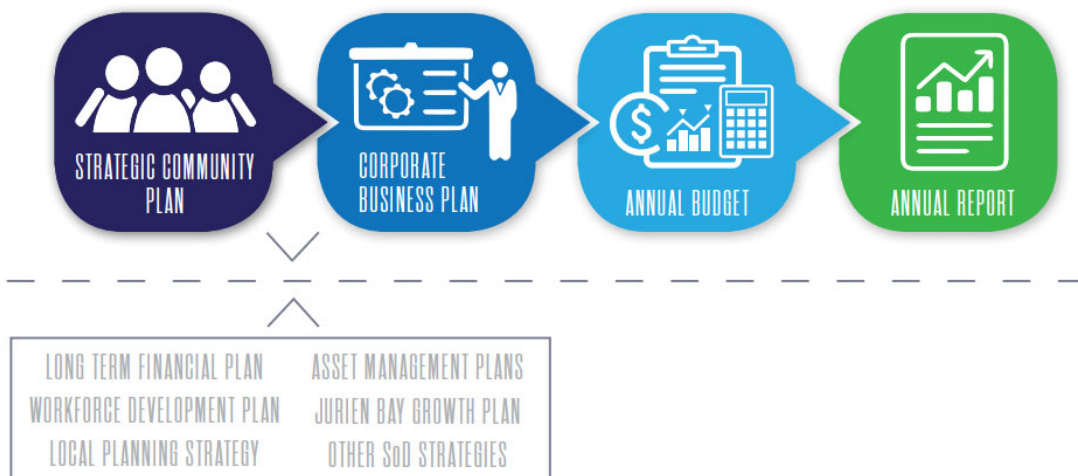
- a) they reflect the positive values and standards of behaviour the Shire expects
- b) their duties are performed and conducted in a professional way
- c) information is managed and maintained appropriately and records are kept of their duties, decisions and work related activities
- d) resources of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

Section 3: Strategic Planning

The Shire is required by the Act to plan for the future of the district and is also required to have a Town Planning Scheme under the Planning and Development Act. Supporting regulations outline a suite of strategic planning documents which formulate the Integrated Planning Framework. These detailed strategies and plans help us work effectively for and with the communities and businesses within the Shire to meet the needs and expectations of our residents and ratepayers and administer the Shire’s affairs.

Good governance requires accountable and sustainable strategic planning, and robust and transparent financial management, particularly concerning the stewardship of community assets.

The following infographic provides an overview of the range of strategic planning documents used to guide the Shire’s decision making.



Section 4: Meeting Framework

Ordinary Council Meetings

Ordinary Council Meetings shall generally be conducted in the Council Chamber on the fourth Thursday of each month, except in December where the meeting will be held on Thursday of the week before Christmas. Ordinary Council meetings commence at 4pm.

At least one Ordinary Council Meeting each year will be held in the Badgingarra, Cervantes and Dandaragan townsites as determined by Council when setting the annual meeting schedule in November.

Agendas will be provided to Councillors no later than 5:00pm on the Friday immediately preceding the meeting. The agenda will be posted online and delivered to Shire Libraries no later than 5:00pm on the Monday immediately preceding the meeting.

Special Council Meetings

Special Council Meetings shall be conducted in the Council Chamber.

Agendas for Special Council meetings shall be made available to Councillors as soon as practicable after the CEO has convened the meeting. The agenda will be posted online and delivered to Shire Libraries as soon as practicable after the CEO has convened the meeting.

Agenda Briefing Sessions

Agenda Briefing Sessions shall be conducted on the Monday immediately preceding the Ordinary Council meeting. Councillors will have the option of participating either within the Council Meeting Room or via the Shire's videoconferencing platform.

Agenda Briefing Sessions provide Councillors with the opportunity to ask questions and seek additional information with respect to each item listed for business on the Ordinary Council Meeting agenda. No debate of items or decisions are to occur during an Agenda Briefing Session.

