



COUNCIL POLICY 2018

ADOPTED – 16 MAY 2018

AMENDMENTS TO – 19 DECEMBER 2018

NOTE – While the Policies in this Policy Manual are in force, the document is in development. As matters from the old Policy Manual are reviewed by Council, they will be brought into this document in the new format.

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Section 1 - Council / Governance

1.1 Code of Conduct

OBJECTIVE

To provide guidance and management the conduct of elected members, committee members and employees, including consultants and contractors.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.94 – public inspection of Code of Conduct
- s.5.103 – requirement to prepare a code of conduct for council members, committee members and employees

Local Government (Administration) Regulations 1996 –

- r.34B – required matters about gifts to employees
- r.34C – required matters about interest affecting impartiality

Local Government (Rules of Conduct) Regulations 2007 –

- r.12 – gifts to elected members
- r.21 – gifts that can be accepted
- Part 9 – Codes of Conduct

CORPORATE CONTEXT

None

POLICY STATEMENT

1. The following Council Policy Schedules are adopted, and form part of this Statement –
 - a) Sch. 1.1– Code of Conduct.

APPLICATION

2. The Code of Conduct applies to –
 - a) Elected members, insofar as it is not contradicted by the Local Government Act or Rules of Conduct Regulations 2007,
 - b) members of a committee established by Council,
 - c) all employees.

HISTORY

Former policy	Division 12
Adopted	16 May 2018

NOTES

The Code of Conduct should also apply to contractors and suppliers, if stipulated in the contract / tender / engagement of the contractor.

The code of conduct required by the Local Government (Elections) Regulations r.8 is separate to Schedule 1.1, and is therefore binding on elected members.

Policy Schedule 1.1 – Code of Conduct

A local government, in accordance with Section 5.103(1) of the *Local Government Act 1995*, is required to adopt a Code of Conduct to be observed by Council members, Committee members and employees. The Code of Conduct is to contain matters as prescribed by Regulations and can also make further provision for expectations of Council members, Committee members and employees.

The Code of Conduct is a statement of guidance for Council members that is supplementary to the enforceable rules in the *Local Government (Rules of Conduct) Regulations 2007*. It is also a statement of guidance and specific requirements to be observed by Committee members and employees of the Shire.

The Code of Conduct is to apply, insofar as it is applicable to each type of person, to every Council member, Committee member and employee of the Shire. Any provision in this Code of Conduct is of effect only to the extent that it is not inconsistent with the Act and Regulations, and any other statutory power.

This Code of Conduct does not seek to replicate the role of or requirements for Council members, Committee members or employees contained in other legislation, including but not limited to the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007*. The Guiding Statements of Responsibility section of the Code requires individuals to be aware of their obligations.

Definitions

Committee member means any member appointed to a Committee constituted by Council in accordance with the *Local Government Act 1995* s.5.8 and s.5.10, whether a Council member or not,

Council member means any person who is an elected member of Council,

employee means any person who is employed by the Shire. For the purposes of the sections of the Code of Conduct in relation to employees' disclosure of interests, this shall include a person who under a contract for services with the local government will provide advice or a report on a matter.

1. Obligation to observe

Council members

The obligation to observe a Code of Conduct for Council members arises from the *Local Government Act 1995* s.5.103 and a declaration that they have made to observe that code or the Rules of Conduct Regulations, upon election to the Council at a swearing in ceremony before a Justice of the Peace or a person authorised by the *Oaths, Affidavits and Statutory Declarations Act 2005* to take statutory declarations.

Further to that, aspects of the Code of Conduct are also linked to the *Local Government Act 1995* and associated Rules of Conduct Regulations which are enforceable in their own right.

Committee members

The obligation for Committee members (that are not also Council members) to observe a Code of Conduct arises from the requirement in the *Local Government Act 1995* s.5.103.

Committee members are appointed to their positions by the Council in accordance with the Act s.5.10 and can also be removed from the office by the local government in accordance with the Act s.5.11(2)(b).

Employees

The obligation for employees to observe a Code of Conduct arises from –

- the *Local Government Act 1995* s.5.103,
- the *Local Government (Administration) Regulations 1996* r. 34B and 34C, and
- the terms and conditions of their employment with the Shire.

The observance of Council policies is a key responsibility of any employee and any breach of those responsibilities could incur disciplinary action, including termination, via the management framework established in accordance with the CEO's responsibilities under Section 5.41(g) of the *Local Government Act 1995*.

Breach of certain provisions

Where a requirement in the Code of Conduct is prescribed in an Act or Regulations, any alleged breach may be investigated by another statutory body, including but not limited to –

- Department of Local Government and Communities, and
- Corruption and Crime Commission.

2. Guiding statements of responsibility

Principles

- a) In acting in the capacity of a Council member, Committee member or employee of the Shire, all persons shall observe the principles outlined in regulation 3 of the *Local Government (Rules of Conduct) Regulations 2007*. Specifically, any person acting in that capacity shall –
- Act with care and diligence;
 - Act with honesty and integrity;
 - Act lawfully;
 - Avoid damage to the reputation of the local government;
 - Be open and accountable;
 - Base decisions on relevant and factually correct information;
 - Treat others with respect and fairness;
 - Not be impaired by mind affecting substances.
- b) Additionally, all Council members, Committee members and employees shall –
- Provide relevant and factually correct information to decision-makers;
 - Fulfil their public and professional duties in a manner that is ethical, impartial, objective, responsible and in the best interests of the local government uninfluenced by fear or favour;
 - Act in accordance with their obligation of fidelity to the local government;
 - Not use or attempt to use their positions for personal benefit or the personal benefit of others, either by influencing others, the improper use of information gained in the performance of their duties, or otherwise;
 - Contribute to the good governance and strategic priorities of the Shire in accordance with the adopted vision, values, plans and budget as amended by Council from time to time ;
 - Understand and be mindful of their role, responsibilities, empowerment and limitations and act within those parameters
 - *Local Government Act 1995* Sections 2.7, 2.8, 2.9, 2.10, 5.41, part 5 division 9 and generally;
 - *Local Government (Rules of Conduct) Regulations 2007*;
 - *Local Government (Administration) Regulations 1996* regulations 34B and 34C;
 - Committee Terms of Reference;
 - Employee Position Descriptions;
 - Delegations Register et al.
 - Refrain from making allegations which are improper or derogatory, unless true, in the public interest and in an appropriate forum;
 - 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.

Achievement of priorities

The local government framework of: the Council, the staff body and any Committees that the Council resolves to constitute; is established to ensure the Council's corporate goals are achieved, its strategies are implemented and its statutory obligations met. The achievement of these requirements, in accordance with adopted plans and strategies, requires teamwork, cooperation and respect for the unique role of each component of that framework.

3. Matters of conduct

General – Applicable to Council members, Committee members and Employees

- a) Lawful actions -

It is the responsibility of all Council members, Committee members and employees to act in a manner that is lawful and in accordance with the Acts, Regulations, codes and other policies and procedures that are relevant to their particular position.

Any omission of a specific requirement from this Code of Conduct does not negate a person's responsibility to observe and comply with provisions that are applicable to their position.

b) Compliance with orders and policies

i) Council members, Committee members and employees will comply with any lawful and reasonable order given by any person having authority to make or give such an order.

Any doubts as to the propriety of any such order shall be taken up with the superior of the person who gave the order and, if resolution cannot be achieved, with the CEO.

ii) Council members, Committee members and employees will give effect to the lawful policies of the local government and/or have due regard for the lawful policies of the local government in decision making, whether or not they agree with or approve of them.

c) Conflicts of interest

An important consideration for any Council member, Committee member or employee is to ensure that there is no actual (or perceived) conflict of interest between their personal interests and the impartial fulfilment of their statutory or contracted civic or professional duties –

i) Any Council member, Committee member or employee intending to undertake a dealing in land within the local government area that involves an application for planning consent or subdivision approval, or which may otherwise be in conflict with the Shire's functions, shall provide written notice of this intention to the CEO. The notice shall be provided as soon as practicable in all circumstances, but where an application is to be lodged with the local government or another statutory body for approval, then within 7 days of the lodgement of that application. This requirement does not extend to the purchase of the principal place of residence.

ii) Where a relative (refer definition in section 3.2.4.2 of this code) of a Council member, Committee member or employee with that person's knowledge is intending to undertake a dealing in land within the local government area that involves an application for planning consent or subdivision approval, or which may otherwise be in conflict with the Shire's functions, written notice shall also be provided in accordance with section 3.2.1.3 (a).

iii) Where it is the CEO or a relative of the CEO intending to undertake a dealing in land in accordance with this section, the written notification required is to be provided to the President.

iv) When an application is made by a Council member, Committee member, employee or a relative of any of those persons, the Council member, Committee member or employee has no greater or lesser rights than those of any other member of the public in relation to access to information and access to Shire officers. Council members, Committee members and employees shall observe the requirements of seeking information through the usual local government process for a member of the public and booking appointments in their own time to meet with officers of the Shire.

v) In receiving a written notice on a matter where a local government decision is required, the CEO or the President as the case may be, shall consult with the most senior officer having responsibility for planning matters who is not otherwise the dealing in land as to the requirement or otherwise of an assessment of the application by a suitably qualified independent person and as to the appropriateness of determining the application under delegation or referring it to Council for a decision.

Nothing in this section negates or replaces the disclosure requirements of any person in accordance with –

- Division 6 of the *Local Government Act 1995* Disclosure of Financial Interests;
- Regulation 11 of the *Local Government (Rules of Conduct) Regulations 2007* Disclosure of Interest or
- any other disclosure requirements in this code.

It is not the intention of this requirement to disadvantage any person due to their election to office or their employment. The requirement is to ensure there is minimum potential for perceptions of or actual undue influence, advantage or disadvantage for a Council member, Committee member or an employee.

d) Gifts

activity involving a local government discretion means any activity that cannot be undertaken without an authorisation from the local government or by way of a commercial dealing with the Shire.

gift means any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration

is not fully adequate, but does not include any financial or other contribution to travel (in that specific requirements for contributions to travel are covered in Section 5.83 of the *Local Government Act 1995*). This definition excludes –

- A gift from a relative;
- A gift that must be disclosed in accordance with *Local Government (Elections) Regulations 1997 reg. 30B*;
- A gift from a statutory authority, government instrumentality or non-profit organisation for professional training,
- Other exclusions as defined by the Act or Regulations.

notifiable gift in relation to an employee means –

- a gift given to the employee that is worth between the relevant minimum threshold and \$300, or
- 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 between the relevant minimum threshold and \$300.

prohibited gift - A gift worth \$300 or more or a gift that is one of 2 or more gifts given to the employee by the same person within a period of six months that are in total worth \$300 or more.

relative - a parent, grandparent, brother, sister, uncle, aunt, nephew, niece or lineal descendent of the person or of the person's spouse or de facto partner, the person's spouse or de facto partner or the spouse or de facto partner of the other specified relatives, whether or not the relationship is traced through, or to, a person whose parents were not actually married to each other at the time of the person's birth or subsequently, and whether the relationship is a natural relationship or a relationship established by written law.

token gift is not defined in the Acts or Regulations, and for the purposes of this Code of Conduct is taken to mean a gift or multiple gifts that are less than the minimum **notifiable gift** threshold.

<i>Donor / Giver of gift</i>	<i>token gift</i>	<i>notifiable gift</i>	<i>prohibited gift</i>
IS or is likely to be undertaking an activity involving a local government discretion	Less than \$50	Between \$50 and \$300	More than \$300
Is NOT undertaking an activity involving a local government discretion	Less than \$200	Between \$200 and \$300	
Exclusions from requirement to notify	n/a	<ul style="list-style-type: none"> - donor is a relative; - through a will; - contribution to travel. - from Commonwealth, State or LG funds; - donor a relative; - ordinary course of occupation unrelated to duties as elected member or employee; - from a political party where person a member and travelling for political activity or to represent the party. - a gift that must be disclosed under <i>Elections Regs</i> r.30B; or - a gift from a statutory authority, government instrumentality or non-profit association for professional training. 	
Disclosure requirements	None	To be notified to CEO within 10 days, and Declared in Annual Return	N/a

- i) The notification of the acceptance of a notifiable gift is required to be in writing and include details of –
 - The name of the person who gave the gift;
 - The date on which the gift was accepted;
 - A description and the estimated value of the gift;
 - The nature of the relationship between the employee and the person who gave the gift.
- ii) If the gift is notifiable being one of 2 or more gifts given to the employee by the same person within a period of 6 months that have a cumulative value above the notifiable threshold, then regardless of the value of each individual gifts, the notification is required to include, in relation to all gifts accepted within the 6 month period from that person –

- A description;
 - The estimated value;
 - The date of acceptance.
- iii) The CEO is to maintain a register of notifiable gifts and record in it the details of notifications given to comply with a requirement under this section.
- iv) The CEO is to record details of the gift on the Shire's website.

4. Specific Directions

The following sections of the Code of Conduct will address specific matters of conduct and, as necessary, provide specific direction on actions that must be taken when and as a matter arises by a person acting in a specific role.

Council members

Specific rules for Council members are defined in part 2 of the *Local Government (Rules of Conduct) Regulations 2007*.

Further to that, Council members are to recognise their role as distinguished from that served by employees of the Shire, and the Council (ie in its convened state).

Council members when interacting with employees of the Shire in their capacity as a Council member shall observe the protocol of making requests for information and discussing the business of the Council with the relevant senior employee and/or the identified responding officer during any organised briefing session for a matter before the Council for consideration. The liaison between individual Council member and individual employee on matters of local government business shall be conducted in a respectful, courteous and honest manner.

Committee members

a) Disclosure of interest

The disclosure of any interest that could, or could reasonably be perceived to, affect the impartiality of a Committee member carrying out their role shall be made, insofar as the provisions can relate to Committee members, in accordance with the requirements for employees in this Code of Conduct.

An interest to be disclosed may be one that is a benefit or a detriment to the Committee member.

b) Gifts

If a Committee member is offered a gift of any description in connection with the performance of their role as a Committee member, the member shall seek advice in relation to that offer from the CEO of the Shire, or nominated representative, before accepting any gift. The advice provided shall be in accordance with the requirements for elected members and employees.

c) Confidential information

A Committee member must not disclose confidential information obtained in the performance of their duties to any other person outside of the Committee or relevant Local Government employees.

For the purposes of this section, confidential information is that which is discussed during a meeting or that part of a meeting that is closed to members of the public in accordance with the provisions of the *Local Government Act 1995*, or that is in a document of the local government that is marked confidential.

d) Use of local government resources

A Committee member shall make proper use of the local government's resources as allocated to the Committee, including but not limited to assistance from employees, stationary, access to the office and meeting rooms of the local government, and only for the purposes of advancing the work and requirements of the Committee in accordance with its Terms of Reference.

e) Relationships with the local government

Committee members shall not direct or attempt to direct any local government employee to do or not to do anything.

Employees of the local government will be allocated where and as necessary to assist a Committee with its required tasks. It is expected that Committee members and employees with any responsibility in relation to that Committee will work together with a spirit of cooperation and understanding.

A Committee or Committee member shall not undertake tasks that contribute to the administration of the local government, except those tasks that are the direct responsibility of the Committee in accordance with its Terms of Reference and Council policies relating to Committees. It is noted that Council considers members of its Management and Advisory Committees as working members and thus they are to contribute to the body of work required to be done by the Committee.

Employees

a) Disclosure of interest

Interest – Any interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.

This section does not apply to interests referred to in Section 5.60 of the Local Government Act 1995 (in that a financial interest or a proximity interest must be disclosed in the manner described in Division 6 of Part 5 of that Act).

An employee is excused from a requirement under (i) or (ii) to disclose the nature of an interest if –

- the employee's failure to disclose occurs because they did not know that he or she had an interest in the matter; or
- the employee's failure to disclose occurs because the employee did not know the matter in which he or she had an interest would be discussed at the meeting and the employee discloses the nature of the interest as soon as possible after becoming aware of the discussion of a matter of that kind.

Any interest that arises for an employee on a matter before the Council or a Committee for determination is required to be disclosed in the manner specified in (i) or (ii). However, in recognition of the requirements discharged by employees during the course of their employment, including but not limited to the exercise of delegated authority, purchasing and tender evaluation, recruitment and selection, inspection and regulation, interests shall also be disclosed in other circumstances.

Disclosures are required to be made to the CEO in these circumstances –

- i) An employee who has an interest in any matter to be discussed at a Council or Committee meeting attended by the employee is required to disclose the nature of the interest –
 - in a written notice to the CEO before the meeting; and/or
 - at the meeting immediately before the matter is discussed.
- ii) An employee who has given, or will give, advice in respect of any matter to be discussed at a Council or Committee meeting not attended by the employee is required to disclose the nature of any interest the employee has in the matter –
 - in a written notice given to the CEO before the meeting; and/or
 - at the time the advice is given.
- iii) If in order to comply with the requirements of (i) or (ii) an employee makes a disclosure in a written notice given to the CEO before a meeting, then –
 - before that meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting;
 - immediately before a matter to which the disclosure relates is discussed at the meeting, the person presiding is to bring the notice and its contents to the attention of the persons present.
- iv) If in order to comply with the requirements of the section –
 - the nature of an employee's interest in a matter is disclosed at a meeting; or
 - a disclosure is made at a meeting if it is realised that an employee has an interest in a matter that they had not previously realised was for discussion at that meeting; or
 - the presiding member brings to the attention of those present at the meeting a written disclosure;
 then the nature of the interest is to be recorded in the minutes of the meeting.
- v) If during the course of discharging the requirements of their employment, an employee becomes aware of an interest or a potential interest, that interest or potential interest is to be disclosed in a prompt and full manner to the CEO and direction sought on the ability to continue to discharge the requirements of their employment in this case.
- vi) If an employee is intending to engage in private work outside of their employment with the Shire, either with a person or body with an interest in a proposed or current contract with the local government, or if the arrangement could, or could reasonably be perceived to, either immediately or in the future, result in an interest for the employee arising in their

employment with the Shire, the intention to engage in this work shall be disclosed in a prompt and full manner to the CEO and direction sought on the appropriateness of the arrangement.

b) Gifts

- i) Employees are required to refrain from accepting a prohibited gift from a person who –
 - is undertaking or seeking to undertake an activity involving a local government discretion; or
 - it is reasonable to believe is intending to undertake an activity involving a local government discretion.
- ii) An employee is required to notify the CEO of the acceptance within 10 days of accepting the gift, when the gift is a notifiable gift from a person who –
 - is undertaking or seeking to undertake an activity involving a local government discretion; or
 - it is reasonable to believe is intending to undertake an activity involving a local government discretion;

c) Confidential information

Confidential information must only be disclosed by an employee to another person to the extent that is necessary for the employee to do so in the performance of his or her duties.

Confidential information is that which is discussed during a meeting or that part of a meeting that is closed to members of the public in accordance with the provisions of the *Local Government Act 1995*, or that is in a document of the local government that is marked confidential, or any other information obtained during the performance of duties that could reasonably be considered to be confidential or of a sensitive nature.

Nothing in this section enables the disclosure of any confidential or sensitive information to any Council member or Committee member if the information does not directly relate to a confidential matter that is on the agenda for a meeting of the Council or the Committee, nor to any employee who is not empowered or required by virtue of their position in the organisation to have that information.

The handling of confidential or sensitive information is a significant responsibility for employees with authorised access to such information. Any imparting of such information must be undertaken in strict accordance with the requirements of this code. Where there is any doubt as to the requirement to impart confidential or sensitive information, caution is urged as any unauthorised disclosure of such information is considered a serious breach of the employee's responsibilities.

d) Use of local government resources

An employee shall make proper use of the Shire's resources and shall not use them for personal or private purposes, unless the use is otherwise provided for in a contract of employment, or authorised by the CEO by some other means.

It is acknowledged that minor incidental (not primary and not majority) use of certain resources will be provided for in operational requirements. An example of this would be to conduct an internet search or check a personal email account on a Shire computer during a designated break. This type of minor incidental use is provided for in the Shire's email and internet practice, whereby it is stated these facilities are for almost exclusive business use.

e) Relationships with Council members and Committee members

Employees are employed by and responsible to the CEO. While their direction, supervision and management is the sole responsibility of the CEO in accordance with Section 5.41(g) of the *Local Government Act 1995*, it is also recognised that the CEO has a responsibility to the Council to ensure employees provide it with relevant and quality advice.

Employees shall therefore be aware of their duty to, via the CEO, provide relevant and quality advice to the Council and Committees. They shall also act courteously and with due respect during their dealings with the Council, any Committee, any Council member or Committee member. It is expected that employees will deal with each other, Council members and Committee members in an honest and respectful manner.

f) Administrative practices

As an overarching principle of employment, employees, in attending to their duties for the Shire in their required and normal hours of employment including approved overtime, shall give their full attention to their duties and requirements throughout that time to ensure that their work is carried out efficiently and effectively. Employees shall comply with any lawful and reasonable order given by any person having the authority to make or give such an order, noting the restrictions on elected

members or Committee members in relation to directing local government employees. They will also give effect to the lawful decisions of the Council in a prompt and effective manner.

– End of Schedule

1.2 Public Question Time – Management

OBJECTIVE

To provide for the effective management of public question time.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.103 – requirement to prepare a code of conduct for council members, committee members and employees
- s.5.24 – requirement for public question time

Local Government (Administration) Regulations 1996 –

- r.5 – meetings where public question time is required
- r.6 – minimum time for public question time
- r.7 – procedure for public question time

CORPORATE CONTEXT

None

POLICY STATEMENT

1. The following Policy Schedules are adopted, and form part of this Statement –
 - a) – Procedure for Public Question Time

APPLICATION

2. The Procedures for Public Question Time apply to –
 - a) Ordinary and Special Council meetings,
 - b) Every meeting of Council committees which have a delegated power or duty.

HISTORY

Former policy	9.2.1
Adopted	16 May 2018

NOTES

Without this Policy, the only controls available to the Presiding Member of a meeting are the provisions of the Act and Regulations, all of which allow wide discretion, but offer limited guidance as to processes.

Additional provisions may be available in a Meeting Procedures Local Law.

