



SHIRE OF  
VICTORIA PLAINS

# COUNCIL POLICY MANUAL

23 MARCH 2022

**Revision History**

<b>Version</b>	<b>Date</b>	<b>Author</b>	<b>Rationale</b>	<b>Next Due</b>
<b>1.0</b>	23/03/22	Sean Fletcher, GO	Part 1 implemented by Council	Mar 2024

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# Section 1 – Council/Governance



# 1.1 Code of Conduct for Council Members, Committee Members and Candidates

Responsible Areas	Council/Governance
Responsible Officer	CEO
Affected Staff	Nil

Policy 1.1 is in a separate document to this Policy Manual. Policy 1.1 consists of the following parts:

- 1 Policy 1.1 Code of Conduct for Council Members, Committee Members and Candidates
- 2 Policy 1.1A Code of Conduct Behaviour Complaints Management
- 3 Policy 1.1B Behaviour Complaints Committee Terms of Reference

Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	3 May 2021	<b>Resolution #</b>	
Last reviewed	<b>Date</b>	23 March 2022	<b>Resolution #</b>	2203-05
Next review due	<b>Date</b>	March 2024		



## 1.2 Public Question Time Management

Responsible Areas	Council/Governance
Responsible Officer	CEO
Affected Staff	Nil

### 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
- r.14E – modification of act if meeting held by electronic means

*Shire of Victoria Plains Meeting Procedures Local Law 2018*

- Part 6 – Public Participation

### 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.

### NOTES

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



## 1.2 Public Question Time Management

Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	16 May 2018	<b>Resolution #</b>	
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# 1.2 Public Question Time Management

## 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 addressed to the Presiding Member, and submitted in writing to the CEO by 12:00 Noon 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



## 1.2 Public Question Time Management

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. Responses 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.

*–End of Schedule*



# 1.3 Elected Members – Records Capture and Management

Responsible Areas	Records
Responsible Officer	Manager Finance and Administration
Affected Staff	Nil

## 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.



## 1.3 Elected Members – Records Capture and Management

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.

Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	21 June 2018	<b>Resolution #</b>	
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STATE RECORDS OFFICE ADVICE – LOCAL GOVERNMENT ELECTED MEMBER RECORDS: Which Records to Capture?



# 1.3 Elected Members – Records Capture and Management



Government of Western Australia  
Department of Local Government, Sport and Cultural Industries  
State Records Office of Western Australia



**Records Management Advice**

**October 2019**

## **Local Government Elected Members' Records: Which records to capture?**

Elected members have a unique and pivotal role within the local government and the community. They represent the interests of electors, residents and ratepayers, participate in local government decision making at council and committee meetings, and facilitate communication between the community and the Council.

The State Records Commission policy regarding the records of local government elected members requires the creation and retention of records of the:

*"...communications and transactions of elected members which constitute evidence affecting the accountability of the Council and the discharge of its business."*

This policy applies regardless of a record's format or where it was received.

Under the *Local Government Act 1995*, the CEO of a local government is responsible for ensuring that all records of that local government are kept in accordance with relevant legislation. Accurately created and managed records provide reliable, legally verifiable evidence of decisions and actions.

Records created or received by elected members that relate to local government business must be captured as part of the local government's corporate memory in accordance with the local government's Recordkeeping Plan.

### **Government records include:**

- Correspondence and communications
- File notes made after verbal communications, meetings, phone calls etc.
- Video and audio recordings
- Photographs
- Email
- Social Media posts (e.g. Facebook, Twitter)
- Databases
- Websites
- Messages from Apps (e.g. WhatsApp, Messenger)
- TXT messages

### **When to create and capture a record:**

- Information is related to council business
- An action is required
- A decision or commitment is made
- Business need: for future reference by yourself or others
- Historical: identifies Council activity over time.