Agenda Briefing Sessions are not official meetings of Council however they are to be chaired by the Shire President. They are also open to members of the public with the exception of confidential items.

With prior approval of the Chief Executive Officer a member of the public may make a presentation on matters contained within the Ordinary Council Meeting Agenda at an agenda briefing session. Members of the public may also ask questions at an Agenda Briefing Session under the same format as provided for at an Ordinary Council Meeting.

Councillors should disclose any declarations of interest in agenda items being discussed and manage these interests in the same format as an Ordinary Council Meeting.

Officer Recommendations and Council Motions

Following the release of the Council Meeting Agenda, new information may emerge or circumstances may warrant the original officer's recommendation to be amended. This process will be managed by the Chief Executive Officer and released to Elected Members as soon as practicable with justification for any revisions. The revised officer recommendation will be updated in any electronic versions of the Council agenda as soon as practicable.

Elected Member Alternate Motions

An Elected Member may present an alternate motion which may materially change the intent of the officer's recommendation. This is a legitimate and valuable function of the democratic decision making process. Elected Members should wherever possible submit alternate motions to the Chief Executive Officer as soon as practicable to ensure the implications of the new proposal are researched and communicated to Council. Councillors should have alternate motions submitted by 12pm on the Tuesday prior to the Council meeting

Information Bulletin

An information bulletin is to be included in each Ordinary Council Meeting agenda. The information bulletin will contain:

- 1) Council Decisions Status Report
- 2) Infrastructure Services Report
- 3) Building Statistics
- 4) Planning Statistics
- 5) Tourist Centre / Library Report
- 6) Correspondence addressed to Council of a Strategic nature as determined by the CEO or Shire President.

Strategy Development Sessions / Council Forums

The Shire may conduct forums with a range of purposes and regularity including from a once-only event to discuss and explore a particular issue to a number of sessions to address matters such as a specific project or the compilation of a report for internal or external use, through to forums held at regular intervals with a consistent structure and objectives. The Department of Local Government and Communities has released Operational Guideline Number 05 – Council Forums, which provides guidance to these meetings.

Council forums are generally held behind closed doors in the Council Meeting Room in a more informal manner than public Council meetings and are chaired by the Shire

President. These meetings provide the opportunity for Councillors and the Shire's management team to explore opportunities, options and scenarios to inform an issue that will be later presented to Council via the formal decision making process. Staff will utilise feedback and information presented through Council Forums to formulate their reports or plans for formal Council decision.

It is appropriate for Councillors to express opinions on topics being discussed however debate, collective decision making and revealing voting intentions is not appropriate as this compromises the transparency of the decision making process.

Councillors should disclose any declarations of interest in Council Forum items being discussed and manage these interests in the same format as an Ordinary Council Meeting.

Councillor Discussion Sessions

Councillor Discussion Sessions shall be conducted on the day of Ordinary Council Meetings in the Council meeting room. Councillor Discussion Sessions are generally held behind closed doors in the Council Meeting Room in a more informal manner than public Council meetings and are chaired by the Shire President. The intent of these sessions between elected members is to disseminate information stemming from sources such as Community Meetings or correspondence from the public.

Generally matters discussed during these sessions do not require a decision of Council however the Chief Executive Officer will be present to record and follow up on matters of an operational nature. Any requests which require a formal decision of Council will be brought back to Council via the formal decision making process.

It is appropriate for Councillors to express opinions on topics being discussed however debate, collective decision making and revealing voting intentions is not appropriate as this compromises the transparency of the decision making process.

Councillors should disclose any declarations of interest in Council Forum items being discussed and manage these interests in the same format as an Ordinary Council Meeting.

Advisory Committees & Working Groups

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

While not formally established under legislation, working groups and reference groups provide an opportunity for the Shire to obtain the views of community representatives as well as enabling networking opportunities for Elected Members with a wide range of representatives on issues of common interest. The opportunity to obtain such views assists Elected Members and Council to address strategic issues and priorities.