Policy Schedule 1.2 – Public Question Time

PROCEDURE FOR PUBLIC QUESTION TIME

The *Local Government Act 1995* requires that a minimum of 15 minutes be provided at council meetings for public question time. Public question time is early in the meeting as required by the Act. This allows questions to be asked before business is dealt with and also smooth running of the business part of the meeting. The procedure for asking a question is outlined below.

Presenting a question

1. Questions should be address to the Presiding Member, and submitted in writing to the CEO by 4.00pm the business day prior to the meeting.
2. Priority will be given to those questions relating to a matter on the Agenda before the meeting. General questions will only be addressed if time permits.
3. The length of question, including any background information, should not exceed 150 words.
4. Questions are limited to 2 per person, and with a total time limit of 2 minutes per speaker. Multiple parts to a question are considered separate questions.
5. Questions are to be directed to the Presiding Member, not to any other person.
6. Questions must be related to issues pertaining to the Shire.
7. Question regarding personal affairs, opinions, information or perceptions not relating directly to Shire business will be refused.
8. Retain your own copy of the question/s to be read aloud at the meeting.
9. No late documentation or item is to be brought into the meeting for distribution without prior arrangement with the CEO.

Managing the questions

10. The CEO is to compile the same or similar questions submitted with notice, and provide a single response.
11. A question without notice at the meeting is to be written on the form available at the meeting so that the exact wording of the question is recorded in the minutes of the meeting. Staff will be made available to assist in wording the question if desired.
12. A timer may be activated at the beginning of each person's time period and the Presiding Member will require questioners to conclude after 2 minutes.
13. Those asking questions are to state their name, address and the item number to which they are referring, and then read the question. Staff will have prepared brief NOTES to enable an informed response to be given at the meeting.
14. When specifically requested, questioner's details may be kept private.
15. Questions without notice or multiple parts to a question will be answered in the order they are asked to a maximum of 2.
16. Should time permit, after all present have had an opportunity to ask a question, additional questions may be considered
17. Where a question raises a significant issue not addressed in the staff report, and which cannot be adequately responded to, the meeting will need to consider whether the item should be held over or referred back for further consideration. In making this decision, the meeting will take account of statutory deadlines and other implications if appropriate.

Responding to the questions

18. The order in which questions are to be addressed is –
 - a) questions with notice relating to matters within that meeting's agenda;
 - b) questions with notice relating to other matters;
 - c) questions without notice relating to matters within that meeting's agenda; then
 - d) questions without notice relating to other matters.
19. Matters considered confidential under section 5.23 of the Act will not be addressed other than to advise of such.
20. Written questions submitted by a person not present at the meeting may be declined, and dealt with as correspondence.
21. Reponses will be provided in reasonable detail, but in order to permit as many questions as possible, will be concise and to the point. Should greater detail be required, this should be notified to the Shire after the meeting.
22. Questions without notice will only be responded to at the meeting if they are simple. Otherwise they will be taken on notice and will be answered in writing after the meeting and the response included in the agenda of the next council meeting.
23. The meeting will not debate nor discuss the question raised with the questioner. Discussion or debate directly with an elected member or employee, or within the gallery is not permitted.

PLEASE NOTE **Members of the public should note that no action should be taken on any item discussed at a council meeting prior to written advice on the resolution of council being received.**

1.3 Elected Members – Records capture and management

OBJECTIVE

To ensure compliance with the *State Records Act 2000* by elected members.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.7.11 – Auditor has the power to demand production of books, records etc.
- s.9.59 – Regulations about keeping of documents and records

State Records Act 2000

- Sch.1 – Government organisations required to comply with Act – includes local government

Freedom of Information Act 1992

CORPORATE CONTEXT

Shire of Victoria Plains Records Keeping Plan

POLICY STATEMENT

1. Each elected member is responsible for determining which records are required for capture and management, and submission of the record to the CEO, for storage.

APPLICATION

2. The Shire as an organisation, in meeting its obligations to facilitate the capture and management of elected member records will –
 - provide a collection point readily accessible to each elected member to deposit the required materials,
 - materials collected will be separated according to elected member and financial year of deposit
 - for electronic records (such as emails other than those through the Shire of Victoria Plains corporate address, digital photos etc), a suitable medium for backup of all electronic records will be provided at least once per year,
 - the digital copy then to be deposited with other required materials,
 - backup of emails through the corporate address (*name@victoriaplains.wa.gov.au*) a backed up as part of the daily server back up by the Shire's IT contractor,
 - where a copy of the record is to be retained by the elected member, photocopying or other duplicate as necessary, will be provided without charge.
3. Access to the records created may be required, and is to be facilitated by the CEO –
 - as permitted under various legislation such as the Local Government Act, the Freedom of Information Act etc,
 - by order of an authorised body such as the Standards Panel or a Court of law etc,
 - by a representative an authorised body such as the Ombudsman or Crime and Corruption Commission etc.

HISTORY

Former policy	9.3.8
Adopted	21 June 2018

NOTES

State Records Office policy imposes the obligations on elected members and the organisation under the State Records Act, as advised on 30 July 2009 –

In relation to the recordkeeping requirements of local government elected members, records must be created and kept which properly and adequately record the performance of member functions

arising from their participation in the decision making processes of Council and Committees of Council.

This requirement should be met through the creation and retention of records of meetings of Council and Committees of Council of local government and other communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business.

Local governments must ensure that appropriate practices are established to facilitate the ease of capture and management of elected members' records up to and including the decision making processes of Council.

In effect, any form of record which may affect accountability or contribute to a decision or action made as an elected member must be retained. These records may be –

- physical – a letter, a handwritten note, a photo someone sends to an elected member in explanation / complaint, an agenda where you have made NOTES on various items, etc
- electronic – an email or document sent as an attachment to an email, digital photo, an e-file that is sent for review or comment
- audio – message left on your answering machine, although this is likely to be unusual, since rarely are many details left in a message, but it is a record.

The records are not only those you receive, but also those that you create, such as –

- a note of a conversation where someone asked you to pursue a particular matter,
- a letter that you write in the capacity of elected member,
- an email you send as an elected member

The records only need to be relating to those “*affecting the accountability of the Council and the discharge of its business ... up to and including the decision making processes of Council*”. *It is the elected members decision and judgement as to what extent this applies.*

The principles of relevance and ephemerality apply, for example –

- a note to remind you to phone a person is ephemeral, but notes of the resulting conversation may not be,
- a copy of an agenda that has no notes made is irrelevant, as the document can be reproduced by the Shire at any time,
- a promotional brochure or conference information is not relevant.

On 24 May 2018 Wallis Computing Services confirmed that emails using the *victoriaplains.wa.gov.au* domain are backed up daily, although the retention at this time is only 12 months. Proposals to move the Shire data and IT to Office 365 will have 7 year retention, and that this period then meets the full legal retention period.

1.4 Elected Members – Briefing Sessions

OBJECTIVE

To provide guidelines for the management of Council Briefing Sessions

STATUTORY CONTEXT

None

CORPORATE CONTEXT

None

POLICY STATEMENT

1. Briefing Sessions will be held to exchange information between elected members, senior staff, management staff and committees –
 - a) prior to the Ordinary Council meeting of the month, or
 - b) when called by the President or CEO, as necessary.
2. Briefing Sessions are closed to the general public.

APPLICATION

3. The purpose of Briefing Sessions is to –
 - a) provide an opportunity for elected members to request information, ask questions or make comment on specific issues, or on issues in general,
 - b) discuss conceptual issues as considered appropriate by elected members or staff,
 - c) disseminate information from staff to elected members ,
 - d) coordinate questions from elected members to staff.
4. Briefing session Information Paper –
 - a) the CEO is to prepare an Information Paper for each briefing session
 - b) the briefing session Information Paper is to be distributed with the Ordinary Council Meeting Agenda, or as able for irregular briefing sessions.
5. Financial, proximity and impartiality interests –
 - a) Elected members, employees, consultants and other participants shall disclose their interests in matters to be discussed
 - b) Interests are to be disclosed in accordance with the provisions of the Act and associated regulations at the time information is provided or discussion commences on an issue.
6. Conduct of Briefing Session –
 - a) the President or other person nominated by the President is to be the Presiding Member for Briefing Session, or in the President's absence another elected member.
 - b) All questions and discussions are to be directed through the Presiding Member and there will be no debate style discussion.
 - c) Being outside the statutory decision making framework, elected members at a Briefing Session must not vote, indicate their voting intentions, make or imply any collective or collaborative decision is to be made, other than the CEO may agree to take an action that is of an administrative nature;
 - d) Items listed on the current Council Meeting Agenda may be clarified on matters of procedure or fact, but are not to be debated or resolved/agreed in any way;
 - e) Proposals under a Planning Scheme are not to be discussed;
 - f) Any additional written information not included with the Council Meeting Agenda is only to be distributed to the meeting at the discretion of the Presiding Member.

HISTORY

Adopted 16 May 2018

NOTES

DLGC Operational Guidelines No.5 – Council Forum Guideline is not mandatory but close adherence is recommended.

1.5 Council Policy – Making, amending, deleting

OBJECTIVE

To control the process of making, amending or deleting Council Policy.

STATUTORY CONTEXT

None, although some legislation makes general provisions, and places requires on policy limits, or how the policy is to be adopted or used etc.

CORPORATE CONTEXT

None

POLICY STATEMENT

1. The CEO is to maintain the official copy of the Council Policy Manual, updated as soon as possible after each authorised resolution of Council.

APPLICATION

2. Additions, deletions or alterations to Council Policy shall only be made by specific Council resolution stating –
 - a) stating the current Council Policy number if an amendment or deletion,
 - b) the proposed policy number to clearly indicate functional area if a new Council Policy, and
 - c) proposed wording and justification for the amendment, deletion or adoption.

HISTORY

Adopted 16 May 2018

NOTES

Essentially, policy is the standing instructions of Council about the “how to” whereas delegations are about “who may”. Accordingly, policy may not be altered without a decision of Council.

The purpose of policy documents is to enable the effective and efficient management of Council resources and to assist staff and Council achieve an equitable decision making process. Written policies also enable the community to be aware of the reasoning behind administrative and Council decisions, and to be familiar with the philosophy behind individual decisions.

If it is not in the Council Policy Manual, it may be usual practice, but it is not Council Policy. Unless it is specifically stated in a resolution that the authority is to be included in the Policy Manual, it is to be considered that the authority to act, is for a specific matter and is not general or on-going.

1.6 Legal Representation for Elected Members and Employees

OBJECTIVE

To provide for legal support for elected members and employees in the performance of their official functions

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.103 – requirement to prepare a code of conduct for council members, committee members and employees

CORPORATE CONTEXT

None

POLICY STATEMENT

1. The following Council Policy Schedule is adopted, and forms part of this Statement –
 - a) Sch. 1.7 – Legal Costs Indemnification

APPLICATION

2. When there is a need for the provision of urgent legal advice before an application can be considered by Council, the amount determined in accordance with Schedule 1.6 clause 3(e) where the CEO may give authorisation is \$10,000.

HISTORY

Former Policy	7.4
Adopted	16 May 2018

NOTES

This policy does not relate to the legal advice needed for general operations or review of documents etc, but relates to the legal advice that may be necessary for the protection of an elected member or employee for actions taken during the course of their official duties.

Policy Schedule 1.6 – Legal Costs Indemnification

1. Introduction

This policy is designed to protect the interests of Council members and employees (including past members and former employees) where they become involved in civil legal proceedings because of their official functions. In most situations the Shire may assist the individual in meeting reasonable expenses and any liabilities incurred in relation to those proceedings.

It is necessary to determine that assistance with legal costs and other liabilities is justified for the good government of the district.

2. General Principles

The Shire may provide financial assistance to members and employees in connection with the performance of their duties provided that the member or employee has acted reasonably and has not acted illegally, dishonestly, against the interests of the Shire or otherwise in bad faith.

The Shire may provide assistance in the following types of legal proceedings –

- a) proceedings brought by members and employees to enable them to carry out their local government functions (eg. where a member or employee seeks a restraining order against a person using threatening behaviour);
- b) proceedings brought against members or employees (this could be in relation to a decision of Council or an employee which aggrieves another person (eg. refusing a development application) or where the conduct of a member or employee in carrying out his or her functions is considered detrimental to the person (eg: defending defamation actions); and
- c) statutory or other inquiries where representation of members or employees is justified.

The Shire will not support any defamation actions seeking the payment of damages for individual members or employees in regard to comments or criticisms levelled at their conduct in their respective roles. Members or employees are not prevented, however, from taking their own private action. Further, the Shire may seek its own advice on any aspect relating to such comments and criticisms of relevance to it.

The legal services under this policy will usually be provided by the Shire's solicitors. Where this is not appropriate for practical reasons or because of a conflict of interest then the service may be provided by other solicitors approved by the Shire.

3. Applications for Financial Assistance

- a) Subject to item (e), decisions as to financial assistance under this policy are to be made by the Council.
- b) A member or employee requesting financial support for legal services under this policy is to make an application in writing, in advance if possible, to the Council providing full details of the circumstances of the matter and the legal services required.
- c) An application is to be accompanied by an assessment of the request and a recommendation prepared by the CEO.
- d) A member or employee requesting financial support for legal services, or any other person who might have a financial interest in the matter, must ensure compliance with the financial interest provisions of the Local Government Act 1995.
- e) Where there is a need for the provision of urgent legal services before an application can be considered by Council, the CEO may give an authorisation to the value specified by Council.
- f) Where it is the CEO who is seeking urgent financial support for legal services the Council shall deal with the application.
- g) Any application is to be subject to an enforceable agreement to repay expenses incurred by the Shire, either –
 - In full but not exceeding the extent recovered by a member in accordance with 4(a) below, or
 - In full where 4(2) applies.

4. Repayment of Assistance

1. Any amount recovered by a member or employee in proceedings, whether for costs or damages, will be off set against any moneys paid or payable by the Shire.
2. Assistance will be withdrawn where the Council determines, upon legal advice, that a person has acted unreasonably, illegally, dishonestly, against the interests of the Shire or otherwise in bad faith; or where information from the person is shown to have been false or misleading.
3. Where assistance is so withdrawn, the person who obtained financial support is to repay any moneys already provided. The Shire may take action to recover any such moneys in a court of competent jurisdiction.

1.7 Related Party Disclosures

OBJECTIVE

The purpose of the AAS is to capture dealings between the organisation and Key Management Personnel with related parties (corporate and individual).

STATUTORY CONTEXT

Local Government (Financial Management) Regulations 1996 –

- r.4 – AAS to be complied with and are in addition to Regulations (Regulations have priority)
- r.5 – annual budget, annual financial report and other financial reporting to be in accordance with AAS
- Sch.2 Form 1 – CEO required to certify annual financial reports complied in accordance with AAS

Local Government (Audit) Regulations 1996 –

- r.9 – audit is to be performed in accordance with AAS

Australian Accounting Standard 124 – Related Party Disclosures

CORPORATE CONTEXT

Required Declaration and Disclosure forms

POLICY STATEMENT

1. The following Council Policy Schedules are adopted, and form part of this Statement –
 - 1.7(a) – Related Party Disclosures – Definitions
 - 1.7(b) – Related Party Disclosures – Procedure
2. This Related Party Disclosures Policy applies to –
 - a) Related Parties of Council,
 - b) Key Management Personnel.

APPLICATION

3. Disclosure requirement
 - a) The disclosure requirements apply to the existence of relationships regardless of whether a transaction has occurred or not.
 - b) Each financial year, the Shire must make an informed judgement as to who is a related party and what transactions need to be considered, when determining if disclosure is required.
4. Key Management Personnel (KMP)
In accordance with AASB 124, KMP are –
 - a) All elected members
 - b) CEO
 - c) Staff performing the functions of (including where services are provided under contract) –
 - i) Manager Finance and Administration
 - ii) Manager Works and Services
 - iii) Environmental Health Officer
 - iv) Building Surveyor
 - v) Governance Officer
5. Related Party – Council
 - a) Related entities to Council are those where the Shire of Victoria Plains has significant control or influence, which is deemed to be a greater than 20% –
 - i) financial interest in the organisation,
 - ii) voting rights in the organisation.

- b) Unless otherwise excluded, the administration will be required to assess all transactions made with these persons or entities.

6. Related Party – KMP

- a) Related parties of the KMP are close family members of the KMP.
- b) For the AASB 124, close family members could include extended family members (such as, parents, siblings, grandparents, uncles/aunts or cousins) if they could be expected to influence, or be influenced by, the KMP in their dealings with the Shire.
- c) Related entities to the KMP or close family members are those where the person has control, joint control or influence, which is deemed to be greater than 20% –
 - i) financial interest in the organisation
 - ii) voting rights in the organisation.
- d) Unless otherwise excluded, the administration will be required to assess all transactions made with these persons or entities.

7. Related Party Transactions (RPT)

- a) A related party transaction is a transfer of resources services or obligations between the Shire (reporting entity) and the related party, regardless of whether a price is charged.
- b) For the purposes of determining whether a related party transaction has occurred, the following transactions or provisions of services have been identified as meeting this criterion –
 - i) payments to elected members;
 - ii) employee compensation whether it is for KMP or close family member of KMP.
 - iii) lease agreements for housing rental (whether for a Shire owned property or property sub-leased by the Shire through a real estate agent)
 - iv) lease agreements as lessee or lessor, for commercial properties or other properties;
 - v) monetary and non-monetary transactions between the Shire and any business or associated entity owned or controlled by the related party (including family) in exchange for goods and/or services provided by/to the Shire (trading arrangement).
 - vi) loan arrangements between related entities or KMP;
 - vii) contracts and agreements for construction, consultancy or services
 - viii) purchases or sales of goods; property and other assets;
 - ix) rendering or receiving of services; or goods;
 - x) transfers under licence agreements; or finance arrangements (example, loans);
 - xi) provision of guarantees (given or received);
 - xii) commitments to do something if an event occurs, or does not occur, in the future;
 - xiii) settlement of liabilities on behalf of Council or by the Shire on behalf of that related party.

8. Ordinary Citizen Transactions (OCT)

- a) OCT are where there is no special treatment of consideration of either party and are deemed to be any transaction that a member of the public would receive in the usual course of business, and includes but is not limited to –
 - i) payment of rates and charges imposed by Budget resolution, fines and penalties etc.
 - ii) payment of application or development fees imposed by Council and applying to any applicant
 - iii) use of Council facilities, whether use of the facility incurs a fee or not, and includes Recreation Centre, Civic Centre, library, parks, ovals, reserves, waste facility and public open spaces
- b) OCT incorporates transactions resulting from delivery of Public Service Obligations and includes but is not limited to –
 - i) attending Shire of Victoria Plains functions that are open to the public
 - ii) attending events that are open to the public
- c) All Ordinary Citizen Transactions identified within this policy are unlikely to influence the conclusions that those reading the Shire's financial statements would make.

9. Materiality

For guidance, materiality is generally deemed to apply where –

- a) Where an RPT can be expressed in financial terms
 - i) Single transaction – greater than \$300
 - ii) Cumulative transactions – greater than \$1,500
- b) Where an RPT cannot be expressed in financial terms –
 - i) reasonable person test – would an ordinary person consider that pressure has been applied or influence exerted

10. Related Party Notification

- a) KMP must submit to the CEO a Related Party Declaration, notifying of any existing or potential related party relationship between Council and either themselves, their close family members or entities controlled or jointly controlled by them or any of their close family members.
- b) Related Party Declarations are to be submitted –
 - i) within 30 days of commencement;
 - ii) annually, prior to 31 August;
- c) Related Party Transaction Disclosure are to be updated where –
 - i) any new or potential related party transaction that is required or likely to be required to be disclosed in Council's financial statements; or
 - ii) any change to a previously notified related party transaction.

11. Related Party Transaction Notification

- a) A related party transaction is a transfer of resources, services or obligations between the Shire (reporting entity) and the related party, regardless of whether a price is charged.
- b) KMP must submit to the CEO a Related Party Transaction Disclosure, notifying of any transaction between Council and either themselves, their close family members or entities controlled or jointly controlled by them or any of their close family members.
- c) Related Party Transaction Disclosure are to be submitted –
 - i) at minimum – within 30 days of the end of each financial year;
 - ii) recommended – at Council meeting each month.

12. Confidentiality

- a) All information contained in a disclosure return, will be treated in confidence.
- b) Generally, related party disclosures in the annual financial reports are reported in aggregate and individuals not specifically identified.
- c) Notwithstanding, management is required to exercise judgement in determining the level of detail to be disclosed based on the nature of a transaction or collective transactions and materiality. Individuals may be specifically identified, if the disclosure requirements of AASB 124 so demands.

13. Discretionary capacity of the CEO

Where a matter is not covered by this policy, the CEO is authorised to make a determination, and may seek such advice as is necessary in order to do so.

HISTORY

Adopted 21 June 2018

REFERENCES

Minimum requirement under AASB 124 –

- **Declaration and Transaction Disclosures for the previous 12 month are required to be made as at 30 June annually.**
- **Annual resolution of Council in July annually for inclusion in Annual report**

Abbreviations –

AASB – Australian Accounting Standards Board

KMP – Key Management Personnel

OCT – Ordinary Citizen Transaction

RPT – Related Party Transaction

The objective of the AASB is to ensure that an entity's financial statements contain disclosures necessary to draw attention to the possibility that its financial position and profit or loss may have been affected by the existence of related parties and transactions.

The disclosure requirements apply to the existence of relationships regardless of whether a transaction has occurred or not. For each financial year, the Shire must make an informed judgement as to who is a related party and what transactions need to be considered, when determining if disclosure is required.

Effective beginning 1 July 2016 the Shire must disclose in the Annual Report certain related party relationships and transactions together with information associated with those transactions in its Financial Statements, to comply with Australian Accounting Standard 124 Related Party Disclosures.

If there is a related party transaction with the Shire applicable to a reporting financial year, the AASB 124 requires the Shire to disclose in the financial statements the nature of the related party relationship and information about the transaction, including outstanding balances and commitments associated with the transaction. Disclosure in the financial statements may be in the aggregate and/or made separately, depending on the materiality of the transaction.