# 1.3 Elected Members – Records Capture and Management



Government of Western Australia  
 Department of Local Government, Sport and Cultural Industries  
 State Records Office of Western Australia



## Which records should be captured?

YES – forward to your local government administration
<b>Communications, such as:</b> <ul style="list-style-type: none"> <li>• complaints and compliments</li> <li>• correspondence concerning corporate matters</li> <li>• submissions, petitions and lobbying</li> <li>• information for Council’s interest relating to local government business activity and functions</li> </ul>
<b>Lobbying</b> – correspondence or petitions, relating to lobbying matters
<b>Telephone, meetings and other verbal conversations</b> – regarding local government projects or business activities
<b>Social Media</b> – where the posts: <ul style="list-style-type: none"> <li>• create interest from the public or media</li> <li>• communicate decisions or commit the local government to an action</li> <li>• seek feedback</li> <li>• address issues of safety, and/or</li> <li>• relate to sensitive or contentious issues</li> </ul>
<b>Work diaries / Appointment books</b> – containing information that may be significant to the conduct of the elected member on behalf of the local government
<b>Allowances, benefits and gifts records</b>
<b>Addresses / Speeches / Presentations</b> – delivered as part of an elected member’s official duties

NO – do not need to be forwarded to your local government
<b>Duplicate copies</b> – of Council meeting agenda, minutes and papers
<b>Draft documents or working papers</b> – which are already captured at the local government
<b>Publications</b> – such as newsletters, circulars and journals
<b>Invitations</b> – to community events where an elected member is <i>not</i> representing Council or the local government
<b>Telephone, meetings and other verbal conversations</b> which: <ul style="list-style-type: none"> <li>• convey routine information only; or</li> <li>• do not relate to local government business or functions</li> </ul>
<b>Electioneering</b> – or party-political information
<b>Personal records</b> – not related to an elected member’s official duties



## 1.3 Elected Members – Records Capture and Management



Government of Western Australia  
Department of Local Government, Sport and Cultural Industries  
State Records Office of Western Australia



### Confidential Documents / Records

Records held within an information system or on hard copy files can be restricted so that only the appropriate officers can access them. If the elected member believes that some of the documentation required for capture into the IMS is of a highly sensitive or confidential nature, the Elected Member should advise the local government to treat the information as confidential and restrict access to those records.

For further information, contact your local government administration or the State Records Office on (08) 9427 3661 or via email at [sro@sro.wa.gov.au](mailto:sro@sro.wa.gov.au)



## 1.4 Elected Member Briefing Sessions

Responsible Areas	Council/Governance
Responsible Officer	Chief Executive Officer
Affected Staff	Nil

### Objective

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.

### Scope

The policy is to be applied as per the Briefing Session Guidelines.

### Policy

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. The CEO is to prepare an Information Paper for each briefing session.
3. Briefing Sessions are closed to the general public.

### Definitions

Specific Issues: Can include strategic matters, policy matters, draft agenda items, stakeholder reports, planning matters and so on.

### Relevant management practices/documents

Policy 1.1 - Code of Conduct for Council Members, Committee Members and Candidates.

Policy 1.4 – Elected Member - Briefing Sessions.

### Legislation/local law requirements

*Local Government Act 1995.*

*Local Government (Administration) Regulations 1996.*

*Local Government (Model Code of Conduct) Regulations 2021*



## 1.4 Elected Member Briefing Sessions

*Shire of Victoria Plains Meeting Procedures Local Law 2018*

Local Government Operational Guideline Number 05

Office Use Only			
Relevant delegations	Nil		
Initial Council adoption	<b>Date</b>	16 May 2018	<b>Resolution #</b>
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Next review due	<b>Date</b>	March 2024	



# 1.4 Elected Member Briefing Sessions

## Council Briefing Session Guidelines

### Objective

For proper decision-making, Elected Members must have the opportunity to make informed decisions through gaining maximum knowledge and understanding of any issue presented to the Council on which they must vote. It is reasonable for Elected Members to expect that they will be provided with all the relevant information they need to understand issues listed on the agenda for the next or following Ordinary Council Meetings.

The objectives of Council Briefing Sessions are:

1. For the Senior Staff to brief Elected Members on Agenda items, Strategic/Policy and Concept matters and Status Updates; and
2. For Elected Members to ask questions of the Senior Staff, to better inform themselves in relation to Agenda items, Strategic/Policy and Concept matters and Status Updates.

Workshops are held separately for matters that require enhanced input from the Elected Members and Officers. The same principles are to be applied.

### Principles

It is imperative that the presiding person applies appropriate procedures between Elected Members when briefing session items are being covered and that the following principles are applied:

- Accountability;
- Openness and Transparency;
- Probity and Integrity;
- Authority of the Presiding Member (Chair);
- Meeting Notification (Timely information provided).

This is in keeping with the requirements of the Local Government Act, Local Government (Administration) Regulations, Local Government (Model Code of Conduct) Regulations, SoVP Meeting Procedures Local Law regarding meetings of council and the Local Government Operational Guideline Number 05.