Working groups and reference groups make recommendations to the Shire, who in turn detail those recommendations and comments within the formal report to Council or a committee on a particular issue or topic.

Section 5: Matters Relating to Planning and Development

The discretion available to Council when making decisions under the Local Government Act 1995 is not always available when making decisions under town planning legislation. When Council is dealing with town planning matters, it does so under the powers conferred by the State planning legislation. Council assumes the role of a planning authority (ie Western Australian Planning Commission) and an elected member the role of a planning commissioner.

When a Council considers a development or planning application, it undertakes a quasi-judicial role. It is required to consider the information the applicant has provided and test it against the provisions of the Town Planning Scheme and any other relevant planning instruments or policies. It is guided in its consideration by the professional advice of its technical officers. Council is not only constrained by the conditions of its Town Planning Scheme but also by the relevant State Acts. While it is recognised that councils are composed of members of the community, they must exercise their discretion over planning matters in a way that is mindful of this quasi-judicial role.

Council is provided with the professional advice from specialist planning officers in exercising its role in relation to each of these matters. This advice will provide Members with detailed information relating to the particular Town Planning issue requiring Council consideration. In certain circumstances applicants have rights of appeal to challenge a planning related decision of the Council. It is therefore important for Members to gain a full understanding of the issues and follow proper process before reaching a decision

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

- a) Councillors must read the officer's report on the matter before voting at a council meeting. A Councillor who has not read the officer's report and then participates in the decision making process without a full understanding of the issues at hand, may jeopardise the validity of the decision making process.
- b) Councillors must ensure that when they debate a planning matter under consideration that they restrict themselves to the relevant matters of fact and law. These relevant matters will be contained and addressed in the officer's report. Where Council conducts a debate on a matter that is based on irrelevant considerations, or fails to take into account relevant considerations, this may jeopardise the decision making process.
- c) If Council resolves a planning matter contrary to the recommendation made by its technical officers, then the reason for resolving differently must be recorded in the resolution. The reasons must be based upon valid planning considerations.
- d) Council has a responsibility to ensure neighbours who may be significantly adversely affected by the development have had an appropriate opportunity to be heard on the development proposal. The officer report will include details of any neighbour notification or consultation that has occurred. Council must ensure that neighbours that may be adversely affected by a proposed

development have had an adequate opportunity to put their case, and that any relevant matters that they raise have been considered in the decision making process. An opportunity to make a written submission is generally significant, though an opportunity to make a submission in person to a relevant meeting may be appropriate, where it is requested by a person with a significant interest. Any submission must be made on the basis of town planning principles. Council has the role of testing submissions, whether made by the applicant or another party, and the applicant must be given the right of reply.

Decision-making in town planning matters requires the decision-maker to maintain a high degree of independence from the process leading up to the decision being made. The elected member needs to be in a position of being able to make his or her decision after taking into account the relevant and material facts and circumstances as presented to all fellow elected members.

Elected members need to be wary of involvement in the lead-up process to a certain decision, especially as a sole agent or member of a small group and being subjected to information from the developer or parties associated with the developer. This may be interpreted as reducing the independence of the decision-maker. Council may have a Council Forum relating to complex development issues and these are important in terms of the elected members becoming fully informed on the matter on which they have to vote.

The nature of the decision means that any Council Forum involving planning matters should maintain the integrity of the independent decision making process. There should be no implication of debate between elected members; any sessions should primarily involve information being given by the relevant officer and other parties with questions from the floor directed through the chair. In cases where an elected member has relevant information on a development matter to be conveyed to the meeting, it must be done through the chair so that all decision makers are privy to that information.