For more information about the Shire's disclosure requirements under the AASB 124, refer to <http://www.aasb.gov.au>

Dept of Local Government Sporting & Cultural Industries –

- Fact Sheet (Circular 12 of 2017) –
<https://www.dlgsc.wa.gov.au/resources/publications/Pages/ViewPublication.aspx?DocID=744>
- Implementation (Circular 07 of 2017) –
<https://www.dlgsc.wa.gov.au/resources/publications/Pages/ViewPublication.aspx?DocID=732>

Policy Schedule 1.7(a) – Related Party Disclosures – Definitions

ALBT or arm's length business transaction means a transaction where the terms between parties are reasonable in the circumstances of the transaction that would result from –

- a) neither party bearing the other any special duty or obligation; and
- b) the parties being unrelated and uninfluenced by the other, and
- c) each party having acted in its own interest

associate means relation to an entity (the first entity), an entity over which the first entity has significant influence.

close members of the family of a person means relation to a key management person, family members who may be expected to influence, or be influenced by, that key management person in their dealings with the Shire and include –

- a) that person's children and spouse or domestic partner;
- b) children of that person's spouse or domestic partner; and
- c) dependants of that person or that person's spouse or domestic partner.

control means the ability to direct the business' activities of an entity through rights or exposure to returns from its involvement with the entity.

entity can include a body corporate, a partnership or a trust, incorporated association, or unincorporated group or body or non-profit association.

financial benefit includes giving a financial benefit indirectly through an interposed entity, making an informal, oral or non-binding agreement to give the benefit, and giving a benefit that does not involve paying money.

Examples of "giving a financial benefit" to a Related Party include but are not limited to the following –

- a) Giving or providing the Related Party finance or property.
- b) Buying an asset from or selling an asset to the Related Party.
- c) Leasing an asset from or to the Related Party.
- d) Supplying services to or receiving services from the Related Party.
- e) Issuing securities or granting an option to the Related Party.
- f) Taking up or releasing an obligation of the Related Party.

joint control is the contractually agreed sharing of control of an arrangement, which exists only when decisions about the relevant activities require the unanimous consent of 2 or more parties sharing control.

joint venture is an arrangement of which 2 or more parties have joint control and have right to the net assets of the arrangement.

KMP or key management personnel or Key management person are those person(s) having authority and responsibility for planning, directing and controlling the activities of Council.

KMP compensation all forms of consideration paid, payable, or provided in exchange for services provided.

material is the assessment of whether the transaction, either individually or in aggregate with other transactions, by omitting it or misstating it could influence decisions that users make on the basis an entity's financial statements. For this policy, it is not considered appropriate to set either a dollar value or a percentage value to determine materiality.

OCT or ordinary citizen transaction are transactions that an ordinary citizen would undertake with Council, which is undertaken on arm's length terms and in the ordinary course of carrying out Shire's functions and activities.

related party is a person or entity that is related to the Shire or KMP pursuant to the definition contained in the AASB 124 –

- a) an entity that is controlled, jointly controlled or significantly influenced by the Shire or KMP;
- b) close family members of the KMP; or
- c) an entity controlled, jointly controlled or significantly influenced by a close family member of the KMP.

RPT or related party transaction means a transfer of resources, services or obligations between the Shire and a related party, regardless of whether a price is charged.

significant means likely to influence the decisions that users of the Shire's financial statements make having regard to both the extent (value and frequency) of the transactions, and that the transactions have occurred between the Shire and related party outside a public service provider/ taxpayer relationship.

remuneration or remuneration package and includes any money, consideration or benefit received or receivable by the person but excludes reimbursement of out-of-pocket expenses, including any amount received or receivable from an RPT.

– End of Schedule

Policy Schedule 1.7(b) – Related Party Disclosures – Annual Reporting Requirements

1. Background

The objective of the standard is to ensure that the Shire's financial statements contain disclosures necessary to advise of the possibility that its financial position and profit or loss may have been affected by the existence of related parties and transactions.

The disclosure requirements apply to the existence of relationships regardless of whether a transaction has occurred or not. For each financial year, the Shire must make an informed judgement as to who is a related party and what transactions need to be considered, when determining if disclosure is required.

The purpose of this policy procedure is to stipulate the information requested from related parties to enable an informed judgement to be made.

2. Identification of Related Parties

AASB 124 provides that the Shire will be required to disclose in its Annual Financial reports, related party relationships, transactions and outstanding balances.

Related parties include a person who has significant influence over the reporting entity, a member of the KMP of the entity, or a close family member of that person who may be expected to influence that person.

KMPs are defined in the Policy Statement as persons having authority and responsibility for planning, directing and controlling the activities of the entity, directly or indirectly.

The Shire will therefore be required to assess all transactions made with these persons or entities.

3. Identification of Related Party Transactions

A related party transaction is a transfer of resources services or obligations between the Shire (reporting entity) and the related party, regardless of whether a price is charged.

For the purposes of determining whether a related party transaction has occurred, Council has defined in the Policy Statement the transactions or provisions of services have been identified as meeting this criterion:

4. Related Party Transactions

Some of the transactions listed in the Policy Statement, occur on terms and conditions no different to those applying to the public and have been provided during delivering public service objectives. These transactions are those that an ordinary citizen would undertake with council and are referred to as an Ordinary Citizen Transaction (OCT). Where the Shire can determine that an OCT was provided at arm's length, and in similar terms and conditions to other members of the public and, that the nature of the transaction is immaterial, no disclosure in the annual financial report will be required.

5. Ordinary Citizen Transactions

Ordinary Citizen Transactions that occur with the identified KMP as defined in AASB124, are identified in the Policy Statement as any transaction with the Shire of Victoria Plains or use of Shire facilities that any member of the public would receive.

Where any of the services OCTs were not provided at arm's length and under the same terms and conditions applying to the public, elected Council members and KMP will be required to make a declaration about the nature of any special terms received.

All transactions which does not meet the criteria of arm's length business transactions, elected members and KMP as identified, will be required to provide the necessary details to the CEO

6. Ordinary Citizen Transactions (OCTs) – Annual Report

Management will put forward a draft resolution to Council annually, declaring that in its opinion, based on the facts and circumstances, a list of OCTs that are provided on terms and conditions no different to those applying to the public and which have been provided in the course of delivering public service objectives, are unlikely to influence the decisions that users of the Council's financial statements make. As such no disclosure in the quarterly Related Party Disclosures is required.

7. Materiality

Management will apply professional judgement to assess the materiality of transactions disclosed by related parties and their subsequent inclusion in the financial statements. In assessing materiality, management will consider both the size and nature of the transaction, individually and collectively.

– *End of Schedule*

Section 2 - Administration / Organisation

2.1 Senior employees - Designation

STATUTORY CONTEXT

Local Government Act 1995 –

- s.5.37 – senior employee or class of employee may be designated

CORPORATE CONTEXT

None

POLICY STATEMENT

1. Pursuant to Section 5.37 of the Local Government Act 1995, the following employees are designated as senior employees –
 - a) Manager of Works and Services

APPLICATION

2. Designation of the position is made due to the functions of the role, and applies regardless of the title of the position at the time.

HISTORY

Former Policy	8.1.1
Adopted	18 July 2018

NOTES

2.2 Acting/Relieving staff authority

STATUTORY CONTEXT

Local Government Act 1995

- s.5.36(1) – Council must employ a CEO

CORPORATE CONTEXT

Delegations Register –

- 1.2 – Acting CEO – Appointment

POLICY STATEMENT

1. The Manager of Works and Services is approved as Acting CEO in the following circumstances –
 - a) in the unforeseen, urgent absence of the CEO, and
 - b) for a period of up to 1 month, or as otherwise determined by Council.
2. Other than as specified in this Policy, acting and relieving staff have clear authority to fulfil the requirements of the position, however temporarily and of whatever duration, and are authorised to exercise all duties, powers and responsibilities assigned to that position, whether a delegation, policy, direction or accepted practice, subject only to any limitations that may be imposed by the CEO.

APPLICATION

3. Where the role is required to be taken up in the unforeseen, urgent absence of the CEO –
 - a) the President, or Deputy President if the President is unable to be contacted, is to be advised immediately,
 - b) depending on the circumstances, the President may decide to call a Special Meeting of Council to consider the matter, and the Council may determine to continue with the designated senior officer in the role or engage an external person for the duration,
 - c) the designated senior officer continues as Acting CEO until determined otherwise by Council at a Special Council Meeting or the next Ordinary Council Meeting.
4. Where the CEO intends a known, planned period of leave, it is to be approved by the President, and advised to the next Ordinary Meeting of Council, together with the proposed arrangements for Acting CEO.
5. The Acting CEO, is authorised to exercise all duties, powers and responsibilities assigned to that position, whether a delegation, policy, direction or accepted practice, subject only to –
 - a) any limitations that may be imposed by the Council,
 - b) there is no substantial redirection of activities or processes etc without the approval of the President or Council.
6. Acting or relieving staff are to be aware that their tenure is temporary, and to take into account when making decisions, the likely views and preferences of the permanent appointee.

HISTORY

Adopted 18 July 2018

NOTES

Appointment as Acting CEO other than as specified in this Policy is by specific decision of Council as per the Local Government Act.

2.3 Information & Communications Technology Usage

STATUTORY CONTEXT

Local Government Act 1995

CORPORATE CONTEXT

Policy Manual –

- 1.1 – Code of Conduct
- 2.4 – Social Media

POLICY STATEMENT

1. Introduction

The following principles, must be adhered to by all those responsible for the implementation of this Policy and to whom it applies –

- a) The ICT resources of the Shire are provided to support business and administrative activities of the Shire;
- b) Authorised users may be granted access to Shire resources, sensitive data and to networks on the basis that their use of ICT resources shall be responsible, ethical and lawful at all times;
- c) Authorised users are required to observe Council Policy and all laws which apply;
- d) Data and information relating to persons and other confidential matters acquired for business purposes shall be protected;
- e) Shire business information shall be protected from unauthorised and/or accidental disclosure; and
- f) Shire ITC resources must not under any circumstances be used to humiliate, intimidate, offend or vilify others on the basis of their race, gender, or any other attribute prescribed under anti-discrimination legislation.

APPLICATION

2. Application

This Instruction applies to all employees, contractors (whether paid or unpaid), volunteers and any person performing work for or with the Shire in any capacity.

3. Access to ICT Resources

Access to ICT resources is to be authorised by the CEO. Access to ICT resources are based on a need to access that ICT Resource, which may depend on the employee's current status or position with the Shire.

Access to ICT resources will cease on expiration of contract or end-date of employment.

Access and use of ICT resources must be lawful at all times. Unlawful use will breach this Instruction and will be dealt with as a discipline offence. Unlawful use of ICT resources may also lead to criminal or civil legal action being taken against individual authorised users. This could result in serious consequences such as a fine, damages and/or costs being awarded against the individual or even imprisonment.

The Shire will not defend or support any ICT user who uses ICT resources for an unlawful purpose.

4. General Use of ICT Resources

A user who is authorised to use ICT resources may use the ICT resources for limited, incidental personal purposes. Personal use of the IT resources is permitted provided such use is lawful, does not negatively impact upon the user's work performance, hinder the work of other users, or damage the reputation, image or operations of the Shire. Such use must not cause noticeable additional cost to the Shire.

Employees should exercise conservative judgment regarding the reasonableness of personal use but should be guided by the following principles –

- a) Personal use should be conducted either before or after contracted hours of work or authorised breaks;
- b) Personal use should be limited and brief, avoiding excessive download or transmission (an example of acceptable personal use would be conducting brief transactions through internet banking);
- c) Personal use should not breach anything in this Instruction, particularly relating to the downloading of offensive or copyrighted materials;
- d) Managers will determine the specific acceptable personal use for their respective business areas as this will differ according to the needs of each group; and
- e) If there is any uncertainty regarding acceptable personal use then employees should consult their supervisor or manager for guidance.

For security and network maintenance purposes, authorised individuals within Shire may monitor equipment, systems and network traffic at any time, according to the specific nature and requirements of their roles.

The Shire resources must not be used for private commercial purposes.

The Shire reserves the right to audit networks and systems on a periodic basis to ensure system integrity and compliance with this Instruction.

5. Unacceptable Use

This Policy provides a framework for activities which fall into the category of unacceptable use, but do not represent an exhaustive list. Some users may be exempted from these restrictions by the CEO during the course of carrying out responsibilities related to their role.

Under no circumstances is any user authorised to engage in any activity that is illegal under local, state, federal or international law while connected to or utilising Shire ICT systems or resources.

6. Security and Proprietary Information

All information stored on the Shire's corporate systems should be regarded as confidential and care must be exercised before sharing or distributing any information. If there is any uncertainty regarding the level of confidentiality involved then employees should consult their supervisor or manager for guidance.

The following measures must be taken to ensure secure corporate systems –

- a) Passwords should be kept secure and accounts must not be shared. Authorised users are responsible for the security of their passwords and accounts. Passwords should be changed in accordance with Shire's advice from the ICT Team;
- b) All devices connected to the Shire's computing systems/networks, regardless of ownership, must be running approved and up to date virus-scanning software; and
- c) People must use caution when opening files received from unknown senders.

7. System and Network Activities

The following activities are not permitted –

- a) Violations of the rights of any person or company/organisation protected by copyright, trade secret, patent or other intellectual property, or similar laws or regulations, including, but not limited to, the duplication, installation or distribution of "pirated" or other software products that are not appropriately licensed for use by the Shire or the end user;
- b) Unauthorised copying or digitising of copyrighted material and the installation of any copyrighted software for which the Shire or the end user does not have an active license;
- c) Exporting software, technical information, encryption software or technology, in violation of international or regional export control laws. The appropriate manager should be consulted prior to export of any material where status is unclear;
- d) Introduction of malicious programs or code into the network or onto devices connected to the network;

- e) Revealing your account password to others or allowing use of your account by others;
- f) The Shire's equipment is not be used for the downloading or distribution of any material that could be considered as offensive. If a user receives such material they should notify their manager and also the ICT Team;
- g) Making fraudulent offers of products, items, or services, or running private business interests via any Shire equipment, device or account; and
- h) Undertaking private work.

The following activities are not permitted unless they are within the scope of regular responsibilities for an expressly authorised role/position –

- a) Effecting security breaches or disruptions of network communication. Security breaches include, but are not limited to, accessing data of which the user is not an intended recipient or logging into a server or account that the user is not expressly authorised to access;
- b) Executing any form of network monitoring which will intercept data not intended for the user's host;
- c) Attempting to avoid or bypass Shire's network security measures;
- d) Interfering with any other user's account, by whatever means; and
- e) Using the system in a way that could damage or affect the performance of the network in any way.

8. Email Activities

All emails sent by Shire employees should include the prescribed 'signature' and disclaimer at the foot of the body of the email, in the format specified by the Shire's style guide or as otherwise advised.

The following activities are not permitted –

- a) Except in the course of normal business notifications, sending or forwarding unsolicited electronic messages, including the sending of "junk mail" or other advertising material, jokes, or chain communication to individuals who did not specifically request such material;
- b) Any form of harassment via electronic/ICT means;
- c) Unauthorised use, or forging, of email header information;
- d) Solicitation of communication for any other electronic address, other than that of the poster's account, with the intent to harass or to collect replies;
- e) Creating or forwarding "chain letters" or "pyramid" schemes of any type;
- f) Use of any of the Shire's network or systems for the purpose of generating unsolicited communications;
- g) Providing information about, or lists of the Shire's employees to other parties or to personal email addresses;
- h) Communicating in a manner that could adversely affect the reputation or public image of Shire;
- i) Communicating in a manner that could be construed as making statements or representations on behalf of the Shire without the Shire's express permission to do so; and
- j) Users should also endeavor to clean out their Inbox, Sent Items, Deleted Items and other email boxes on a regular basis, by either deletion or saving in the central record system. A size limit per mailbox may be implemented to ensure that the system is functioning optimally.

9. Remote Access

When users with remote access they are connected to the Shire's network, their computers are an extension of that network, and as such are subject to the same rules and regulations that apply to the Shire's corporate equipment and systems. That is, their machines need to connect and communicate reliably with the Shire's network and servers to ensure the security and integrity of data and records.

The following conditions relating to remote access to the Shire's system –

- a) Family members must not violate any of the Shire's policies, perform illegal activities or use the access for outside business interests;
- b) The device that is connected remotely to the Shire's corporate network should be secure from access by external non-Shire parties and should be under the complete control of the user;

- c) The use of non-Shire email accounts (e.g. Yahoo, Hotmail, Gmail etc.) or other external resources is not permitted for the conduct of Shire business without the express permission of the EMCCS, to ensure official business is not confused with personal business; and
- d) All devices (whether personal or corporate) connected to the Shire's networks via remote access technologies should have up-to-date anti-malicious-code software.

10. Provision and Use of Mobile Phones and Information / Communication Devices

Some people will be supplied with a mobile phone and/or other mobile computing device if it is deemed necessary to their position. All mobile devices supplied remain the property of the Shire and users must not change service providers unless permitted to do so.

Where a mobile device provides an email service, all emails sent or received or otherwise processed via the mobile device that are classified as a record of the Shire should be through the Shire's server, to ensure the integrity of the recordkeeping system.

Where the device includes a digital camera, users are to use the technology in a sensible manner. A failure to do so may lead to disciplinary action including possible termination of employment. Employees may also be held personally liable for their actions.

It is unlawful for drivers to operate a mobile phone and/or other mobile computing device whilst driving. Phone calls may otherwise be made or received providing the device is accessible while mounted/fixed to the vehicle or does not need to be touched by the user. An employee who operates a mobile phone and/or other mobile computing device whilst driving may face disciplinary action including possible termination of employment. Employees may also be held personally liable for their actions.

11. Department of Transport Licensing

Only employees with express authorisation of Department of Transport and CEO may access the Department of Transport Licensing system. Access and use of the system must be in accordance with the contract of agreement between the Shire and the Department. Failure to adhere to the agreement may result in disciplinary action including termination.

HISTORY

Adopted 18 July 2018

NOTES

2.4 Communications and Social Media

STATUTORY CONTEXT

Local Government Act 1995

Local Government (Rules of Conduct) Regulations 1996

CORPORATE CONTEXT

Policy Manual –

- 1.1 – Code of Conduct
- 1.3 – Elected members – Records capture and management
- 2.3 – Information & Communications Technology Usage

POLICY STATEMENT

1. This Policy applies to all employees and volunteers of the Shire who access social media for professional or social purposes whether via personal devices or those supplied by the Shire.
2. To the extent permitted by law, this Policy also applies to elected members and members of committees.

APPLICATION

3. Definitions

social media means forms of electronic communication (e.g. web sites for social networking and microblogging) through which users create online communities to share information, ideas, personal messages, and other content (e.g. videos). Some examples include (but are not restricted to) Facebook, Pinterest, LinkedIn, Twitter, YouTube, and Foursquare.

4. Scope

The scope of this policy is to –

- a) Communications initiated or responded to by the Shire of Victoria Plains with our community; and
- b) Elected members when making comment in either their role as an elected member role or a personal capacity.

5. Official Communications

The purposes of the Shire's official communications include:

- a) Sharing information required by law to be publicly available.
- b) Sharing information that is of interest and benefit to the community.
- c) Promoting Shire and community events and services.
- d) Promoting Public Notices and community consultation / engagement opportunities.
- e) Answering questions and responding to requests for information relevant to the role of the Shire.
- f) Receiving and responding to community feedback, ideas, comments, compliments and complaints.

The Shire's official communications will be consistent with relevant legislation, policies, standards and the positions adopted by the Council. Our communications will always be respectful and professional.

The Shire will use a combination of different communication modes to suit the type of information to be communicated and the requirements of the community or specific audience, including:

- a) Website;
- b) Advertising and promotional materials;
- c) Media releases prepared for the Shire President, to promote specific Shire positions;
- d) Social media; and
- e) Community newsletters, letter drops and other modes of communications undertaken by the Shire's Administration at the discretion of the CEO.

6. Speaking on behalf of the Shire of Victoria Plains

The President is the official spokesperson for the Shire of Victoria Plains and may represent the Shire in official communications, including; speeches, comment, print, electronic and social media. [s.2.8(1)(d) of the *Local Government Act 1995*].

Where the President is unavailable, the Deputy President may act as the spokesperson. [s.2.9 and s.5.34 of the *Local Government Act 1995*].

The CEO may speak on behalf of the Shire, where authorised to do so by the President. [s.5.41(f) of the *Local Government Act 1995*].

The provisions of the *Local Government Act 1995* essentially direct that only the President, or the CEO if authorised, may speak on behalf of the Local Government. It is respectful and courteous to the office of President to refrain from commenting publicly, particularly on recent decisions or contemporary issues, until such time as the President has had opportunity to speak on behalf of the Shire.

Communications by elected members and employees, whether undertaken in an authorised official capacity or as a personal communication, must not –

- a) bring the Shire into disrepute,
- b) compromise the person's effectiveness in their role with the Shire,
- c) imply the Shire's endorsement of personal views,
- d) imply the elected member or employee is speaking on behalf of the Shire, unless authorised to do so; or
- e) disclose, without authorisation, confidential information.

Social media accounts or unsecured website forums must not be used to transact meetings which relate to the official business of the Shire.

Elected member communications must comply with the Code of Conduct and the *Local Government (Rules of Conduct) Regulations 2007*.

7. Responding to Media Enquiries

All enquiries from the media for an official Shire comment, whether made to an individual elected member or employee, must be directed to the CEO or a person authorised by the CEO. Information will be coordinated to support the President or CEO (where authorised) to make an official response on behalf of the Shire.

Elected members may make comments to the media in a personal capacity – refer to clause 13 below.

8. Website

The Shire will maintain an official website, as our community's on-line resource to access to the Shire's official communications.

9. Social Media

The Shire of Victoria Plains uses social media to facilitate interactive information sharing and to provide responsive feedback to our community. Social media will not however, be used by the Shire to communicate or respond to matters that are complex or relate to a person's or entity's private affairs.

The Shire may also post and contribute to social media hosted by others, so as to ensure that the Shire's strategic objectives are appropriately represented and promoted.

The Shire seeks ideas, questions and feedback from our community however, we expect participants to behave in a respectful manner. The Shire will moderate its social media accounts to address and where necessary delete content deemed to be –

- a) Offensive, abusive, defamatory, objectionable, inaccurate, false or misleading;

- b) Promotional, soliciting or commercial in nature;
- c) Unlawful or incites others to break the law;
- d) Information which may compromise individual or community safety or security;
- e) Repetitive material copied and pasted or duplicated;
- f) Content that promotes or opposes any person campaigning for election to the Council, appointment to official office, or any ballot;
- g) Content that violates intellectual property rights or the legal ownership of interests or another party; and
- h) Any other inappropriate content or comments at the discretion of the Shire.