### General Procedures for Briefing Sessions

The following guidelines aim to ensure proper standards of probity and accountability at Council Briefing Sessions:

1. There is to be no debate, and therefore, decision-making during Briefing Sessions. Debate needs to take place in the Ordinary Meeting of Council when the issue is set for decision. This is particularly important when Shire planning matters are discussed. Elected Members are to avoid expressing their opinions for or against a proposal. Under the provisions of the Town Planning Scheme and other relevant State Acts, decision-makers are required to maintain a high degree of independence from the process leading up to the decision being made.



## 1.4 Elected Member Briefing Sessions

2. Briefing Sessions are to be held in the Council Chamber (or other nominated venue).
3. Briefing papers will be distributed to all Elected members at least three days (72 hours) prior to the meeting.
4. The Briefing Session Presiding Member (Chair) is to be the Shire President. If the Shire President is unavailable, the Deputy Shire President shall be the Presiding Member. If the Deputy Shire President is unavailable, the attending Elected Members shall select a Presiding Member.
5. Relevant managers, officers and other parties, as required by the Chief Executive Officer for the provision of information to Elected Members, shall attend Briefing Sessions.
6. The formalities and respect re office/positions are to be observed. All Elected Members will be given a fair and equal opportunity to participate in the Briefing Session. Their behaviour at all times must be in keeping with the Code of Conduct, the Model Code of Conduct Regulations and the Local Government Act.
7. The Presiding Member will ensure that time is made available to allow for all matters of relevance to be covered.
8. Good governance principles recommend that Elected Members, officers and relevant advisers shall disclose their interests on any matter listed for the Briefing Sessions. When disclosing an interest the following provisions apply:
  - a. Interests are to be disclosed in accordance with the provisions of the *Local Government Act 1995*, the *Local Government (Model Code of Conduct) Regulations 2021* and the Code of Conduct (c.8(2)(b), Employee Code of Conduct.
  - b. Elected Members disclosing a financial interest or a proximity interest will not participate in that part of the session relating to the matter to which their interest applies and shall depart the room.
  - c. The remaining Elected Members may agree that an Elected Member disclosing a financial or proximity interest may participate in discussion on the matter if the remaining Elected Members agree:
    - 1 is so trivial or insignificant as to be unlikely to influence the disclosing Elected Member's conduct in relation to the matter or
    - (ii) is common to a significant number of electors and ratepayers of the Shire, and a record of that agreement is to be made in the notes kept for the Briefing Session.
  - d. Officers and advisers with a financial interest in a matter may also consider it appropriate to depart the room when the matter is being considered, however there is no legislative requirement to do so.
9. As no decisions will be made during the Briefing Session there is no requirement to keep a formal record (minutes) for each meeting. However, conflicts of interest must be recorded and officers will undertake actions as required by the CEO.
10. Briefings will only be given by officers or advisers for the purpose of ensuring that Elected Members are more fully informed. Items to be addressed will be limited to:
  - a. Matters listed on the forthcoming council meeting agenda or completed and scheduled to be listed within the next three meetings;
  - b. Strategic/Policy matters that require input into their development or review;
  - c. Concept matters other than strategy and policy matters that require input or feedback in their initial development;



## 1.4 Elected Member Briefing Sessions

- d. Status Updates regarding Council resolutions, briefing session actions, corporate business plan (includes key projects), officer reports, other matters of interest (including lobbying matters, main road projects, emergency management matters and so on).

11. Attendance may be by electronic means.

### Definitions

**Elected Member:** At the Shire of Victoria Plains, an elected member is a councillor.

**Senior Staff:** CEO, Senior Officers, OCM Officer, Other Officer if providing an update to Council, Relevant External Advisers.

### Relevant management practices/documents

Policy 1.1 - Code of Conduct.

Policy 1.4 – Elected Member - Briefing Sessions.

Employee Code of Conduct

### Legislation/local law requirements

*Local Government Act 1995.*

*Local Government (Administration) Regulations 1996.*

*Local Government (Model Code of Conduct) Regulations 2021*

*Shire of Victoria Plains Meeting Procedures Local Law 2018*

Local Government Operational Guideline Number 05



# 1.5 Strategic Policy Framework

Responsible Areas	Council/Governance
Responsible Officer	Governance Officer
Affected Personnel	Elected Members, Management Team, Governance Officer, Executive Assistant/OCM

## Objective

To ensure that all policies within the Shire are relevant, clear, consistent, authorised at the correct level and reflective of good governance across the district.