Council is supportive of applicants making presentations to Council to provide relevant information and facts in support of their development. A request to present to Council is to be directed through the Chief Executive Officer or depending on the complexity of the application, staff may invite the applicant to present on the matter at hand. Presentations will generally be scheduled prior to an Agenda Briefing Session or early in the development approval process before the application features on the Council agenda.

Section 6: Local Laws, Policy Manual & Delegations Manual

The Shire has adopted a number of local laws, policies, delegations and management practices to guide the administration in the conduct of the Shire's operations.

The policy and delegation regimes are key components of the Shire's governance framework.

Local Laws

The Local Government Act 1995 outlines the process by which the Shire may adopt local laws. This legislative role allows the Shire to adopt local laws that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws.

When adopting local laws Council must be aware that they operate with the force of legislation which the Shire has an obligation to enforce.

When a local law is proposed, the community has an opportunity to submit comments. After the purpose and effect of a local law is read out at a Council meeting, there is a six-week advertising and submission period. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local law is then considered by the Western Australian Parliamentary Committee on Delegated Legislation and listed in the Government Gazette.

Local laws must also comply with the National Competition Policy principles adopted by agreement between local, state and federal governments.

Local Laws must be reviewed every eight years under the Local Government Act 1995. The Shire undertook a comprehensive review of its suite of local laws in 2019.

The Shire maintains the following local laws:

1. Shire of Dandaragan Waste Local Law 2019
2. Shire of Dandaragan Local Government (Council Meetings) Local Law 2019
3. Shire of Dandaragan Site Erosion and Sand Drift Prevention Local Law 2019
4. Shire of Dandaragan Pest Plant Local Law 2019
5. Shire of Dandaragan Dogs Local Law 2019
6. Shire of Dandaragan General Amendment Local Law 2019

Policy Manual

Policies provide the administration with guidance for the implementation of processes. These policies focus on setting standards in compliance with legislation, adopting values or guiding processes. The Shire publishes an up to date Policy Manual on the Shire website.

They have been drafted broadly, to encourage innovation by the administration, in the development of practices and processes to implement the policies.

Management procedures and processes are descriptive of the functions and tasks that are required to achieve each policy objective. Management procedures are developed by the Executive Management Team and approved by the Chief Executive Officer before being presented to Council and must be consistent with its related policy. Council will be advised of any material changes to management procedures. Management procedures are published with their corresponding Council Policy.

Delegations

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

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

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

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

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

Section 7: Other Important Governance Matters

Protection from liability

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

In a Council meeting, an Elected Member fulfils a public duty and is therefore given limited legal protection. However, unlike Members of Parliament, an Elected Member's privilege is qualified. This means that protection is only provided as long as the statements are made in good faith. Statements made with malice or made recklessly are not protected by qualified privilege. Statements made by Elected Members outside Council and Committee meetings are unlikely to attract qualified privilege.

Regulation 7 of the Rules of Conduct also states that an Elected Member must not make improper use of their office as an Elected Member to cause detriment to the local government of any other person. This provision has relevance to what an Elected Member can say whilst performing in their role as an Elected Member.

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

Confidentiality

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

The *Code of Conduct* also states the following in relation to disclosure of confidential information: "*Elected Members, Committee Members and employees must not disclose to another person, written or oral information that is provided to them, or obtained by them, in confidence, or derived from a confidential document, or acquired at a closed Council meeting or committee meeting.*"

This is in addition to provisions in the Act concerning confidentiality and to the Rules of Conduct discussed above.

Ethical standards of behaviour

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

The Act requires that every local government prepare or adopt a Code of Conduct to set out the standards of behaviour expected to be observed by Elected Members, committee members and employees. The Shire's Code of Conduct outlines the principles, values and behaviours expected of all Elected Members, committee members and employees. It is not intended to control or prohibit the actions of Elected Members, committee members or employees, but simply to document the standards of conduct expected of all who serve the community.