Where a third party contributor to a Shire's social media account is identified as posting content which is deleted in accordance with the above, the Shire may at its complete discretion block that contributor for a specific period of time or permanently.

10. Use of Social Media in Emergency Management and Response

The Shire may use social media to communicate and advise our community regarding emergency management.

11. Record Keeping and Freedom of Information

Official communications undertaken on behalf of the Shire, including on the Shire's social media accounts and third party social media accounts must be created and retained as local government records in accordance with the Shire's Record Keeping Plan and the *State Records Act 2000*. These records are also subject to the *Freedom of Information Act 1992*.

Elected member communications that relate to their role as an elected member are subject to the requirements of the Shire's Record Keeping Plan and the *State Records Act 2000*. Elected members are responsible for transferring these records to the Shire's administration. Elected member records are also subject to the *Freedom of Information Act 1992*.

12. Personal Communications

Personal communications and statements made privately; in conversation, written, recorded, emailed, texted or posted in personal social media, have the potential to be made public, whether intended or not.

On the basis that personal or private communications may be shared or become public at some point in the future, elected members should ensure that their personal or private communications do not breach the requirements of this policy, the Code of Conduct and the *Local Government (Rules of Conduct) Regulations 2007*.

13. Elected member statements on Shire of Victoria Plains matters

An elected member may choose to make a personal statement publicly on a matter related to the business of the Shire of Victoria Plains.

Any public statement made by an elected member, whether made in a personal capacity or in their Local Government representative capacity, must –

- a) Clearly state that the comment or content is a personal view only, which does not necessarily represent the views of the Shire.
- b) Be made with reasonable care and diligence;
- c) Be lawful, including avoiding contravention of; copyright, defamation, discrimination or harassment laws;
- d) Be factually correct;
- e) Avoid damage to the reputation of the local government;
- f) Not reflect adversely on a decision of the Council;
- g) Not reflect adversely on the character or actions of another elected member or employee;
- h) Maintain a respectful and positive tone and not use offensive or objectionable expressions in reference to any elected member, employee or community member.

A elected member who is approached by the media for a personal statement may request the assistance of the CEO.

14. Social Media Use for Shire Purposes

The CEO may authorise specified employees to use social media for Shire purposes.

If an employee is provided with express permission by the CEO to use social media they must –

- provide information that is truthful, accurate and in the interests of the Shire,
- must not disclose anything that is financial or technical information, commercially sensitive information, personal information about employees, or any information about customers, suppliers or members of the general public.

Employees who use social media in the course of their work must –

- a) Use spell check and proof read each post;
- b) Understand the context before entering any conversation;
- c) Know the facts and verify the sources;
- d) Be respectful of all individuals and communities with which the person interacts with online;
- e) Be polite and respectful of other opinions;
- f) Seek to conform to the cultural and behavioural norms of the social media platform being used;
- g) If a mistake is made, the person must correct it quickly by disclosing it was a mistake (including the particulars of the correction) and inform their supervisor; and
- h) Understand and comply with any directions given by the CEO on topics that are not to be discussed for confidential, operational or legal reasons.

A person authorised to use social media should always be aware that the Shire may be liable for any posts made. Guidance should be sought from the Chief Executive Officer if about stating or responding to something on a social media site.

15. Personal / Private Use of the Shire's Corporate sites

A person cannot comment on behalf of the Shire unless expressly authorised by the President (elected members) or the CEO (all other persons). If the person wishes to broadcast something (either as an initial broadcast or a response) then a request to the CEO (or authorised delegate) must be made.

An person is able to share links that the Shire has posted on the social media sites, or submitting a "like" action, or comment on an event, initiative or program, provided that it is in the best interests of the Shire.

16. Personal / Private Use of Non-Shire Sites

Employees are permitted reasonable use of social media for personal / private purposes on the condition that it does not interfere with the performance of their work.

Employees who use social media for personal / private purposes must not infer or state they are speaking on behalf of the Shire and are reminded that any inappropriate postings or actions carried out on social media may result in disciplinary action.

Use of sites to comment of issues relating to the Shire of Victoria Plains or to bully, harass, discriminate against another employee, may be subject to disciplinary action

17. Consequences of breach of policy

Comments which become public and which breach this policy, the Code of Conduct or the *Local Government (Rules of Conduct) Regulations 2007*, may constitute a minor breach of the *Local Government Act 1995* and may be referred for investigation to –

- a) as an elected member, to the Standards Panel of the Department of Local Government, Sporting and Cultural Industries,

- b) as an employee, face disciplinary action up to and including termination.

Where a person breaches this Policy –

- a) the Shire may also be obligated to refer the breach to an external agency where a person may be held personally liable for their actions, and
- b) may also be personally liable for their actions, through private action.

HISTORY

Former Policy 1.8, 1.9.1 to 1.9.4
Adopted 18 July 2018

NOTES

WA Local Government Association –

- Communications and Social Media Policy, 9 May 2018 (for elected members and employees)
- Draft Guidelines – Elected Members Use of Social Media, 1 March 2018

2.5 Managing Unreasonable Conduct by Members of the Public

OBJECTIVE

The purpose of this policy is to provide guidelines for the management and handling of unreasonable conduct by members of the public.

STATUTORY CONTEXT

Local Government Act 1995 –

- s.2.7(2)(b) – Council to determine the local government policies

Occupational Safety and Health Act 1984 –

- s.19 – duty of employer to provide and maintain a working environment where employees are not exposed to hazards, so far as is practicable.

CORPORATE CONTEXT

None

POLICY STATEMENT

1. The Shire recognises that most members of the public act reasonably and responsibly in their interactions with the Shire, even when experiencing high levels of distress, frustration or anger about their particular enquiry, request, concern or complaint.
2. However, a minority of the members of the public behave in ways that are unreasonable and/or inappropriate and otherwise unacceptable.
3. Unreasonable conduct by members of the public can consume a disproportionate amount of the Shire's time and resources, and cause serious stress to employees, elected members, volunteers and witnesses. In these situations, the Shire will take steps to manage the effects of such conduct so as to reduce or eliminate the excessive diversion of resources and disruption to the work of the Shire that such conduct entails.
4. However, even when a person's behaviour may be unreasonable, their complaint or concern will be impartially assessed on its merits. If their complaint or concern is found to be valid, it will be handled appropriately, in accordance with the Shire's adopted values and in line with the standards set out in the Shire's Code of Conduct and Customer Service Charter.
5. This policy has drawn extensively on guidance relating to unreasonable conduct that has been published by the Ombudsman's Office of Western Australia and the Ombudsman offices of other states in Australia.

APPLICATION

6. Definitions

Members of the public means any external person or organisation that the Shire has dealings with.

Person or any word or expression descriptive of a person includes a public body, company, or association or body of persons, corporate or unincorporated.

7. Scope

This policy applies to all situations involving interactions between those individual members of the public who engage in unreasonable conduct and the Shire, whether through its elected members, employees, consultants or contractors who are engaged to provide services to the Shire.

8. Policy Outcomes

- a) **Equity and Fairness:** Ensuring all customer complaints, requests and concerns are dealt with equitably and fairly and resources are allocated on the basis of genuine need and merit.
- b) **Efficiency:** Improving overall efficiency by having an appropriate process and allocating sufficient time and resources to deal with unreasonable conduct.
- c) **Health and Safety:** Complying with work health and safety requirements and duty of care obligations associated with managing impacts of unreasonable conduct on employees' health, safety and security, and implementing measures to mitigate or control those risks.

- d) Transparency : Publishing clear expectations for interactions between members of the public and employees, volunteers and elected members including definitions of unreasonable conduct and the actions that will be taken when such conduct is encountered.

9. Unreasonable Conduct

Unreasonable conduct is any behaviour which, because of its nature or frequency raises substantial health, safety, resource or equity issues for elected members, employees, volunteers, contractors or other service users. For the purposes of this policy, unreasonable conduct is divided into five categories:

Type of Conduct	Examples
Unreasonable persistence	<ul style="list-style-type: none"> • persisting with a request, concern or complaint even though it has been comprehensively considered by the Shire, and all avenues of review have been exhausted • reframing a request, concern or complaint in an attempt to get it taken up again • showing an inability to accept a final decision, explanation or recommendation • harassing the Shire with phone calls, visits, letters and emails when not warranted or after repeatedly being asked not to do so
Unreasonable demands	<ul style="list-style-type: none"> • insisting on outcomes that are unattainable • wanting what is not possible or appropriate (such as copies of sensitive or confidential documents and names and contact details of employees etc) • issuing instructions and making demands about how a complaint, request or concern should be handled • harassing employees with unnecessary and excessive phone calls, letters and emails • making inappropriate or unreasonable demands on employee time and Shire resources, which are out of proportion to the seriousness of the issue • seeking regular and lengthy phone contact when this is not warranted • shopping for a sympathetic ear in the Shire – eg demanding to talk to a supervisor or the manager personally • requesting out of date information that has been superseded or expired, or action to address these issues, where the information or action is no longer relevant
Unreasonable lack of cooperation	<ul style="list-style-type: none"> • presenting a large quantity of information which is not organised, sorted, classified or summarised, where the person is clearly capable of doing this • focusing on principles rather than substantive issues • changing the complaint, request or concern and raising new issues while that complaint, request or concern is in the process of being considered • displaying unhelpful behaviour, such as withholding information, being dishonest, misquoting others
Unreasonable arguments	<ul style="list-style-type: none"> • applying irrational beliefs • interpreting facts in a clearly irrational or unreasonable way and insisting this interpretation is the correct one • insisting on the importance of an issue that is clearly trivial
Unreasonable behaviour	<ul style="list-style-type: none"> • displaying confrontational behaviour such as rudeness, anger, aggression, verbal abuse, threats or harassment • sending rude, confrontational or threatening letters • displaying manipulative behaviour such as behaving in an overly ingratiating manner and making veiled threats

10. The Shire values its employees and customers, and safety is paramount to this commitment. Shire employees therefore have the discretion to terminate any interaction, where the employee reasonably perceives that they are at risk as a result of the person's behaviour, whatever the nature of that and particularly where the employee is being threatened or harassed or the behaviour of the person is aggressive.
11. In order to ensure that members of the public are dealt with fairly, efficiently and effectively, and that work health and safety responsibilities and common law duty of care obligations are met, the Shire may restrict, withhold or withdraw the provision of services to persons engaging in unreasonable conduct in the manner set out in this policy.
12. The decision to restrict, withhold or withdraw contact with the Shire will only be made by the CEO.
13. The CEO will take such action with the aim of managing the impacts of a person's conduct, rather than punishing the person.
14. The rationale and decision is to be documented and the person is to be advised in writing of the reasons for the decision, what restrictions apply and how long they will apply for.
15. The CEO may decide to take one or more of the following courses of action –
 - a) Restricting the person to communicating with a sole contact person within the Shire
 - i) Where a person changes the nature of their complaint, request or concern repeatedly, reframes it or raises an excessive number of complaints, requests or concerns it may be appropriate to restrict their access to a single employee who will exclusively manage their complaints, requests or concerns and their interactions with the Shire.
 - ii) Where a person is restricted to a sole contact person, the CEO will assign an alternative contact, and notify other staff of the alternative contact for times when the primary contact is unavailable (such as on leave or unavailable for an extended period of time).
 - b) Restricting the subject matter of communications that will be considered
Where a person repeatedly sends written communications, letters, emails or online forms that raise trivial or insignificant issues, contain inappropriate or abusive content that has already been comprehensively considered and/or reviewed by the Shire, it may be appropriate to restrict the issues or subject matter that the person may raise with the Shire in the future or to restrict the kinds of correspondence that the Shire will respond to in the future. Such restrictions may include:
 - i) refusing to respond to correspondence that has already been dealt with comprehensively, that raises a trivial issue, or that is not supported by evidence or any clear evidence;
 - ii) restricting the person to one complaint, request or concern per month. Any attempts to circumvent this restriction may result in modifications or further restrictions being placed on their access;
 - iii) returning correspondence to the person and requiring them to remove any inappropriate content before the Shire will agree to consider its contents. The Shire will keep a copy of the inappropriate correspondence to identify repeat/further unreasonable conduct incidents.
 - c) Limiting when and how a person can contact the Shire
If a person's telephone, written or face-to-face contact with the Shire places an unreasonable demand on Shire time and/or Shire resources because it is overly lengthy or affects the health, safety and security of employees because it involves behaviour that is persistently rude, threatening, abusive or aggressive, the Shire may limit when and/or how that person can interact with the Shire. This may include:
 - i) limiting their telephone calls or face-to-face interviews to a particular time of the day or week;
 - ii) limiting the length or duration of telephone calls, written correspondence or face-to-face interviews; and
 - iii) limiting the frequency of their telephone calls, written correspondence or face-to-face interviews.

- d) Limiting face-to-face interviews to secure areas
If a person is or has been violent or overtly aggressive, unreasonably disruptive, threatening or demanding in interactions with the Shire or makes frequent unannounced visits to the Shire's offices, the Shire may consider restricting face-to-face contact with that person. These restrictions may include:
- i) restricting access to particular secured premises or areas of the office;
 - ii) restricting their ability to attend the premises to specified times of the day or week;
 - iii) allowing them to attend offices on an 'appointment only' basis and only with specified employees; and
 - iv) refusing the person entry to the premises altogether, to be replaced by some other medium of communication, such as writing-only or telephone-only contact.
- e) Contact through a representative only
- i) In cases where the Shire cannot completely restrict contact with a person and their conduct is particularly difficult to manage, the Shire may restrict their contact with the Shire by permitting it only through a support person or representative, nominated by the person and approved by the CEO.
 - ii) When assessing a representative's suitability, the CEO should consider that person's competency and literacy skills, demeanour or behaviour and relationship with the person. If the CEO determines that the representative may worsen the situation with the person then the CEO will ask the person to nominate someone else.
- f) Completely terminating a person's access to services
In rare cases, and as a last resort when all other strategies have been considered or attempted, the CEO may decide that it is necessary to terminate all contact with the person and deny the person access to the Shire's services.

A decision to terminate contact with a person will only be made if it appears that the person is unlikely to modify their conduct and/or their conduct poses a significant risk for employees or other parties because it involves one or more of the following types of conduct:

- i) acts of aggression, verbal and/or physical abuse, threats of harm, harassment, intimidation, stalking or assault;
- ii) damage to property while on Shire premises;
- iii) threats with a weapon or common office items that can be used to harm another person or themselves;
- iv) physically preventing an employee from moving around freely either within their office or during an off-site visit;
- v) behaving in a way that is otherwise unlawful.

16. The procedures to be followed when deciding to restrict, withhold or terminate a person's contact with the Shire and/or access to the Shire's services are as follows:

- a) Consulting with relevant employees, volunteers or elected members
When the CEO becomes aware of unreasonable conduct he or she will discuss the incident with the relevant employee, volunteer or elected member, including:
- i) the circumstances that gave rise to the incident;
 - ii) the impact of the person's conduct on the Shire, the Shire's resources and the relevant employee(s), volunteer(s) or elected member(s);
 - iii) the person's responsiveness to any warnings or requests to stop the behaviour;
 - iv) the actions that have been taken to manage the person's conduct;
 - v) the suggestions made by the relevant employees, volunteer(s) or elected member(s) on ways that the situation could be managed.
- b) Following consultation with the relevant employees, volunteer(s) or elected member(s) the CEO will decide on the appropriate course of action. The CEO may suggest formal or informal options for dealing with the person's conduct which may include one or more of the strategies provided in this policy.
- c) Issuing a warning letter
Unless a person's conduct poses a substantial risk to the health and safety of employees, volunteer(s) or elected member(s) the CEO will issue the person with a written warning about their conduct in the first instance. The warning letter will:
- i) specify the date, time and location of the incident(s);
 - ii) explain why the person's conduct is problematic;

- iii) list the types of access changes and/or restrictions that may be imposed if the behaviour continues;
- iv) provide clear and full reasons for the warning being given;
- v) provide the name and contact details of the employee who they can contact about the letter.

d) Issuing a notification letter

If the unreasonable conduct continues after a person has been given a warning letter or in extreme cases of overt aggression, violence, assault or other unlawful or unacceptable conduct, the CEO has the discretion to send a notification letter immediately restricting that person's access to the Shire's services. The notification letter will:

- i) specify the date, time and location of the incident(s);
- ii) explain why the person's conduct is unacceptable;
- iii) identify the change and/or restriction that will be imposed and what it means for the person;
- iv) provide clear and full reasons for this restriction;
- v) specify the duration of the change or restriction imposed, which will not exceed 12 months;
- vi) indicate a time period for review;
- vii) provide the name and contact details of the employee whom they can contact about the letter.

17. Notifying relevant employees about access changes or restrictions

- a) The CEO will notify relevant employees about any decisions to change or restrict a person's access to the Shire's services, in particular reception and security staff in cases where a person is prohibited from entering the Shire's premises.
- b) The CEO will also update the system with a record outlining the nature of the restrictions imposed and their duration.

18. Continued monitoring/oversight responsibilities

Once a person has been issued with a warning or notification letter, the CEO will review the person's record of restriction every three months, or on request by an employee, or following any further incidents of unreasonable conduct that involve the restricted person to ensure that they are complying with the restrictions and that the arrangement is working.

19. If the CEO determines that the restrictions have been ineffective in managing the person's conduct or are otherwise inappropriate the CEO may decide to either modify the restrictions, impose further restrictions or terminate the person's access to the Shire's services altogether.

20. Appealing a decision to change or restrict access

A person is entitled to appeal a decision to change or restrict their access to the Shire's services. This review will be undertaken by a senior employee who was not involved in the original decision to change or restrict the person's access.

21. Recording and reporting incidents of non-compliance

All employees are responsible for recording and reporting incidents of non-compliance with restrictions by a restricted person. This should be recorded in a file note and a copy forwarded to the CEO who will decide whether any action needs to be taken to modify or further restrict the person's access to the Shire's services.

22. Period for review

Decisions made under this policy will be reviewed every 3 months or 6 months (depending on the nature of the service provided) and not more than 12 months after the service change or restriction was initially imposed or continued.

23. Notifying the person of an upcoming review

- a) The CEO will invite all restricted persons to participate in the review process unless they determine that this invitation will provoke further unreasonable conduct from the person.
- b) The invitation will be given and the review will be conducted in accordance with the restrictions that apply to the particular person (eg if contact has been restricted to writing only then the invitation to participate will be done in writing).

24. Criteria to be considered during a review

When conducting a review the CEO will consider:

- a) whether the person has had any contact with the Shire during the restriction period;

- b) the person's conduct during the restriction period;
- c) any information or arguments put forward by the person for the purposes of the review; and
- d) any other information that may be relevant in the circumstances.

25. Notifying a person of the outcome of a review

The CEO will notify the person in writing of the outcome of their review. The review letter will:

- a) briefly explain the review process;
- b) identify the factors that have been taken into account during the review; and
- c) explain the decision or outcome of the review and the reasons for it.

If the outcome of the review is to maintain or modify the restriction the review letter will also:

- d) indicate the nature of the new or continued restriction;
- e) state the duration of the new restriction period; and
- f) provide the name and contact details of the employee who the person can contact to discuss the letter.

26. Recording the outcome of a review and notifying relevant employees

The CEO is responsible for keeping a record of the outcome of the review, and notifying all relevant employees of the outcome of the review including where the restriction has been withdrawn.

27. Consequences of breach by employee

An employee in breach of instructions of the CEO given in relation to this policy, may be liable to disciplinary action.

HISTORY

Adopted 19 December 2018

NOTES

Ombudsman Western Australia Guidelines 'Dealing with unreasonable complainant conduct' are not mandatory. However, close adherence is recommended.

Section 3 - Financial Management

3.1 Purchasing – Framework

OBJECTIVE

The objects are to –

- obtain quality goods and services that are judged to deliver the best value-for-money or be the most advantageous,
- provide compliance with the Local Government Act, 1995 and the Functions and General Regulations,
- deliver a best practice approach and procedures to internal purchasing for the Shire,
- ensure consistency for all purchasing activities that integrates with all the Shire operational areas.

STATUTORY CONTEXT

Local Government (Functions and General) Regulations 1996 –

- r.11A – purchasing policy required, and matters to be addressed

CORPORATE CONTEXT

Delegation Register –

- 3.1 – Municipal Fund – Incurring Expenditure
- 3.7 – Tenders – authority to set specifications, criteria, call, accept, vary

Policy Manual 2018 –

- 1.1 – Code of Conduct
- 3.2 – Purchasing – Regional Price Preference
- 3.3 – Credit Cards – including store, fuel and debit cards

POLICY STATEMENT

1. The following Council Policy Schedules are adopted, and form part of this Statement –
 - 3.1(a) – Purchasing Principles
 - 3.1(b) – Purchasing Thresholds
 - 3.1(c) – Regulatory Compliance for all Purchasing
 - 3.1(d) – Specific Requirements for Tenders
2. Where the goods or services are to be accessed from the WA Local Government Association Preferred Supplier Panel or State Government Common Use Agreement, compliance with Policy Schedule 3.1(b) Purchasing Thresholds, clause 1 is required.
3. Proposals for consultancies, works and services etc, to be provided on Shire managed sites are also to be assessed in accordance with –
 - Policy 9.1 OSH – Employees, Volunteers, Contractor and Visitors,
 - OSH Contractors Manual
 - any instructions issued by the CEO
4. Exceptional Circumstances
 - a) Under exceptional circumstances, where goods or services need to be purchased urgently and there is insufficient time to obtain quotations, the CEO may make the required purchase, notwithstanding the thresholds and requirements of Schedule 3.1(b), subject to the purchase being less than \$150,000.00 ex GST. Unique value for money circumstances that preclude obtaining quotes must exist, such as –
 - it is opportunistic such as eliminating otherwise applicable costs,
 - it enhances operational efficiency, or
 - mitigates against risk etc.

- it is appropriate for continuity of previous works, services, or design, but is not to exceed 50% of an original competitively sourced provider to a maximum of \$20,000
- b) Procurement under exceptional circumstances must be approved in advance by the CEO.
- c) Exercise of this authority is to be in consultation with the Shire President.

APPLICATION

5. This Policy applies to all purchasing and procurement activity, and is not limited to tendering.

HISTORY

Former Policy	6.5.5, 6.5.6
Replaced	21 June 2018

REFERENCES

None

Schedule 3.1(a) – Purchasing Principles

1. Ethics & Integrity

All officers and employees of the Shire shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the Shire.

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure fair and equitable treatment of all parties –

- full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money,
- all purchasing practices shall comply with relevant legislation, regulations, and requirements consistent with the Shire policies and code of conduct,
- purchasing is to be on a competitive basis in which all suppliers are treated impartially, honestly and consistently,
- all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies and audit requirements,
- any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed,
- any information provided to the Shire by a supplier shall be treated as commercial-in-confidence until such time as the purchase decision is made, and is not to be released unless authorised by the supplier or relevant legislation, and
- consideration must be given to any Local Price Preference Policy adopted by Council.

2. Value for Money

Value for money is an overarching principle recognised by the Regulations that allows the best possible outcome to be achieved for the Shire. Compliance with the specification is more important than obtaining the lowest price, particularly taking into account user requirements, quality standards, sustainability, life cycle costing, and service benchmarks.

What constitutes “value for money” or “most advantageous” considerations are to be itemised and detailed as part of evaluation – use of these terms are not adequate.

An evaluation of the best value for money outcome for any purchasing should consider –

- all relevant whole-of-life costs and benefits (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal,
- the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality,
- financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history),
- a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable,
- continuity of supply or service, and particularly timeliness of any warranty service, emergency or maintenance/repair response, familiarity with works/conditions etc,
- where a new or start up business makes a submission, the anticipated longevity of the business, its relevance to the region and if goods or service previously not available in the region.

Where a higher priced conforming offer is recommended, there should be clear benefits over lower priced conforming offers.

3. Sustainable Procurement

Sustainable procurement is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services, and considerations must be balanced against value for money outcomes.

– End of Schedule

Schedule 3.1(b) – Purchasing Thresholds and Requirements**1. Purchasing Thresholds**

The value of a purchase is not limited to the financial year when the purchase was initiated, but may be over several financial years depending on the procurement or type of contract.

Records – where required or obtained, the following are to be attached to the purchase order –

- a) Note of verbal specification and submission
- b) Specification required, assessment criteria set, summary of submissions, evaluation made r

General purchasing thresholds –

Where the value of procurement (excluding GST) for the value of the contract over the full contract period (including options to extend) is, or is anticipated.

Anticipated Value of Purchase Excl. GST	Requirement	Documentation
Less than \$1,500	Quotations not required for items of minor recurrent nature, such as groceries, stationery, hardware, mechanical, reticulation consumables etc Employee must be satisfied that the price is competitive	None
\$1,500 to less than \$5,000	At least two verbal quotations Written quotations recommended but not required	Required – - Note of verbal quotations received Recommended – - Written quotations received
\$5,000 to less than \$10,000	At least two written quotations	Required – - Written quotations
\$10,000 to less than \$50,000	At least three written quotations	Required – - Written quotations received Recommended – - Written specifications - Assessment criteria - Evaluation panel
\$50,000 to less than \$150,000	Obtain at least three written quotations containing price and specification of goods and services	Required – - Written specification - Written assessment criteria - Written quotations received - Evaluation panel
\$150,000 and above	Conduct a public tender process or WALGA Preferred Supplier / State Government Common Use Agreement Refer to Council for decision unless prior delegation to CEO	Required – - Written specification - Written assessment criteria - Written quotations received - Evaluation panel

WALGA Preferred Supplier or State Government Common Use Agreement thresholds –

Less than \$150,000	As per General threshold	As per General Thresholds
\$150,000 and above	Obtain at least three written quotations containing price and specification of goods and services. Refer to Council for decision unless prior delegation to CEO	As per General Thresholds

NOTES –

1. Any work done under warranty / guarantee is not considered to be a purchasing activity, but is a part of the original contract or agreement to purchase.
2. Any work done outside of warranty / guarantee, even if it may affect warranty / guarantee, is a purchasing activity. Management of that risk is an administrative task, and may be a factor in a “value for money” consideration.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for purchases under the \$150,000 threshold (excluding GST). If a decision is made to seek public tenders for contracts of less than \$150,000, a Request for Tender process that entails all the procedures for tendering outlined in this policy must be followed in full.

2. Quotations / Submissions

The general principles relating to written quotations / submission are –

- An appropriately detailed specification should communicate requirement(s) in a clear, concise and logical fashion.
- The request for written quotation should include as a minimum:
 - o written specification
 - o assessment criteria to be applied
 - o price schedule
 - o conditions of responding
 - o validity period of offer
- Invitations to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond.
- Offer to all prospective suppliers at the same time any new information that is likely to change the requirements.
- Responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented.
- Respondents should be advised in writing as soon as possible after the final determination is made and approved.

The Local Government Purchasing and Tender Guide produced by the Western Australian Local Government Association (WALGA) should be consulted for further details and guidance.

3. Specifications, Assessment Criteria and Evaluation

Applies to all procurements as determined by the thresholds in clause 1 –

- a) Where a specification is provided or required by clause 1 – What is required to be in the specification may include –
 - Details, format and request to be appropriate to the procurement
 - How many / how much,
 - what size / power etc,
 - how fitted out,
 - standard / quality required,
 - type of construction,
 - where the work / product is to be delivered etc
- b) If a written specification has been issued the assessment criteria is to be included in the written specification.
- c) In any event, assessment criteria are to be determined prior to evaluation – How the submission is to be assessed and scored, and may include –
 - Details and record to be appropriate to the procurement
 - Local provider or external
 - Standard of work, quality of item
 - Reliability, service, warranty
 - References
 - Price etc
- d) After close of submission period, evaluation is to be made based on the following– How the submission was actually assessed and scored –
 - To what extent was each specification met,
 - How does submission measure against each criteria
 - Which score provides best value for money

Where required and prior to submissions being requested, the specifications for the procurement and the assessment criteria for determining the procurement are to be determined in writing –

- for quotations – by the purchasing officer, and approved by the relevant Manager within their approved purchasing limits, otherwise by the CEO
- for tenders – by the purchasing officer, approved by the relevant Manager, and authorised by the CEO under delegated authority.

If required or appropriate, any Evaluation Panel is to be established prior to the request for submissions being with a mix of skills and experience relevant to the nature of the purchase. The Panel is to assess the submissions against the specifications set, the assessment criteria, value for money, local price preference and any other relevant matter.

– *End of Schedule*

Schedule 3.1(c) – Regulatory Compliance for all Purchasing

1. Sole Source of Supply (Monopoly Suppliers)

- a) Procurement from only one private sector source of supply, (i.e. manufacturer, supplier or agency) is permitted without the need to call competitive quotations provided that –
 - there must genuinely be only one source of supply
 - every endeavour to find alternative sources has been made,
 - written confirmation of this must be kept on file for later audit.
- b) The application of provision “sole source of supply” should only occur in very few cases and procurement experience indicates that generally more than one supplier is able to provide the requirements.
- c) Approval of purchasing from a monopoly supplier other than those exempted in the Regulations is restricted to the CEO.

2. Anti-Avoidance

- a) The Shire shall not enter two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below a particular threshold to avoid the requirements of higher level of compliance.

3. Specifications

- a) Before submission or quotes or tenders are sought, the CEO is to determine in writing the specifications under Schedule 3.1(b) for deciding the standards and requirements of the purchase.

4. Assessment

- a) Before submission or quotes or tenders are sought, the CEO is to determine in writing the assessment criteria under Schedule 3.1(b) for deciding which offer should be accepted.

5. Receiving Submissions

- a) All submissions are to remain confidential until the purchase decision is made.

6. Evaluation of Submissions

- a) Evaluation is to be recorded against the specifications set and assessment criteria established. Reasons for the decision are to be recorded.
- b) Where an evaluation panel is established under Schedule 3.1(b) it should include a mix of skills and experience relevant to the nature of the purchase.

7. Records Management

- a) All records associated with the procurement process must be recorded and retained. For a tender process this includes –
 - Tender documentation, including specifications and assessment criteria,
 - Internal documentation,
 - Evaluation documentation,
 - Enquiry and response documentation,
 - Notification and award documentation.
- b) For a direct purchasing process this includes –
 - Quotation documentation, including any specification and assessment criteria
 - Internal documentation, such as evaluation etc
 - Purchase orders issued and requisitions.
- c) Record retention shall be in accordance with the minimum requirements of the State Records Act, and the Shire’s internal records management policy.

– End of Schedule

Schedule 3.1(d) – Specific requirements for tenders

1. Requirement to call tenders

The requirements to call tenders is –

- a) as per Regulations;
- b) where required or directed by Council,
- c) at the discretion of the CEO, and
- d) applies to both purchases and disposition of property.

2. Tender Exemption

In some instances public tenders or quotation procedures are not required, regardless of the value of expenditure. The permitted exemptions are stipulated in the Local Government (Functions and General) Regulations 1996 r.11.

3. Tender documentation

Tenders will not be made available (counter, mail, internet, referral, or other means) without recording the details of all parties who acquire the documentation.

This is essential since if clarifications, addendums or further communication is required prior to the close of tenders, all potential tenderers must have equal access to this information in order for the Shire not to compromise its duty to be fair.

4. Purchase Criteria

- a) Before submission or quotes or tenders are sought, the CEO is to determine in writing under delegated authority the specifications and assessment criteria for deciding which offer should be accepted.

5. Tender Deadline

A tender that is not received in full in the required format by the advertised tender deadline is to be rejected.

6. Receiving and Opening Tenders

- a) All tenders must be clearly marked, sealed and placed in the locked tender box until the official opening.
- b) When lodgement of tenders by email is permitted, the email is to be sent to a separate email inbox that remains unused until the close of the tender period.
- c) When tenders are opened there must be at least two employees present, or one local government employee and at least one person authorised by the CEO.

7. Tender Acceptance

All tenders and procurement over \$150,000 are to be presented to Council for decision.

– End of Schedule

3.2 Purchasing – Regional Price Preference

OBJECTIVE

To detail the conditions under which a local preference may apply to purchasing

STATUTORY CONTEXT

Local Government (Functions and General) Regulations 1996 –

- r.24B – terms used
- r.24C – authority to adopt a policy
- r.24D – maximum % discount and maximum \$ value of discount permitted
- r.24E – once prepared, Statewide notice is required, submissions invited, and if significant changes made, further Statewide notice
- r.24F – Policy can't be adopted until after Statewide notice of adoption, specified matters must be in the policy, and the policy must be included in tender specifications

CORPORATE CONTEXT

Delegation Register –

- 3.1 – Municipal Fund – Incurring Expenditure
- 3.7 – Tenders – authority to set specifications, criteria, call, accept, vary

Policy Manual 2018 –

- 1.1 – Code of Conduct
- 3.1 – Purchasing Framework

POLICY STATEMENT

The following Council Policy Schedules are adopted, and form part of this Statement –

- Schedule 3.2 – Regional Price Preference.

APPLICATION

1. The Regional Price Preference applies to providers and suppliers –
 - a) established within the preference region,
 - b) based outside the preference region.
2. This Policy applies to all purchasing and procurement activity, and is not limited to tendering.

HISTORY

Former Policy	1.7
Replaced	13 August 2018

NOTES

Statutory requirement are to be observed. The Functions & General Regulations require –

- **Statewide notice of proposed policy, amendment or revocation,**
- **public comment period of 4 weeks,**
- **submissions to be considered prior to adoption, and**
- **Statewide notice of adoption.**

Policy Schedule 3.2 – Regional Price Preference

1. Definitions

price preference is the application of a discount to the price when comparing submitted prices only, so as to give a marginal advantage to a regional offer, and does not refer to the price that is to be accepted.

preference region is specified as the geographical area which comprises the Shire of Victoria Plains;

regional tenderer as defined under the *Local Government (Functions and General) Regulations 1996* s 24B(2) as a supplier that has been operating a business continuously out of premises within the region for at least 6 months and submits a tender for the supply of goods and/or services;

start up businesses means a business of less than 10 employees, which has commenced within the preceding 6 months prior to closing date of tender or quote, or would be established specifically for the purposes of the tender

regional content preference is the incentive for businesses/contractors outside the region to purchase goods, services and construction from within the region, but excludes travel and accommodation costs.

tenderer includes a new or start up business where the owner or provider has been resident of the region for at least 6 months

2. Preference principles

The Shire will encourage local industry to do business with the Shire by providing incentive through the adoption of a regional price preference advantage in conjunction with standard evaluation considerations, and as part of usual procurement consideration.

The price preference will apply to suppliers who are based in, and operate from the preference region in relation to all purchasing by the Shire for the supply of goods and services and construction (building) services, unless specifically stated otherwise, providing they are competitive in regard to specification, service, delivery and price.

3. Start-up Businesses

Where a new or start up business having less than 10 employees makes a submission, the anticipated longevity of the business, its relevance to the region and if goods or service previously not available in the region, are to constitute a component of "value for money" or "most advantageous" considerations as per Function and General Regulations r.24D(3). Reasons are to be itemised, and detailed as part of the "value for money" evaluation in accordance with Policy Sch.3.1(a) – Purchasing Principles.

4. Regional business preference

This preference enables businesses/contractors within the preference area to claim a price preference for their whole bid, regardless of the origin of the labour or materials, as all labour and materials are deemed to be regional content.

The following levels of preference are to be applied to whole of contract for all purchasing under this provision –

Reduction % to be applied to whole of purchase	Contract for	Maximum reduction value per purchase
10%	Goods or services	\$30,000
5%	Construction (incl. building and roadworks etc) services	\$50,000

To qualify as a local business/contractor, a supplier must meet the following conditions –

- A permanent business location in the preference region for at least six (6) months. *Local Government (Functions and General) Regulations 1996* states that the 6 month calculation is based on the period prior to when the tender closes.
- Have permanent staff based in the preference region
- Management and delivery of the majority of the quotation / contract will be carried out from their business location in the preference region.

The price of the bids from the local businesses/contractors will be reduced / discounted for evaluation purposes only, by the percentage to the maximum value set out in this clause.

5. Regional Content Preference

Some businesses / contractors may be based outside the preference region, but utilise significant resources based in the preference region. This preference provides an incentive for businesses / contractors outside the preference region to purchase goods, services and construction from within the preference region.

The preference applies to the value of the goods, materials or services that are purchased from within the preference region, and are referred to as *Regional Content*.

The following levels of preference are to be applied to the portion of the proposal claimed / identified as the Regional Content portion of the contract for all purchasing under this policy –

Reduction % to be applied to Regional Content only of purchase	Contract for	Maximum reduction value per purchase
10%	Goods or services	\$30,000
5%	Construction (incl. building and roadworks etc) services	\$50,000

Regional content limitations for suppliers based outside the preference region are –

- a) some or all of the goods, materials or services are to be supplied from regional sources. The preference only applies to that part of the tender or quote that has been supplied from regional sources, which needs to be specified in the submission.
- b) businesses outside of the preference region who claim that they will use regional business in the delivery of the contract outcomes –
 - must stipulate who the regional provider will be and the value of the regional content, and
 - will be required as part of the contract conditions, to demonstrate that they have actually used the regional provider.

The price of the bids from the businesses/contractors using preference region content will be reduced for evaluation purposes and for that component of the bid only, by the amounts set out in above.

6. Scope

It should be noted that price is only one factor to be considered when the Shire assesses submissions. Accordingly, a regional submission where price is within the preference is not guaranteed of procurement, as the submission must also meet other relevant criteria, as per Policy 3.1 – Purchasing Framework.

– End

3.3 Credit Cards – including store, fuel and debit cards

OBJECTIVE

To ensure the proper management of corporate credit, store, fuel and debit cards

STATUTORY CONTEXT

N/A

CORPORATE CONTEXT

Delegation Manual –

- 3.1 – Municipal Fund – Incurring expenditure

Policy Manual –

- 3.1 – Purchasing Framework

POLICY STATEMENT

1. Schedules adopted

The following Policy Schedules are adopted, and form part of this Statement –

- Sch.3.3(a) – Corporate, Store, Fuel and Debit Cards – Cardholder Agreement
- Sch.3.3(b) – Reconciliation of Credit Cards, Store Cards and Debit Cards
- Sch.3.3(c) – Purchasing using Credit Cards

2. Authority

All cardholders must have either the authority or delegated authority to commit Shire to expenditure

3. Personal Use

- a) The card is not to be used to obtain personal items under any circumstances.
- b) Breaches may constitute disciplinary action in accordance with Council's policies, the immediate withdrawal of the facility and possible action under the Criminal Code.

4. Use by Persons other than the Cardholder

- a) Cardholders must not allow their card to be used by other persons per card conditions of use, even in absences.
- b) This will ensure that the cardholder has full responsibility for the use of the card and breaches of this condition will result in the Shire being liable for any unauthorised transactions.

5. Cardholder Responsibilities

- a) Ensure each card is maintained in a secure manner and guarded against improper use.
- b) Cards are to be used only for Shire official activities, there is no approval for any private use.
- c) All documentation regarding a card transaction is to be retained by the cardholder and produced as part of the reconciliation procedure.
- d) Card limits are not to be exceeded.
- e) Purchases on any card are to be made in accordance with Shire of Victoria Plains – Purchasing Policy.
- f) Reconciliation is to be completed within 7 days of the date of the card statement being issued.
- g) All cards are to be returned to the CEO on or before the employee's termination date with a full acquittal of expenses.
- h) All cardholder responsibilities as outlined by the card provider.
- i) Cash advances or withdrawals are not permitted.

6. Cardholder Agreement

- a) The Cardholder Agreement is contained in Policy Schedule 3.3(a).

- b) Failure to comply with any of these requirements could result in the card being withdrawn from the employee.
- c) In the event of loss or theft through negligence or failure to comply with the Shire's Policy any liability arising may be passed on to the cardholder.

7. Consequences of Non-Compliance

Failure to comply with the Delegations, Policy or Procedures may result in disciplinary action up to and including termination of employment.

APPLICATION

8. Card Reconciliation Procedures

- a) Card statement accounts will be issued to the relevant cardholder who will, within 7 days, acquit the transactions on the account. A template is attached to this policy identifying the reconciliation requirements.
- b) Transactions will be supported by a GST invoice stating the type of goods purchased, amount of goods purchased and the price paid for the goods. The receipt shall meet the requirements of the *Goods and Services Tax Act 1999* to enable a GST rebate to be applied.
- c) Transactions shall be accompanied by a job number for costing purposes.
- d) If no supporting documentation is available the cardholder will provide a declaration detailing the nature of the expense and must state on that declaration all expenditure is of a business nature'. Approval of this expense is referred to the CEO for a decision.
- e) Should approval of expenses be denied by the CEO recovery of the expense shall be met by the cardholder.
- f) The cardholder shall sign and date the card statement with supporting documentation attached stating all expenditure is of a business nature.
- g) A monthly report and reconciliation of all card transactions will be included in the accounts for payment report presented to Council.

9. Use of Cards

Corporate Credit Cards or Debit Cards must not be used to purchase fuel products for Shire vehicles unless in exceptional circumstances – a fuel card should be used for this purpose where possible.

10. Disputed Transactions

- a) The Shire is responsible for paying all accounts on the monthly card statement and the bank processes a direct debit from Council's operating bank account for such.
- b) When a Cardholder believes that charges are incorrect they should first contact the supplier to determine the causes of the discrepancy and if necessary the Creditors Officer will notify the bank in writing.
- c) Any amounts in dispute must be highlighted on the copy of the Cardholders statement and a copy of the written notification to the bank attached.

11. Cancelled Cards

Cancellation of a Card may be necessary where the:

- a) Cardholder changes job function within Council
- b) Cardholder terminates employment with Council
- c) Council terminates employment with the Cardholder
- d) Card is no longer required
- e) Cardholder has not adhered to set procedures
- f) Misuse of the Card.

12. Review of Card Use

All receipts and documentation will be reviewed and any expenses that do not appear to represent fair and reasonable business expenses shall be referred to the CEO for a decision.

13. Procedures for Lost, Stolen and Damaged Cards

- a) The loss or theft of a credit card must be immediately reported by the cardholder to the card provider regardless of the time or day discovered. The cardholder must also formally advise the Manager Finance & Administration of the loss or theft without delay.
- b) Advice of a damaged card is to be provided to the Manager Finance & Administration who will arrange a replacement.

14. Additional Cardholders

The CEO is the primary cardholder for the Shire and may delegate additional cardholders within the Shire's approved total credit limit, and in accordance with the Delegation adopted by Council.

HISTORY

Former Policy	6.5.7
Adopted	21 June 2018

REFERENCES

Fuel card statements have all relevant details provided. Other than certification by the cardholder, no further procedures are required.

Schedule 3.3(a) – Corporate, Store, Fuel and Debit Cards – Cardholder Agreement

Conditions of use of Corporate Credit, Store, Fuel and Debit Cards –

1. Ensure all cards are maintained in a secure manner and guarded against improper use.
2. All cards are to be used only for Shire of Victoria Plains official activities as prescribed by the CEO, there is no approval given for any private use.
3. Ensure no one else other than the authorised cardholder uses any card issued.
4. All documentation regarding a card transaction is to be retained by the cardholder and produced as part of the reconciliation procedure.
5. Card limits are not to be exceeded.
6. Observe all cardholder responsibilities as outlined by the card provider.
7. Purchases on all cards are to be made in accordance with Shire of Victoria Plains Purchasing Policy.
8. Reconciliation is to be completed within 7 days of the date of card statement being issued on the supplied template.
9. Transactions will be supported by a GST invoice stating the type of goods purchased, amount of goods purchased and the price paid for the goods. The receipt shall meet the requirements of the *Goods and Services Tax Act 1999* to enable a GST rebate to be applied.
10. Transactions shall be accompanied by a job number, cost centre and element type for costing purposes.
11. If no supporting documentation is available the cardholder will provide a declaration detailing the nature of the expense and must state on that declaration all expenditure is of a business nature. Approval of this expense is referred to the CEO for a decision.
12. Should approval of expenses be denied by the CEO recovery of the expense shall be met by the cardholder.
13. The cardholder shall sign and date each card statement with supporting documentation attached stating all expenditure is of a business nature.
14. Lost or stolen cards shall be reported immediately to the card provider and a written account of the circumstances shall be provided to the CEO on the next working day.
15. All cards are to be returned to the CEO on or before the employee’s termination date with a full acquittal of expenses.