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

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

The Local Government (Rules of Conduct) Regulations 2007 (Rules of Conduct) provide a disciplinary framework to deal with individual misconduct by Elected Members. The Rules of Conduct provide a mechanism to take action against individual Elected Members where they do not comply with the 'rules' or they contravene particular laws applying to them in legislation.

The Rules of Conduct prescribe uniform rules of conduct for Elected Members in relation to:

- standards of general behaviour
- use of confidential information
- securing personal advantage or advantaging/
disadvantaging others
- misuse of local government resources
- prohibition against involvement with the organisation
- relations with employees
- disclosing interests that may affect impartiality
- receipt and disclosure of gifts of a prescribed value.

The Rules of Conduct do not limit the provisions within the Shire's Code of Conduct, however, the Rules of Conduct, the Regulations as well as the Shire's local law relating to meeting procedures are enforceable and disciplinary action can be taken for any breach.

Acceptance of gifts

The Shire's Code of Conduct and the Rules of Conduct contain provisions in respect of Elected Members, employees and committee members seeking and/or accepting

certain types of gifts and gifts of a certain value while performing in their respective roles.

Both the Code of Conduct and the Rules of Conduct detail the disclosure requirements for gifts accepted in a full and transparent manner. Elected Members and employees cannot accept gifts valued at \$300 or more from any person that is undertaking, seeking or likely to undertake, an activity involving the Shire's discretion.

The Act also requires Elected Members and "designated employees" (that is employees with delegated authority) to disclose other type of gifts and contributions to travel received over a certain value.

All disclosures must be made to the CEO in a prompt and full manner and in writing within the appropriate register. These registers are made available for public inspection.

Declarations of interest

One important aspect of the Shire's decision-making responsibilities is how conflicts of interests are identified, recorded and treated throughout the organisation.

It is not only important to ensure that real or potential conflicts of interests are handled appropriately, but also perceived conflicts of interests. Interests can be categorised as being:

- financial interests
- proximity interests
- interests that may affect impartiality.

The Department has released comprehensive guidance on disclosures of interest in the following Local Government Operational Guidelines:

- Declaring Financial Interests in Meetings
- Disclosure of gifts and disclosure of interests relating to gifts
- Disclosure of interests affecting impartiality

Having an interest in a decision or matter may preclude a Councillor or employee in participating in the decision making process.

Key Reference Sources

The following documents have been used in the development of the Corporate Governance Framework for the Shire of Dandaragan.

City of Wanneroo – Corporate Governance Framework:

https://www.wanneroo.wa.gov.au/info/20003/council/359/corporate_governance_framework#:~:text=The%20City%20of%20Wanneroo%20has,organisational%20governance%20for%20the%20City

Development Assessment Panel Practice Notes: Making Good Planning Decisions:

<https://www.dplh.wa.gov.au/getmedia/475ca92d-87a9-45b9-9313-efe3684f6f70/Making-Good-Planning-Decisions#:~:text=DAPs%20are%20panels%20comprising%20a,the%20relevant%20decision%20making%20authority>

Local Government Act & Subsidiary Legislation:

https://www.legislation.wa.gov.au/legislation/statutes.nsf/law_a465.html

Local Government Operational Guidelines:

<https://www.dlgsc.wa.gov.au/local-government/local-governments/support-and-advice/local-government-operational-guidelines>

Shire of Dandaragan Local Government (Council Meetings) Local Law 2019:

https://www.dandaragan.wa.gov.au/Profiles/dandaragan/Assets/ClientData/Documents/Local_laws_2019/Final_LG_Council_Meetings_Local_Law_2019_as_gazetted.pdf

Shire of Dandaragan Code of Conduct:

<https://infoxpert.edrms/docs/User%20Workspace/Council%20Secretary%20and%20Records%20Officer/Newly%20Elected%20Councillor%20Documents/Newly%20Elected%20Councillor%20Documents%202019/03%20%2020190417%20SoD%20Code%20of%20Conduct.pdf>