ACKNOWLEDGEMENT OF RECEIPT OF CREDIT, STORE, FUEL AND DEBIT CARD/S

- a) I have read this policy and understand my responsibilities which include the requirement that the card/s can only be used for official business only and acknowledge receipt of the following cards noted below.
- b) I acknowledge that failure to comply with the Delegations or Policies may result in disciplinary action up to and including termination of employment.

Card type Credit, Debit, Store, Fuel	Organisation	Number

Name and Signature _____ Date _____

– End of Schedule

Schedule 3.3(b) – Reconciliation of Credit Cards, Store Cards and Debit Cards

Standard reconciliation format –

Card Reconciliation

CARD -	Type		Number		Cardholder		
Item No.	Chq/EFT	Date	Supplier	Purchases	Amount	Type	Funding

Card Total \$

– End of Schedule

Schedule 3.3(c) – Purchasing using Credit Cards

HOW I MAKE A PURCHASE

- Use this form to seek prior approval from the card holder before purchasing goods and services using a Corporate Credit Card.
- Obtain prices for purchases, complete this form and submit to the credit card holder for authorisation.
- Once authorised, complete the purchase and attach the receipt/tax invoice and any other supporting documentation to this form and submit to the Finance department.

Request is compliant with Delegation 3.1 and Policy 3.1		
Requested by		Tax invoice or supporting documentation attached
Signature		Date

Supplier		
GL Account / Job No	Description of Goods	AMOUNT (incl GST)
	GST Code	
	TOTAL	

REASON FOR USING CREDIT CARD FOR THE PURCHASE

AUTHORISED

Cardholder position	Cardholder Name	Cardholder Signature	Date

GST CODES

	Income and purchases subject to GST		Free income and purchase
	No report		Input tax

– End of Schedule

3.4 Investments

STATUTORY CONTEXT

Local Government Act 1995 –

- .6.5(a) – Chief Executive Officer duty to ensure that proper accounts and records of the transactions and affairs are kept in accordance with regulations.
- s.6.9(2) – interest on monies held in Trust is to be applied to the purpose of the monies held
- s.6.14 – money held in trust may be invested under *Trustees Act 1962* Part III

Local Government (Financial Management) Regulations 1996 –

- r.8 – money from different accounts may be placed in a common investment
- r.19 – control procedures for investments required
- r.19C – restrictions on investments – prohibited –
 - o deposits with institutions not authorised
 - o fixed term of more than 12 months
 - o bonds not guaranteed by Commonwealth State or Territory
 - o bonds with maturity term more than 3 years
 - o foreign currency

Banking Act 1959 (Commonwealth)

- s.5 – definition of *authorised deposit taking institution*
- s.9(3) – authority to carry on a banking business

Trustees Act 1962 –

- Part III - Investments

Western Australian Treasury Corporation Act 1986

CORPORATE CONTEXT

Delegations Register –

- 3.3 – Investments

POLICY STATEMENT

1. Approval to invest

Surplus funds to immediate requirements may be deposited into an authorised institution, in accordance with Local Government (Financial Management) Regulations 1996 r.8, 19 and 19C.

2. Prudent Person Standard

The investment will be managed with the care, diligence and skill that a prudent person would exercise. Employees are to manage the investment portfolios to safeguard the portfolios in accordance with the spirit of this Policy, and not for speculative purposes.

3. Approved Investments

Investments may only be made with authorised institutions as follows –

- a) An authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or
- b) The Western Australian Treasury Corporation established by the *Western Australian Treasury Corporation Act 1986*.
- c) Bonds that are guaranteed by the Commonwealth or a State or Territory and which have a term not exceeding three years.

4. Prohibited Investments

Investments which are not allowed are as follows –

- Deposits with an institution except an authorised deposit-taking institution;
- Deposits for a fixed term of more than 12 months;
- Bonds that are not guaranteed by the Commonwealth, State or Territory Government that have a term to maturity of more than 3 years; or
- are in a foreign currency.

APPLICATION

5. Risk Management Guidelines

Investments are restricted to bank investments only. The term of the investment will be based on forward cash flow requirements to ensure investment return on available surplus funds.

6. Reporting and Review

A report on the investments will be included as part of the monthly information presented to Council, listing for each investment the institution, amount, term to maturity, maturity date, amount interest rate.

Documentary evidence must be held for each investment, and details of each must be maintained in an Investment Register.

Certificates must be obtained from the financial institution confirming the amounts of investments held on the local government's behalf as at 30 June each year, and reconciled to the Investment Register.

HISTORY

Former Policy	6.2.1
Adopted	17 October 2018

REFERENCES

The Local Government Act requires that money invested under the Trustees Act comply with the Regulations.

3.5 Self supporting loans

STATUTORY CONTEXT

Local Government Act 1995 –

- s.6.20 – Power to borrow
- s.6.21 – Restrictions on borrowing

Local Government (Financial Management) Regulations 1996

- r.20 – When local public notice not required for exercise of power to borrow

CORPORATE CONTEXT

None

POLICY STATEMENT

1. A request to Council to raise a self-supporting loan will be considered only from community or not for profit organisations.

APPLICATION

2. Each request will be considered on its merits, and the organisation may be asked to provide guarantors or other acceptable security.
3. In the event of Council agreeing to make funds available on a self-supporting basis, Council reserves the right to control and/or to carry out any of the following –
 - a) the preparation of plans and specifications for the proposed work,
 - b) the calling of tenders for the proposed work,
 - c) the preparation of the contract documents,
 - d) the letting of the contract,
 - e) sole supervision of the project,
 - f) sole authorisation of expenditure of funds for the project.

HISTORY

Former Policy	6.2.3
Adopted	17 October 2018

REFERENCES

Section 4 - Order / Public Safety

Section 5 - Fire Control

Section 6 - Environmental Health / Food

No Council Policies reviewed as yet for these areas of operations.

Section 7 - Community Services

7.1 Community Housing

OBJECTIVE

To determine the criteria for admission to Shire controlled community / public housing.

STATUTORY CONTEXT

Residential Tenancies Act 1987

Local Government (Functions and General) Regulations 1996 –

30. Dispositions of property excluded from Act s. 3.58

(1) A disposition that is described in this regulation as an exempt disposition is excluded from the application of section 3.58 of the Act.

(2) A disposition of land is an exempt disposition if —

(g) it is the leasing of residential property to a person.

CORPORATE CONTEXT

Any contracts with funding providers for community housing, where provisions may restrict eligibility to accommodation.

POLICY STATEMENT

1. Applications for accommodation are to be assessed with the following criteria, and in the listed priority order –
 - i) contractual obligations of any funding arrangement;
 - ii) single parent with dependants;
 - iii) couple with dependants;
 - iv) independent living disability /aged pension –
Note – own arrangements for support is essential, as the Shire is unable to provide support;
 - v) couple no dependants;
 - vi) financial hardship;
 - vii) financial capacity/resources;
 - viii) ownership of other property;
 - ix) age – In order - 65 or over, under 25, then 25-65;
 - x) order of application/EOL.
2. Over-riding consideration is to be given to the welfare and quiet enjoyment of other residents, and for this reason, Council reserves the right to –
 - a) make credit and Police checks;
 - b) require suitable references to be provided;
 - c) seek comment from other tenants of the group of units;
 - d) determine applications on the basis of assessed compatibility with other tenants of the group.
3. Under no circumstances is the tenant permitted –
 - a) to assign or sub-let the property;
 - b) accommodate more than the approved number of persons;
 - c) permanently accommodate persons without prior approval of the CEO.

APPLICATION

N/A

HISTORY

Adopted

16 May 2018

NOTES

From time to time, guidelines may be available from various organisations and should be consulted for update of this policy –

- Dept of Communities, Housing section
- Community Housing Industry Association

Section 8 - Personnel

Applying to all matters in relation to personnel and employment –

Local Government Act 1995 –

s.5.41 Functions of CEO

The CEO's functions are to –

....

(a) manage the day to day operations of the local government; and

....

(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); and

....

Local Government (Rules of Conduct) Regulations 2007 –

r.10 Relations with local government employees

(1) A person who is a council member must not –

(a) direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or

(b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.

....

Policy 1.1 – Code of Conduct

For clarification regarding appointment, management and direction of employees –

Employee class	Council involvement	Elected member / Committee involvement	CEO involvement
CEO	<u>Required.</u> May delegate selection and interview to a Committee. Appointment must be by Council resolution.	<u>Permitted</u> – to interview and recommend to Council. <u>Prohibited</u> – to appoint, manage or direct.	As directed by Council, usually limited to process, research and reporting on an applicant.
Designated staff LG Act s.3.57	<u>Required</u> – to consent to appointment or dismissal. <u>Permitted</u> – Interview & recommendation can be done by CEO alone or with elected member input. <u>Prohibited</u> – management or direction.	<u>Permitted</u> – to interview and recommend to Council. <u>Prohibited</u> – to appoint, manage or direct.	<u>Required</u> to initiate / consent to appointment or dismissal. <u>Statutory function</u> – to manage and direct.
EHO	<u>If designated senior officer</u> – as above, otherwise – <u>In all cases</u> – qualification must comply with Public Health Act 2016 s.17.		
Other staff (non-designated)	<u>Prohibited</u> – Involvement in appointment, management or direction.	<u>Prohibited</u> – involvement in appointment, management or direction.	<u>Statutory function</u> – to appoint, manage, direct etc.

No Council Policies reviewed as yet for this area of operations.

8.9 Leave – Non-Award provision

STATUTORY CONTEXT

Local Government Officers (Interim) Award 2011

Municipal Employees Award 2011 (Enterprise Bargaining Agreement)

CORPORATE CONTEXT

Policy Manual 2018 –

- Disciplinary Action

POLICY STATEMENT

1. Rostered Days Off – Outside Employees

RDOs are accrued by eligible employees working a 9 day fortnight and taking a Friday or Monday depending on works crew as an RDO.

For outside workers RDO's are to be taken on a Friday, excluding the town maintenance employees who will take their RDO on an alternate Friday or a Monday.

2. RDOs – Inside Employees

RDOs are accrued by eligible employees working a 20 day roster cycle, working 19 days of 8 hours and then taking the twentieth day as an RDO.

RDO's will be assigned by agreement between the eligible employee and the Manager Finance and Administration, and will be staggered to ensure adequate coverage of workload.

Notification of the approved nominated day is to be recorded for payroll processing requirements.

The designated RDO day may be changed through agreement under circumstances where required by the operational needs or as response to family/non-work unforeseen circumstances.

3. RDOs – Principle for Accumulation

The arrangements for RDOs are intended to provide opportunity for employees to meet commitments otherwise requiring time off from work, and for personal benefit, and are not a supplement to annual leave.

4. Time In Lieu – Principle for Accumulation

There is a strong presumption against time in lieu arrangements.

APPLICATION

5. Application

This Policy applies to –

- rostered days off – full time employees only
- time-in-lieu – all employees.

The provision of RDOs are dependent upon the approval of the relevant Manager and can be approved only where working hours are feasible and there is no detriment to the operations of the Shire.

6. RDOs – Accrual on annual leave or personal/carers leave

An employee who takes annual leave or personal/carers still accrues towards RDOs. When an employee takes annual leave or personal/carers leave the rostered hours for that day will be deducted from their leave balance. The employee will be paid for 7.6 hours and the additional hours will be placed into the employee's RDOs bank. This ensures that at the end of the RDOs cycle an employee will have banked

enough time to take an RDO.

7. RDOs – Accrual on a Public Holiday

Employees are entitled to be absent from work on a public holiday and also receive payment for the hours that they would usually have worked on that day. On a public holiday it must be recognised that an employee would ordinarily work on their usual roster on that day. The employee will be paid for 7.6 hours and the additional hours will be placed into the employee's RDOs bank. This ensures that at the end of the RDO cycle, an employee will have banked enough time to take an RDO.

8. RDOs – Accumulation

RDOs are not intended to be accrued as a supplement to annual leave.

In exceptional circumstances and with the specific approval of the relevant Manager, RDOs may be permitted to accumulate to a maximum of 38 hours. RDOs due in excess of this accumulation will be required to be taken, and further accumulation will not be considered.

The employee will be required to take sufficient time off to reduce the accrual to not more than 15.2 hours within 1 month.

If an ETO provision (or similar) is included in the employee's contract, arrangements for RDO are not available to that employee (refer clause 9).

9. Time In Lieu – Purpose

The historical purpose of time in lieu was to permit employees who are required to spend a significant amount of time outside of normal hours, the opportunity to take time off rather than being paid overtime, due to the impact on family life and personal time. The intent was not to accrue additional leave, but to permit some flexibility to relevant staff such as rangers, pool or recreation centre staff, nursing home staff, regular night shift etc, whose work requirements impose heavily on family life.

This principle will continue to apply, and accordingly time in lieu may be permitted for specific relevant employees etc.

10. TIL – Accumulation

Some employees may be required to regularly or occasionally work on weekends or after usual business hours. These requirements are to be taken into account through –

- payment of overtime, as authorised by written agreement with the CEO if regular, or relevant Manager where occasional;
- ordinary hours or shift arrangements as permitted by the Award; or
- provision to be incorporated into the contracts of senior or other staff under contract.

Time in lieu in advance will not be permitted for any reason. Employees are required to take annual leave, personal leave or unpaid leave to cover their circumstance.

Any arrangement for time in lieu is to have the approval of the CEO and must be documented and signed off on each occasion.

Time in leave accrual is required to be fully cleared at least annually, at a time mutually agreed between the employee and their Manager.

With the relevant Manager's approval, an exchange of time not exceeding 2 hours may be agreed where the employee requires a small amount of time for personal reasons. Time taken/made up is to be concluded within 1 week. Formal record is not required, but the Manager is to diarise the agreed exchange, and when settled.

Subject to any written agreement with the employee, a maximum accrual of 15.2 hours for time in lieu will be accepted. Should the accrual exceed 15.2 hours, the employee will be required to take sufficient time off to clear the accrual within 1 month.

11. Executive Time Off – Purpose

Executive time off for senior employees is sometimes provided for in their employment contracts permitting an agreed number of days per year that may be taken, if their remuneration package is not structured to take into account out of hours work.

Provision for ETO within the employee's contract replaces arrangements for RDOs and TIL available to other staff. No employee is to have access to both options.

12. Transitional arrangements

This Policy comes into effect 1 month after authorisation by Council. During this period each employee having an accrual in excess of the limits outlined, will be advised in writing of their accrual and requested to make arrangements to bring their accruals into line with the limits.

Other than specified employees or where it is agreed in their employment contract, TIL accruals are to be fully settled within 6 months of authorisation.

Any agreement is to be in writing and a copy placed on the employees personnel file.

HISTORY

Former Policy	8.1.8
Replaced	18 July 2018

NOTES

RDO and TIL accruals should be reviewed every 3 months and those employees with excessive accrual, or who are likely to have an excessive accrual within the 3 months ahead, are to be advised to the CEO.

8.14 Uniforms, PPE and Personal Presentation

STATUTORY CONTEXT

Occupational Safety and Health Act 1984

Australian Taxation Office Fringe Benefits Tax

CORPORATE CONTEXT

Policy Manual 2018 –

- Disciplinary Action
- Use of Fleet Vehicles – Work and Private Use

POLICY STATEMENT

1. Introduction

The type of clothing and standard of dress for Shire employees varies according to roles and safety requirements.

The Shire is committed to presenting itself in a professional manner as well as maintaining a safe and healthy working environment for its employees. This Policy aims to fulfil such a commitment by providing clarity in relation to personal clothing and hygiene standards.

2. Provision of Subsidy or Reimbursement

It is a requirement that the subsidy be utilised or reimbursement claim is made within the year of eligibility.

The provision will not be paid as an allowance, nor is it cumulative from one year to the next.

All orders are to be placed through the Shire from approved suppliers, unless prior arrangements with CEO.

Category	On commencement	Conclusion of Probation	Annually thereafter
Indoor employees	None	\$400 ex GST	\$300 ex GST
Outdoor employees	4 x long sleeve shirts 4 x trousers 1 x pair of boots 2 x pair of safety glasses 1 x wide brim hat Sun screen and lip balm Wet weather gear, including wet boots (when conditions require) 1 x 5L water insulated container	Any initial allocation not claimed 1 x high visibility jacket (then every 2nd year)	As per commencement allocation
Permanent part time employees	Pro rata according to category		
Casual employees	None		

3. Uniform eligibility

To be eligible for claim, the uniform must –

- display the Shire logo, and are therefore exempt from FBT, or
- if not displaying the Shire logo, the value of the clothing purchased as a uniform will have the FBT included as part of the value of the purchase of reimbursement –

- o FBT rate is currently 47%
 - o Australian Tax Office Fringe Benefit requirements – gross up value of 1.8868
 - o accordingly, a purchase \$100 ex GST has a provision value of \$188.68 ex GST once FBT is factored in.
- the clothing is suitable for work use.

APPLICATION

4. Definitions

For the purposes of this Policy, employees refers to –

- indoor employees who are office, and
- outdoor employees who are based predominantly outdoors.

5. Indoor Employees

Participation of indoor employees in wearing of the relevant uniform is recognised as voluntary. However, the Shire requires those employees who elect to wear the uniform, to do so in its entirety or when this is not possible, wear alternative clothing in the same or similar colour range as the uniform.

a) Corporate Uniform –

The Shire will contribute towards the purchase of corporate uniforms for employees required to wear corporate attire or a uniform in the following circumstances –

- after the employee has successfully completed their probation period;
- up to the maximum allowance determined by Council Policy; or
- any other amount as stated in an employee's Contract.

Employees on a fully grant funded scheme are not entitled to provisions of a uniform unless the applicable grant will pay for it.

b) Corporate Uniform Supplier –

The Shire endorses the corporate wardrobe companies currently on the WALGA preferred supplier register (Uniform Supplier).

c) Provision/reimbursement administration –

The provision or reimbursement will be made upon proof of purchase through approval of the Manager Finance and Administration.

d) Personal Protective Equipment –

PPE and clothing will be provided to indoor employees as appropriate or required as part of their role.

e) Standard of Dress –

The standard for both men and women is smart business dress. Smart business dress for work may include, trousers, skirts, collared business shirts, shorts, jackets, dresses, blouses, smart/business shoes, socks, appropriate underwear, belts and ties.

f) Casual Dress Days –

On "casual dress" days, "smart casual" is the minimum required standard. Further guidance is available from the relevant manager/supervisor.

6. Outdoor Employees

The uniform prescribed below for the outdoor employees is compulsory.

a) Wearing of PPE and Clothing is mandatory.

b) Personal Protective Equipment

Personal Protective Equipment and Clothing will be provided to outdoor employees and other employees as appropriate or required to wear PPE as part of their role.

7. Conditions of Use of PPE and Uniforms

The following applies to Shire uniforms and PPE –

- The employee is responsible for ensuring their uniform is kept clean and presentable. Any employee who fails to wear the required PPE or uniform when presenting for duty shall be sent home to change.

- Any employee who fails to wear or use additional protective clothing or equipment where required at work will be in breach of this Policy and subject to disciplinary action.
- Uniforms shall be replaced if it is determined by the relevant Manager that they are no longer suitable for use due to ordinary wear and tear.
- If an employee's uniform is damaged the employee may be entitled to a replacement uniform. An employee may not be entitled to a replacement uniform if their uniform has been damaged due to neglect or misconduct. In such cases the employee will be responsible for the replacement costs of the uniform.

8. Cessation of employment

Uniforms/clothing and PPE supplied by the Shire directly or by reimbursement and bearing the Shire logo remain the property of the Shire.

Employees who are ceasing work with the Shire may be required to –

- return the item bearing the logo prior to the completion of their final working day, or
- re-pay to the Shire a pro-rata amount of any reimbursement made for uniform/clothing

9. Consultation

The Shire acknowledges that PPE worn by employees is of considerable importance to them so these employees will be consulted with respect to changes in style, type and fabric of clothing as issued, in accordance with good management practice.

Wherever practicable, the Shire will ensure that the style and fabric garments are acceptable and appropriate to the relevant workforce.

10. Acceptable Standards of Dress

Employees who are not required to wear PPE or uniforms must present for work in a professional manner and be suitably attired for their work activities.

Acceptable standards of dress for work does not include and is not limited to –

- low cut or sheer tops, tops that expose the midriff;
- shorts that expose the buttocks;
- rubber thongs
- bare feet;
- singlets;
- faded or frayed jeans; or
- board shorts
- other items of clothing deemed unsuitable by their relevant Manager.

The following items may be acceptable provided they do not pose any possible hazard to health and safety at work or deviate significantly from the image required in the given work area –

- clothing worn to comply with cultural or religious practices;
- tattoos or body piercings; and
- jewellery.

An employee's hair should be neat and tidy and kept in a clean condition. Employees with long hair may be required to tie it back or in some instances wear a hair net at the request of their Manager.

11. Unacceptable Standards of Dress

The following items are unacceptable at the Shire –

- clothing that contains messages or designs that may be offensive to others including but not limited to items of clothing which may be considered racist, sexist or derogatory;

- body tattoos that contain messages or designs that may be offensive to others including but not limited to tattoo's which may be considered racist, sexist or derogatory;
- shoes that may pose an OSH risk.

12. Wearing of Uniform Out of Hours

Employees wearing clothing or PPE displaying the Shire logo in public or out of hours, are identified by the community as employees, and are seen as representing the Shire.

Accordingly, if wearing clothing or PPE identifying the Shire such as logo or name badge, outside of work hours, it is necessary for the good reputation of the Shire that the employee conducts themselves in accordance with the Shire's Code of Conduct, policies and procedures. Failure to adhere to the Code of Conduct, or behaviours that cause offence or bring the Shire into disrepute may lead to disciplinary action in accordance with the Policy, against that employee.

13. Use of Fleet Vehicles Out of Hours

Refer to Policy for Use of Fleet Vehicles – Work and Private Use

14. Personal Hygiene

Employees are responsible for ensuring that they maintain good standards of personal hygiene whilst at the workplace. Clothing should be laundered to a reasonable standard and employees should be respectful of others and minimise strong body odour, perfumes and colognes when attending the workplace.

Where problems are identified in working arrangements or facilities or with the health and safety of the individual, these must be reported to a responsible person immediately. All matters relating to personal hygiene will be handled sympathetically and discreetly.

HISTORY

Former Policy	8.1.13
Replaced	18 July 2018

NOTES

8.20 Employee Superannuation

OBJECTIVE

To detail the arrangements and contributions the Shire will make to employee superannuation

STATUTORY CONTEXT

Superannuation Guarantee Contribution (Administration) Act 1992

CORPORATE CONTEXT

None

POLICY STATEMENT

1. This Policy applies to all employees whether the full-time, part-time or casual.
2. Employees will have freedom of choice over the complying fund that their Superannuation Guarantee Contributions (SGC) are paid into.
3. Employees may elect to contribute additional superannuation, either as a deduction (after tax) or as salary sacrifice (before tax).
4. The Shire will pay –
 - a) the statutory SGC amount, and
 - b) match an employee's contribution to a maximum of 5% of the employee's gross salary; subject to the combined total contribution from the Shire not exceeding 15% of the employee's salary.

Accordingly, it should be noted that as the SGC component increases, the maximum matching contribution by the Shire will decrease once the SGC component is more than 10%.

5. Employees can voluntarily contribute more than the threshold but will not receive a further contribution from the Shire.

APPLICATION

6. The additional contribution and the voluntary contribution can be deposited in to the employee's fund of choice.
7. The superannuation default fund shall be the WA Super.

HISTORY

Former Policy	8.1.11
Replaced	19 September 2018
Amended	17 October 2018

NOTES

8.21 Equal Employment Opportunity

OBJECTIVE

To ensure a safe and equitable work environment

STATUTORY CONTEXT

WA Equal Opportunity Act 1984

Equal Opportunity Act 1986

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Disability Discrimination Act 1992

CORPORATE CONTEXT

Policy 8.2 – Discrimination, Harassment and Bullying

Policy 8.4 – Grievance

Policy 8.10 – Recruitment and Selection

Policy 8.13 – Training, Study and Education

POLICY STATEMENT

1. Introduction

The Shire is committed to equal opportunity and diversity and promotes a work environment that is free from discrimination and harassment, and where individuals are treated with fairness, respect, equality and dignity.

This involves the improvement in the skills and competency levels of employees to provide equal access to further employment or career path progression. The Shire acknowledges and celebrates diversity and commits to continuing to actively and flexibly seek to appoint and accommodate the unique needs of many different employees.

2. Application

adopted that apply to employees, potential employees, volunteers and contractors/consultants.

3. Environment

The Shire recognises that when conflict, discrimination and harassment occurs in the workplace, job satisfaction, morale and productivity suffers. A healthy and safe work environment free from unnecessary discrimination, harassment and bullying is the a primary objective of the Shire.

4. Diversity

The Shire appreciates the value inherent in a diverse workforce. Diversity may result from a range of factors; origin, age, gender, race, cultural heritage, lifestyle, education, physical ability, appearance, language or other factors.

5. Awareness

Upon appointment all employees are to be given a full copy of this Policy and ensure this Policy is easily accessible electronically and in other forms as requested.

6. Monitoring

Employment related practices are to be periodically reviewed in accordance with this Statement, with particular consideration of practices and policies.

APPLICATION

N/A

HISTORY

Former Policy
Replaced

8.1.14
19 September 2018

NOTES

Section 9 - Occupational Safety & Health

Section 10 - Building / Development

Section 11 - Public Facilities

Section 12 - Tourism

Section 13 - Works & Services

13.1 Road reserves – Crossovers

STATUTORY CONTEXT

Local Government Act 1995 –

- Sch 9.1(7) – crossing from public thoroughfare to private land or thoroughfare

Uniform Local Provisions Regulations 1996 –

- r.12 – application and approval for crossing
- r.13 – requirement to repair

Public Places and Local Government Property Local Law 2018

CORPORATE CONTEXT

None

POLICY STATEMENT

1. The Shire will meet 50% of the cost of construction of a standard crossover giving access from a public thoroughfare to the land, or a private thoroughfare serving the land, subject to –
 - a) prior approval of proposal and estimated cost of construction of a crossover,
 - b) written agreement of the landowner/occupier prior to commencement of works,
 - c) by payment of the actual contribution cost to the landowner / occupier on completion, or cost recovery by the local government from the landowner / occupier.
 - d) any variation to a standard crossover is to be at full cost to the land owner.

APPLICATION

2. A standard urban crossover specification is –
 - a) one crossover per property,
 - b) where adjoining road is bitumised, from the bitumen edge of the road to the property boundary, with the following materials –
 - if gravel / natural surface – to 4.0 metres wide, 150mm compacted gravel
 - crossover surface treatment (concrete, pavers, bitumen, asphalt etc) at landowner/occupiers cost, unless prior agreement with Council,
 - c) where the adjoining road is not bitumised, as per standard rural crossover specifications except to a width of 4.88m wide (2 standard pipe lengths),
 - d) if required, longitudinal drainage under the crossover at Shire cost.
3. A standard rural crossover specification is –
 - a) one crossover per lot or location adjoining a road.
 - b) from the trafficable surface of the road to the property boundary,
 - c) compacted gravel, minimum 7.32 metres wide (3 standard pipe lengths),
 - d) appropriate longitudinal drainage if required.
4. Local government costs –
 - a) any reinstatement of kerbing,
 - b) impact on longitudinal drainage in place, up to 3 standard lengths of reinforced concrete pipe under the crossover cost if required, or
 - c) if crossover affected when carrying out works on the adjoining road.
5. Applicant's costs –
 - a) kerbing not at the edge of the thoroughfare,
 - b) costs in excess of a standard crossover construction,
 - c) costs for crossovers in addition to standard number.

HISTORY

Former Policy	2.1.1, 2.1.2
Adopted	18 July 2018

NOTES

13.2 Roads – Developer subdivisions

STATUTORY CONTEXT

Local Government Act 1995

Shire of Victoria Plains Local Planning Scheme

Extractive Industries Local Law 2018

Public Places and Local Government Property Local Law 2018

CORPORATE CONTEXT

Policy Manual –

- 13.1 Road Reserves – Crossovers
- 13.3 – Roads Access to lots/locations without road frontage

POLICY STATEMENT

1. A developer shall at their own expense, bring the roads to the standard required to adequately service the subdivision, where –
 - a) a subdivision is approved and –
 - the existing roads serving the lots to be subdivided require upgrading, or
 - the lots to be subdivided do not have constructed road frontage
 - b) a subdivision road adjoins two different land zonings, the higher standard shall be applied to the whole length of the road, unless varied by specific resolution of Council,
 - c) an “internal” road is required in a subdivision estate, the road is to be vested in the Crown, without encumbrance.

APPLICATION

2. Definitions –

subdivision includes creation of lots or locations –

 - a) requiring new roads (“internal roads”) to be constructed whether on previously privately owned land or an unmade road reserve, and
 - b) adjoining existing made roads, whether the standard of construction of the adjoining road needs to be upgraded or not.
3. Road construction is the responsibility of the developer, and shall be at the full cost of the developer, including any costs incurred by Council, previously notified to the developer, such as civil engineer assessment, inspection or certifications.
4. Details of the proposed road to be constructed are to be submitted to Council and approval obtained prior to any commencement of work.
5. Council may enter into a written agreement to construct or upgrade a road to the required standard where –
 - a) necessitated by a new or adjoining development,
 - b) if Shire work commitments permit, and
 - c) users request sections of a road to be upgraded to a standard higher than Council considers is warranted.
6. Council will have consideration to any relevant guidelines of Main Roads WA or Institute of Public Engineering Works Australia in determining the acceptability of the proposed –
 - road construction,
 - standards,
 - width,

- cross-section,
 - drainage,
 - traffic conditions,
 - heavy haulage route etc.
7. During construction of the road, Shire staff or representatives will inspect the work from time to time, and will provide a written report to Council regarding the standard of work.
 8. Once the road is constructed to the required standard, Council by specific resolution will assume all responsibility for future maintenance by specific resolution.
 9. Council will not accept responsibility for a road unless inspected and certified by a mutually agreed practicing civil engineer that the road is adequate and sufficient for purpose, in accordance with the matters assessed in clause 6.
 10. On application, Council may consider exceptions on a case by case basis.

HISTORY

Former Policy	5.1.1(a), (b) and (c)
Adopted	18 July 2018

NOTES

13.3 Roads – Access to lots / locations without road frontage

STATUTORY CONTEXT

Local Government Act 1995

Shire of Victoria Plains Local Planning Scheme

Public Places and Local Government Property Local Law 2018

CORPORATE CONTEXT

Policy Manual –

- 13.2 – Roads – Developer subdivisions

POLICY STATEMENT

1. Any lot or location without road access, or created as a result of a title adjustment, or separation of lots or locations originally on one title, shall be treated as a subdivision development.

APPLICATION

2. Any road required to service the lots or locations is to be constructed or upgraded in accordance with Policy 13.2 Roads – Developer Subdivisions.
3. The sale of lots or locations without road frontage will not be approved by Council unless appropriate access has been arranged and is permanently legally enforceable by the Shire. Acceptable provision for access may include a caveat, memorial or easement over an adjoining property provided that the condition on the document cannot be removed without Shire consent.
4. On application, Council may consider exceptions on a case by case basis.

HISTORY

Former Policy	5.1.1(a), (b) and (c)
Adopted	18 July 2018

NOTES

13.4 Road reserves – Stormwater discharge in urban area

STATUTORY CONTEXT

Local Government Act 1995 –

Public Places and Local Government Property Local Law 2018

CORPORATE CONTEXT

Delegations Register –

- 13.7 – Reserves under control of the local government

POLICY STATEMENT

1. In a townsite or settlement, an owner/occupier is permitted to discharge storm and seepage water to the street gutter via pipe drains or a sealed crossover.

APPLICATION

2. All connections are to be submitted in writing and approved by the CEO or MWS, who shall have regard to any guidelines or standards of Main Roads WA.
3. Open drains are not permitted across constructed footpaths or natural surfaces regularly used by pedestrians.
4. Small connections may be approved by the CEO or MWS, and are to be of galvanised steel or UV stabilised high density PVC as approved by the CEO or MWS having regard any relevant guidelines, and –
 - a) materials to be approved by pipe with an internal diameter of 100mm, or
 - b) RHS (box section) with internal measurements 75mm and 100mm wide and between 75mm and 100mm high.
5. Connection greater than cumulative 200mm –
 - a) will require Council approval,
 - b) are to be of a suitable material or construction as approved by the CEO or MWS, and
 - c) where an adjacent underground stormwater drainage system in the road reserve has been constructed, are to be connected to the system having regards to any relevant standards.
6. Works can be constructed by –
 - a) subject to operational requirements, the Shire at private works rates,
 - b) by the owner and are subject to inspection by an authorised person; or
 - c) by an appropriate contractor, holding public liability insurance of not less than \$10 million.
7. Local government costs –
 - a) If drainage affected when carrying out works on the adjoining road.
8. Applicant's costs –
 - a) any piping from property boundary to discharge point,
 - b) costs of any reinstatement of footpath, road verge, kerbing required,
 - c) any connection to the underground stormwater drainage system,
 - d) inspection fees.
9. Any works which have been carried out without approval of the CEO or MWS or have not been constructed as approved, may be removed or altered, and costs recovered from the owners.

HISTORY

Adopted 18 July 2018

REFERENCES

“Settlement” is an area used or intended for urban use, not being a Gazetted townsite.

13.5 Road reserves - Closure

STATUTORY CONTEXT

Local Government Act 1995 –

Shire of Victoria Plains Local Planning Scheme

CORPORATE CONTEXT

None

POLICY STATEMENT

1. Upon application, Council will consider the permanent closure of a road reserve, if –
 - a) the portion of the road reserve to be closed is isolated from other road reserves, or
 - b) if the road were to be constructed in the road reserve, it would lead to a deterioration in amenity of adjoining land (i.e.: safety, noise, dividing the property, reduced value etc).
2. A closure of a road reserve will not be considered where freehold titles would be left without access to a public thoroughfare.

APPLICATION

N/A

HISTORY

Former Policy	6.2.1
Adopted	17 October 2018

REFERENCES

Road closures are processed by Department of Planning, Lands and Heritage, as the land in a road reserve always remains the property of the Crown. While the Shire owns the infrastructure that is constructed on the roads reserve, and has responsibility for its management, care and control, the Shire does not own the land. When a road is to be closed, the Shire will be asked to comment in support or opposition, but does not have the final say.

13.6 Private Works

STATUTORY CONTEXT

Local Government Act 1995 –

CORPORATE CONTEXT

Delegations Register –

- 3.1 – Municipal Fund – Incurring Expenditure
- 13.2 – Things to be done on land not local government property
- 13.7 – Private works/infrastructure on, over or under public land

POLICY STATEMENT

1. Subject to work commitments, and the capacity to carry out the requested works, the CEO or Works and Services Manager may authorise the carrying out of private works, upon such terms and conditions as is considered appropriate.

APPLICATION

2. All private works require a written agreement, unless a Local Purchase Order is supplied e.g. Western Power, Telstra etc.
3. Private works having the potential to affect normal Shire work programs –
 - a) are to be referred to Council prior to acceptance,
 - b) may have progress payments or other arrangements as determined by Council.
4. No hire of plant is permitted without a Shire operator.
5. Other private works may be carried out at the discretion of the CEO.

HISTORY

Adopted 17 October 2018

REFERENCES

This Policy does not authorise the hiring of minor plant and equipment to any person.

13.7 Acquisition of road making materials – Non-Shire controlled land

STATUTORY CONTEXT

Local Government Act 1995

CORPORATE CONTEXT

Delegation 13.4 – Materials from land not under local government control

POLICY STATEMENT

1. Where the required quantity, quality or type of material is not available from Shire controlled areas and the material may be available from private property, the following is to be normal procedure –
 - a) Request permission to search for materials from the owner. Entry powers are to be used only as a last resort.
 - b) Calculate the approximate requirement for the project or yearly requirement of material from the proposed pit, and the expected life of the pit.
 - c) If suitable material is located, a written agreement is to be reached with the owner regarding compensation for materials to be removed.
 - d) Priority must be given at all times to reasonable negotiation to reach an amicable written agreement mutually acceptable to the local government and the owner.
 - e) Should agreement for the removal of materials not be reached with the owner, procedures to resume an area sufficient for immediate and future needs may be instituted by specific decision of Council.
2. Compensation taking the form of works is not to exceed the calculated value of the royalty eligible to be paid.
3. Rehabilitation and reinstatement is separate to compensation, and has the aim of returning the land to its prior purpose and use.
4. All matters are to be agreed in writing and signed by the CEO or Works & Services Manager on behalf of the Shire, prior to removal of any materials.

APPLICATION

5. Compensation shall be agreed in writing prior to excavation, and may take the form of–
 - a) payment;
 - b) works on the owner's property such as grading, gravel sheeting, drainage works, additional crossovers etc;
 - c) resumption of the portion of land on which the materials are located will be at a mutually acceptable rate;
 - d) compensation must be calculated in proportion to the volume of material extracted, and the impact of the activity on the property.
6. The rate of compensation –
 - a) on the basis of volume or tonnage as set by Council from time to time;
 - b) may be increased by not more than 10% on the rate set by Council, should the next nearest suitable source add a significant cost or time of the Shire works.
7. Works to rehabilitate the pit once materials have been removed shall take place and will be such works as agreed on in writing before excavation commences. These works may include –
 - a) tree planting,
 - b) deep ripping,
 - c) levelling,

- d) stockpiling of original topsoil and spreading after extraction is completed.
8. Council reserves the right to enforce its rights to extract gravel by legal means if arrangements cannot be made with landholders.
9. The principles of this policy are to apply to taking of water, sand or other material to the extent relevant.

HISTORY

Former Policy	pt 2.4.1
Replaced	19 September 2018

NOTES

The royalty payment is determined by Council, and takes into account –

- the value of materials being taken
- “opportunity loss” for the purposes of production during the period of extraction etc
- estimated impact on production income.

Section 14 - Plant / Equipment

14.4 Asset Management

STATUTORY CONTEXT

Local Government Act 1995

Local Government (Financial Management) Regulations 1996

Australian Accounting Standard 27

CORPORATE CONTEXT

Integrated Plans –

- Asset Management Plans and Strategies
- Long Term Financial Plan
- Corporate Business Plan

Annual Budgets

POLICY STATEMENT

Objective

Sustainable service delivery through optimised lifecycle management of assets –

- demonstrate the local government's commitment to strategic asset management as described in framework guidelines provided to local government as part of Integrated Planning and Reporting requirements of the Local Government Act;
- provide guidance for elected members during annual budget process;
- provide guidance for staff responsible for development of asset plans and programs; and
- provide the community with a statement of intent regarding asset management.

This policy applies to –

- all who are involved in the operations, maintenance, refurbishment, renewal, upgrading and development of local government's existing and new infrastructure and other assets;
- all of the local government's assets which include physical features such as roads, drainage, buildings, parks, pathways, play grounds, plant and other assets that are not fixed in place.

Principles

The local government will procure, maintain and dispose of its assets in line with this policy and regulatory requirements.

The local government aims are to develop and implement cost-effective management strategies for the long term and strive for continuous improvement in asset management practices.

There are five core principles that this policy has regard for –

Principle 1: Understand the Community's Needs

Levels of service for each asset class will be detailed in line with community expectations and regulatory requirements. These levels of service will be determined-

- in words that are readily understood by the community,
- with regard to the cost of provision of these services to the desired level of service, and
- with an understanding of longer term changes necessary as a result of changing demographics within our community.

Principle 2: Be Financially Sustainable

The local government will develop annual asset plans and programs generated from rolling 10/20 year plans aligned to Corporate Plans, Asset Management Strategies, Long Term Financial Plan and Workforce Plan, updating each plan as necessary based on relevant decisions made.

Where relevant, consideration will be given to life cycle costs regarding decisions to renew, upgrade or procure significant assets before any decision is made.

The local government maintenance of assets shall be funded primarily from rates revenue and this shall be taken into regard when decisions are made to procure new assets. Where limits on rates funding exist, precedence shall be given to necessary maintenance activities for existing assets over proposals to procure new assets from this funding source.

The local government will continually review its stock of assets and undertake consolidation of assets where it is in the best interests of the community.

Principle 3: Recognise Environmental Impact

The local government will consider and amend asset programs as necessary, where practical and financially acceptable options exist for reducing energy or water consumption, reducing carbon impact, reducing consumption of non-renewable resources and preserve or enhance the environment in which we live.

Improvements in our asset management systems will be undertaken to ensure measuring and monitoring of consumption of resources are in place to better understand the implications for long term asset management.

Principle 4: Continuous Improvement

Asset management processes will be developed that include a systematic approach to planning, implementing, reviewing and modifying asset management activities to improve the efficiency and efficacy of the overall system.

Processes will be developed to ensure that the local government is aware of contemporary asset management practices and that staff and service providers undertake continuous improvement

Principle 5: Public and Staff Safety

All facets of the asset management process will have a risk based approach to designing and undertaking each stage of the process to ensure public and staff safety is not compromised.

APPLICATION

As there is a substantial investment in assets, the local government will endeavour to meet the service needs of the community, in a manner that does not place undue economic, social or environmental burden on future generations. Decisions relating to the provision and management of public infrastructure shall reflect the local government's core values, statutory responsibilities and accountability to the community.

To achieve this, the local government will –

1. Ensure that appropriate infrastructure and other assets are acquired, maintained and renewed to meet the needs of current and future stakeholders, at equitable intergenerational cost.
2. Undertake a critical review of the need for that asset.
3. Take into account **whole of life** costs associated with asset ownership when considering proposed capital investment or other related expenditure, including upgrade and renewal works.
4. Quantify and communicate the true cost of operating and maintaining assets, as a basis for setting service level standards and making informed decisions on asset purchase, maintenance and renewal.

5. Consult with key stakeholders to establish agreed service standards that reflect community expectations and willingness / propensity to pay.
6. Implement appropriate business practices and procedures to ensure that infrastructure and other assets are operated, maintained and renewed in accordance with agreed standards, at lowest **whole of life** cost to the community.
7. Where appropriate, engage the private sector and Government agencies to explore opportunities for alternative “non-asset” service delivery solutions, including public private partnerships and integrated / shared servicing arrangements.
8. Ensure that statutory and legal obligations with respect to the operation and maintenance of public infrastructure and other assets are effectively met, particularly with regard to public safety and security.
9. Continually seek opportunities for multiple use of assets.
10. Provide appropriate asset data and reporting to meet the needs of the end users/key stakeholders.
11. Develop and implement long term Asset Management Plans as determined by the CEO, for the key asset classes –
 - a) Transport assets – roads, paths, bridges, culverts, drainage, airport, street furniture etc.;
 - b) Property assets – buildings, freehold land and associated ancillary infrastructure;
 - c) Recreation assets – parks, ovals, reserves, gardens, playgrounds etc.;
 - d) Plant and equipment – vehicles, tools, plant and machinery, information technology and communications equipment etc.
 - e) Portable and attractive assets – in accordance with the *Local Government (Financial Management) Regulations 1996* r.17B; and
 - f) Other classes as deemed appropriate or necessary
12. Develop and implement an Asset Management Improvement Strategy detailing proposed business improvement actions and projects aimed at enhancing organisational effectiveness with respect to the management of assets.

HISTORY

Adopted 17 October 2018

REFERENCES

Asset, for the purposes of this policy, includes a physical component of a facility which has value that enables services to be provided and has an economic life greater than 12 months.

Section 15 - Natural Resource Management

Section 16 - Unclassified

16.1 Restricted Access Vehicles on Shire roads

STATUTORY CONTEXT

Local Government Act 1995 –

Road Traffic (Vehicle Standards) Regulations 2002

Local Planning Scheme and relevant policies

Public Places and Local Government Property Local Law 2018

CORPORATE CONTEXT

Delegations Register –

- 16.1 – Restricted Access Vehicle on Shire roads

POLICY STATEMENT

1. The following Policy Schedules are adopted, and form part of this Statement –
 - 16.1(a) – Information for application to Use Shire Roads
 - 16.1(b) – CA07 Conditions that may be applied
 - 16.1(c) – Components for Agreements to Use Shire Roads
 - 16.1(d) – Calculation of User Contributions
2. Vehicle combinations 2 (truck and trailer) over 19 metres, 3 (B-double) and 4 (pocket road train) but not exceeding 27.5 metres in length (Restricted Access Vehicles) may be permitted on local roads subject to approval by the Shire.

APPLICATION

3. CA07 conditions as per Policy Schedule 16.1(b) CA07 Conditions that may be applied will be applied where considered necessary or appropriate to manage RAV access in order to –
 - a) preserve the condition of the road infrastructure,
 - b) improve the road to a standard appropriate for the proposed vehicle movement,
 - c) reduce the economic cost to the community caused through heavy vehicle damage, and
 - d) mitigate impact on community amenity of noise, dust, hours of operation, public safety etc.
4. Where a CA07 condition exists, RAV operators must –
 - a) complete and lodge a written application, providing all necessary information in accordance with Policy Schedule 16.1(a) Information for Application to Use Shire Roads,
 - b) details of proposed contributions, if any, towards road improvement / replacement / maintenance, community benefit etc, in accordance with Policy Schedule 16.1(d) – Calculation of Contributions,
 - c) provide any other relevant information requested,
 - d) pay the CA07 application/assessment fee as determined by the Annual Budget.
5. Where road users apply for a CA07 authority to operate Restricted Access Vehicles on roads in the Shire that are classified under the Main Roads WA permit network, the user may be required to enter into a Road Use (Restricted Access Vehicle Haulage) Agreement with the Shire.
6. Where a user requests sections of road to be upgraded to a standard higher than Council considers necessary for the surrounding or usual usage, Council will apply the principles of Policy Schedule 16.1(c) Components for Agreement to Use Shire Roads to the proposal.

7. The Agreement will be a legally binding contract addressing the matters in Policy Schedule 16.1(c) Components for Agreement to use Shire Roads in a standard format that will be developed and updated from time to time under professional advice from the Shire's engineers and lawyers.
8. Council will require the other party to the Agreement to bear all costs associated with the Agreement including but not limited to legal fees involved in entering into the agreement, and the cost of all professional and engineering advice.
9. The Agreement is to address matters in accordance with Policy Schedule 16.1(c) Components for Agreement to Use Shire Roads:
10. Where considered appropriate, the Shire may convene, or request the user to convene, user groups for the purpose of establishing forward works programs on the affected roads and to identify and address safety issues.
11. Prior to the approval being issued –
 - a) agreement in writing by both the user and the Shire is required (formal contract/agreement or exchange of letters)
 - b) agreed contributions for road use and community benefit to be paid
 - c) Main Roads WA advised.
12. Approval to operate is subject to an annual licence.
13. Non-compliance with Council requirements may result in withdrawal of approval for use of the road.

HISTORY

Adopted 18 July 2018

NOTES

Note – requirements are intended to be consistent with relevant provisions of the Extractive Industries Local Law, and maintenance of road assets in accordance with the integrated long term financial and asset management plans

Main Roads WA issues road network use permits for RAV (restricted access vehicles). Where the road network includes Shire roads, a local government can impose a CA07 conditions for RAVs that requiring the operator to carry written approval from the Shire permitting use of the road.

RAV traffic (ie: multi-trailer heavy vehicles) results in significantly increased cost to maintain the road asset, particularly if the road construction is not designed or intended to sustain such traffic. Wear and tear increases proportionally with the vehicle length, number of trailers, axle combinations and weight of the load carried.

It is important that the Shire receives adequate compensation from users to ensure the construction, maintenance and renewal of affected road assets. The Shire constructs, maintains and renews road assets generally in line with expectations or requirements of local users, with funding from rates, financial assistance grants, regional roads group funding and federal funding, and does not have funding to construct or maintain road assets for heavy haulage by Restricted Access Vehicles (RAV).

Policy Schedule 16.1(a) – Information for Application to Use Shire Roads

The information is to cover the following minimum provisions where relevant to the application –

- a) Applicant details –
 - Applicant details – name, mail & street address, phone etc
 - Contact person – name, position, phone, email etc
- b) Haulage contractors (required for each contractor having a significant freight task) –
 - Contractor details – name, mail & street address, phone etc
 - Contact person – name, position, phone, email etc
- c) Term of application –
 - Commencing date
 - Termination date (estimated)
- d) Route (required for each different route) –
 - Origin and Terminus
 - Journey / route
 - Distances
- e) Vehicles and combinations (required for each route) –
 - class of vehicle and configurations,
 - number of vehicles,
 - frequency and hours of operation,
 - estimated tonnages and concessional loadings
- f) Dangerous goods (in order to advise local emergency services) –
 - Type
 - Frequency
 - Quantities
 - Emergency contact details
- g) Other relevant information, such as –
 - Maps
 - Engineering assessment if held
- h) Authorisation of application –
 - Name, signature of authorised person and date

Applicants to note –

- Approvals will be assessed in accordance with any Planning Policy Developer Contributions – Local Roads, and may take up to 8 weeks to process depending on the timing of receipt.
- Operation of a Restricted Access Vehicle on any road in the Shire constitutes an offence under the Road Traffic (Vehicle Standards) Regulations 2002 unless the operator holds a valid permit issued by Main Roads WA and a valid letter of authority from the Shire to comply with a CA07 condition.
- The operator must adhere to all conditions imposed by Main Roads WA and additional conditions if imposed by the Shire:
- Approval of application constitutes a letter of authority in compliance with the CA07 requirement of a valid RAV permit.
- Letter of authority does NOT constitute a permit. The holder must only operate a restricted access vehicle on any road in accordance with a valid permit issued by Main Roads WA

Note – requirements are intended to be consistent with relevant provisions of the Extractive Industries Local Law.

– End of Schedule –

Policy Schedule 16.1(b) – CA07 Conditions that may be applied

<https://www.mainroads.wa.gov.au/UsingRoads/HeavyVehicles/ravnetworkaccess/Pages/default.aspx> on 5 March 2017

Main Roads Heavy Vehicle Services (HVS) is responsible for administering road access for Restricted Access Vehicles (RAVs).

RAVs are vehicles that exceed any of the following –

- a width of 2.5 metres;
- a height of 4.3 metres;
- a length of 19 metres for a vehicle combination;
- a length of 12.5 metres for a rigid vehicle;
- a gross mass of 42.5 tonnes;
- any other mass or dimension limit prescribed in the Road Traffic (Vehicles) Regulations 2014.

RAVs must only operate on roads approved by Main Roads, under either an order (notice) or a permit.

There are many types of RAVs and each of them has different performance characteristics, require a different amount of road space when operating and have a different impact on the road infrastructure. For this reason, it is necessary to assess the roads these RAVs operate on to ensure the road is suitable for the particular type of vehicle and the safety of other road users is not compromised.

Main Roads Heavy Vehicle Services (HVS) works collaboratively with the relevant road asset owner to ensure roads are suitable for RAV access. RAV Networks are maintained for the various types of RAVs and are published in the form of Road Tables and a RAV Mapping Tool.

Extract from – Main Roads WA Heavy Vehicle Operations
Standard Restricted Access Vehicle (RAV) – Route Assessment Guidelines
Version 3 – October 2016

APPENDIX H – OPERATING CONDITIONS

Main Roads will apply the operating conditions below, as a condition of permit, to very low traffic volume roads when the road's width does not meet the minimum requirements in Appendix B.

These and other similar operating conditions may be applied to the assessment of other roads.

1. When travelling at night, the RAV must travel at a maximum speed of 40km/h and display an amber flashing warning light on the prime mover.
2. No operation on unsealed road segment when visibly wet, without Road Owners approval.
3. Headlights must be switched on at all times.
4. Speed restrictions. *
5. Direct radio contact must be maintained with other RAVs to establish their position on or near the road (suggested UHF Ch 40).
6. Road not to be entered until driver has established by radio communication that there is no other RAV on the road travelling in the opposing direction.
7. Operation is not permitted while the school bus is operating on the road. Operators must contact the relevant schools and obtain school bus timetables; or where direct contact can be made with the school bus driver, operation is permitted once the school bus driver confirms all school dropoffs/ pick-ups have been completed on the road.
8. Current written approval from the Road Owner, endorsing use of the road, must be obtain, carried in the vehicle and produced upon request.

These conditions are applied in the Prime Mover, Trailer Combinations and Truck, Trailer Combinations Operating Conditions. The applicable roads must be clearly identified as either a "Type A" Low Volume Road or a "Type B" Low Volume Road as a road condition.

*40 km/h or 60 km/h as determined from Appendix C.

– End of Schedule

Policy Schedule 16.1(c) – Components for Agreement to Use Shire Roads

The Agreement may include but is not limited to the following provisions, as appropriate and as determined by the Shire –

- a) Principles –
 - The safety of road users is paramount, and takes priority over developer activity
 - residents should appropriately contribute to assessed public maintenance of the road
 - residents should not fund construction or maintenance required for private benefit
- b) Safety Management –
 - The developer will be required to prepare and lodge a road safety risk assessment and management plan with the Shire for whole route that is in the Shire, including roads under control of MRWA.
 - Shire to action matters advised as a priority, subject to seriousness of issue
- c) Construction, or upgrade/renewal as required –
 - As per Policy Schedule 16.1(d) clause 1 Construction, upgrade and renewal.
- d) Road Design –
 - When giving consideration to the construction of a road, the Austroads standards should be applied
 - MRWA Heavy Vehicle Operations (HVO) requires inspection of a road to ascertain its ability to support RAV traffic.
 - Dependant on the category of vehicle (category 1 to 10, RAV class 2) will determine the depth of base, maximum allowable grades, width of seal, seal design and intersection treatments.
 - Vehicles should not be on a road unless it is constructed appropriately or agreement reached on upgrade over time.
- e) Guidelines –

Reference should be made to appropriate guidelines for the design of the works required, such as –

 - Roads –
 - o Australian Standards as are applicable,
 - o Relevant documentation supported by applicable professional associations
 - o Austroads – Vehicle Classification System, Designs and Guides
 - o MRWA – Specifications for Pavements
 - o MRWA – Restricted Access Vehicles, Permit Networks, Heavy Vehicle Access Road Maps
 - o MRWA, Heavy Vehicle Operations, Guidelines for Assessing the Suitability of Routes for RAV
 - Drainage catchment, and structural design –
 - o Australian Standards as are applicable – e.g. Loads on Buried Concrete Pipes, Precast Concrete Pipes
 - o Institute of Engineers – Australian Rainfall and Runoff – A quick guide to flood estimation Aug 1987
 - o Austroads – Design Codes and Guides for Bridges, Culverts and Floodways etc
 - o Concrete Pipe Association of Australia – guides and charts etc
 - o Australian Road Research Board – Guides for Stormwater drainage design in small urban catchments.
- f) Maintenance –
 - As per Policy Schedule 16.1(d) clause 2 Road Maintenance
- g) Adverse Conditions –
 - Developer to manage/restrict/cease operations voluntarily as appropriate
 - Adverse weather conditions, or other circumstances requiring temporary closure of the route
 - Claim to be made on MRWA by Shire for storm damage etc
 - Any gap not funded by MRWA remedial grants will be funded in equal shares by developer and Shire
- h) Security for road restoration and reinstatement –
 - i) For the purpose of ensuring that a road is maintained in an appropriate condition and standard, Council may require that a bond, bank guarantee or other security, in or for a sum determined by Council to be paid
 - ii) A bond required under subclause (1) is to be paid into a fund established by the Shire for the purposes of road maintenance.

- iii) If a bank guarantee or other security required ceases to be current, operations may be required to be cease until a further security has been provided.
- i) Payment –
 - The user will calculate and pay the amount to the Shire in advance at intervals of no less than quarterly.
 - The first payment will be non-refundable in its entirety.
- j) Community Amenity –
 - As per Policy Schedule 16.1(d) clause 3 Community Amenity
- k) Cessation of development / operations –
 - Any funds remaining to be directed to bringing the road up to a standard where renewal / upgrade for local use will not be required for at least 5 years
 - determination of standard required for 5 years by negotiation
 - assessment of required works to be certified by a mutually agreed qualified engineer as being adequate to the task
 - if after bringing up to the standard required for 5 years there is insufficient funds, invoice to be issued.
- l) Administration –
 - Engagement of external professional services to advise the Shire on matters relating to the agreement will be charged against the agreed developer maintenance contribution.
 - Engagement of external professional services is at the discretion of the Shire, and may include –
 - o Consulting engineer and other similar services directly related to the agreed route
 - o Legal advice deemed necessary for interpretation of the Agreement
 - o Other matters specifically relating to the Agreement or the agreed route
- m) Accountability –
 - Shire to provide annual report –
 - o funds received and expended
 - o Reserve Account activity
 - Developer to notify of –
 - o significant changes in traffic type or volume ,
 - o any safety issues on the road in a timely manner
- n) Dispute –
 - Priority is for resolution through direct negotiation
 - Should direct negotiation fail, a mutually agreed independent person to be appointed to make determination
 - Determination to be binding except in the case of manifest error

Note – requirements are intended to be consistent with relevant provisions of the Extractive Industries Local Law.

– End of Schedule –

Policy Schedule 16.1(d) – Calculation of User Contributions

1. Road construction, upgrade, improvement –

To be addressed –

- a) Joint assessment and agreement in writing of the construction/renewal gap,
- b) Assessment of required works to be certified by a mutually agreed qualified engineer as being adequate to the task,
- c) Applicant/user/developer to fully fund the gap,
- d) Agreement as to who will carry out the construction works – Council responsibility or developer responsibility,
- e) On completion of works, prior to issue of approval, the works are to be –
 - i) inspected by an appropriate person appointed by the Shire,
 - ii) certified by mutually agreed qualified engineer, and
 - iii) formally resolved by Council,
- f) Should MRWA / RRG / RTR fund a portion, developer funds the reduced gap.

2. Road maintenance –

To be addressed –

- a) Maintenance requirements to be negotiated, and agreed in writing –
 - i) standards including frequency of completion of maintenance tasks,
 - ii) obligations to notify of change, matters for public safety etc.,
 - iii) regular inspection to ensure adequacy of conditions,
- b) Agreement as to who will carry out the maintenance works – Council responsibility or developer responsibility,
- c) Unspent developer maintenance contributions to be retained in a Reserve Account specifically for the road,
- d) If annual maintenance contribution is insufficient –
 - i) Shire to draw on Reserve, or
 - ii) issue an invoice.

Option 1 – Reference amount –

- Year 1 –
 - o Previous 5 years average maintenance for this or similar road (traffic, construction etc), each year CPI adjusted
 - o Add estimated increased annual maintenance cost
- Year 2 and following –
 - o Previous year's figure to increase annually by rural rate increase
 - o Maintenance in addition to annual reference amount resulting from road traffic damage (not wear & tear or storm damage etc) to be recovered from user.

Option 2 – Charge per tonne

- Year 1 –
 - o An agreed cents per tonne per kilometre
- Year 2 and following –
 - o Previous year's rate to increase annually by rural rate increase
 - o Maintenance in excess of the calculated figure for the year figure resulting from road traffic damage (not wear & tear or storm damage etc) to be recovered

3. Community amenity

An agreed contribution to mitigate impacts on community amenity as a contribution to the Shire's community programs and/or community infrastructure for the long term benefit of residents of the Shire –

- community safety – such as crosswalk / lights, advisory / warning signage, fencing of public areas
- noise, particularly at night – such as noise barriers, vegetation buffers
- dust or windblown materials in townsites – such as road sweeping or watering down, wash down bays
- inconvenience or congestion to other road users.

Note – requirements are intended to be consistent with relevant provisions of the Extractive Industries Local Law.

– End of Schedule

HISTORY Summary

Item	Meeting	Purpose	Applies	Affected
1	Ordinary Council	Revocation	16 May 2018	Previous – - Code of Conduct - Policies (Dec 2017 update) – 7.4, 9.2.1, 9.3.8, Division 12
2	Ordinary Council	Adoption	16 May 2018	Policies – 1.1 to 1.6 and 7.1
3	Ordinary Council	Revocation	16 May 2018	As per Council minutes
4	Ordinary Council	Adoption	18 July 2018	Policies – 2.1 to 2.4, 8.9, 8.14, 13.1 to 13.4, 16.1
5	Ordinary Council	Revocation	18 July 2018	As per Council minutes
6	Ordinary Council	Adoption	13 August 2018	Policy 3.2
7	Ordinary Council	Revocation	13 August 2018	Policy 1.7
8	Ordinary Council	Adoption	19 September 2018	Policies 8.21, 8.21 & 13.7
9	Ordinary Council	Revocation	19 September 2018	Policy 8.1.11 & 8.1.14
10	Ordinary Council	Adoption	17 October 2018	Policies 3.4, 3.5, 8.20, 13.5, 13.6 & 14.4
11	Ordinary Council	Revocation	17 October 2018	Policy 6.2.3
12	Special Council	Adoption	19 December 2018	Policy 2.5

Appendix

Statutory and Corporate Context

The Council is responsible for functions and activities under numerous Acts and other legislation, many of which permit Council to delegate responsibilities and authority to various officers, and to stipulate conditions, standards or methods of control and management.

This Council Policy Manual has been prepared to complement a range of obligations imposed by legislation including local laws, and various document adopted by Council.

The order of priority for compliance is –

1. Federal and State legislation and regulations,
2. Local Planning Scheme,
3. a specific resolution of Council,
4. Delegations Register – being specific authorisations resolved by Council, and having a statutory context under the Local Government Act, they are the standing authorisations of Council to particular persons, almost exclusively the CEO,
5. Local Planning Policy – as it is made under the authority of the Local Planning Scheme, by resolution of Council,
6. Council Policy – being instructions resolved by Council they are the standing instructions of Council on how particular matters are to be dealt with,
7. Instruction – standing instructions or procedures issued by the CEO,
8. administrative directions or instructions.

Although not decisions of Council, and therefore not a requirement of staff, consideration should be given to the following as being best practice –

- DLGRD Guidelines
- WALGA Councillors Manual, Practice Notes etc.

Unless specifically resolved that the instruction is to be included in the Policy Manual, it is considered that it is for a specific matter, and is not a general or on-going instruction.

There are some policies that have specific legislative provision, and these are noted in the individual policy.

IMPORTANT – Consequences of Breaching Council Policy

Where there is a breach of Council Policy –

- a) it may result in disciplinary action up to and including termination of employment,
- b) the Shire may also be obligated to refer a breach to an external agency where an employee may be held personally liable for their actions;
- c) the employee in breach may also be personally liable for their actions, such costs charged to the Shire or to repair as a result of the private/personal or unauthorised use.

Application – is to staff, not to community

Policy cannot be used to control or manage the general community – it is essentially an instruction to staff that in particular circumstances, a specific action or process is to be followed, for instance –

- Hire of facilities – if there is damage, then staff are to invoice the hirer or cancel their booking etc
- Caravan Park Rules – if a patron does not comply with these, staff are to take action
- HR / Personnel policies – outlines the circumstances in which actions are to be taken

- Crossovers – staff may approve if an application complies with requirements, or take action if a crossover does not comply.

A Policy cannot be applied directly to the community as they may not be aware of its adoption. The community has to have had the opportunity to be aware of the requirements imposed on them.

However, policy may require staff to apply specific conditions to a licence, permit etc, and to provide a written copy of the conditions being applied. These conditions applied are then enforceable.

Advertising of a local law constitutes community wide notification, whether the person is aware of it or not. Accordingly, many policies expand on how a Local Law is to be interpreted or acted upon by staff.

Definitions

The LG Act has not defined the term “delegation” or “delegated power”. However:

- s.5.16 refers to “... the exercise of any of its powers and duties ...”
- s.5.42 refers to “... the exercise of any of its powers or the discharge of any of its duties ...”

The term “policy” is not defined anywhere in the LG Act, however, Departmental guidelines refer to Council “acting through” the administration to fulfil requirements and obligations.

The following terms used in this document apply insofar as they are consistent with enabling legislation –

authority means the permission or requirement for Council, a Committee or a person to act in accordance with –

- the Local Government Act, Regulation or other legislation,
- a delegation made by Council,
- a Council Policy,
- a specific decision of Council, or
- an instruction.

delegation means the authority for a Committee, the CEO or other person to exercise a power, or discharge a duty, as conferred by absolute majority decision of Council under the provisions of the relevant legislation.

Council Policy is a standing instruction resolved by Council as to how a particular matter is to be implemented:

Planning Policy is a standing instruction resolved by Council as to how a particular matter is to be implemented. They are made by authority of the Local Planning Scheme, within a different legal and procedural framework, having specified process in order to be enforceable, and are generally advised to the WA Planning Commission .

instruction means the requirement for a staff member to act in accordance with a direction given by the Council, the CEO, senior officer or supervisor.

Guidelines No.17 – Delegations (Department of Local Government)

The Department of Local Government and Communities has published Guidelines for the formation of Delegations.

The Guidelines outline the concept of “delegation” and “acting through” in parts 3 and 4, particularly in paragraph 13 where it is stated –

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

In effect, “acting through” is an action that could reasonably be expected to be carried out as the result of a decision by Council (e.g. advertising of a tender), or as a function reasonably expected of the position that a person holds.

Not all matters which will be recorded in Policy are “acting through” matters. Similarly, not all “acting through” matters will be listed. Council Policy describes how that action or some other action is to be carried out.

Making, amending and revoking Council Policy

Administrative Policy requires approval by a simple majority of Council, and may be made, amended or revoked at any time by Council.

Council may impose limitations on Policy or the functions delegated as they see fit.

Review of Council Policy

There is no required timetable for the review of policy, however, it is suggested that it should be done regularly to ensure that policies are relevant, current and understood.

To maintain the Policy Manual up to date, an administrative review should be reviewed at least once a year, and a report made to Council on matters needing amendment or inclusion.

It is suggested that detailed consideration of all policies be undertaken by Council at least once every two years.