## Scope

1. This policy applies to all employees and Elected Members involved in the review, development, preparation and adoption of policies regarding the governance and the performance of the Shire.
2. Additions, deletions or alterations to Council Policy shall only be made by specific Council resolution stating:
  - a) 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.
3. This policy amends and replaces former Policy 1.5 Council Policy – making, amending, deleting.

## Policy

The Shire of Victoria Plains will operate with three layers of documentation to govern its operations and practices to maintain longevity and ensure standardised service delivery to the community in line with the principle of achieving better practice.

These layers are:

- A. Council Policy. Council Policies must be adopted by Council and provide the Chief Executive Officer (CEO) with high level rules/limits/boundaries in respect to decision making and actions to be undertaken by the local government.
- B. Executive Policy. Is a policy implemented by the CEO to staff and establishes a whole of organisation approach to operational practices. An executive policy is also known as an executive instruction.
- C. Procedures/Manuals. Procedures detail the key processes, operations and activities conducted within a position on a day to day basis. This will provide the Shire with a record of operational practices and allow for an open transfer of knowledge and business continuity where necessary.
- D. Reusable Components and Measurements of Success. What are the tools and templates that can be used to achieve a policy outcome and how will the Shire measure the success regarding its policies?

The underpinning requirements for each layer is provided in Attachment A: 1.5 Prescriptive Requirements.



# 1.5 Strategic Policy Framework

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

## Definitions

Nil

## Relevant management practices/documents

Shire of Victoria Plains Council Policy Manual

## Legislation/local law requirements

*Local Government Act 1995*: Section 2.7 and Section 5.41

Office Use Only			
Relevant delegations			
Initial Council adoption	<b>Date</b>	16 May 2018	<b>Resolution #</b>
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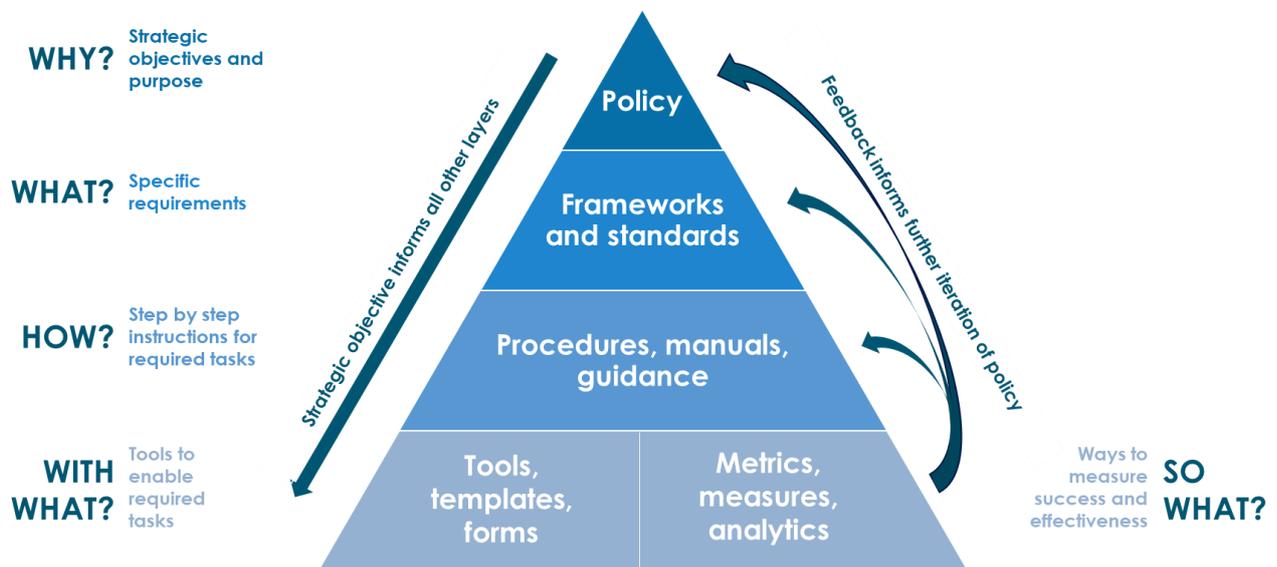
# 1.5 Strategic Policy Framework

Attachement A: 1.5 – Prescriptive Requirements (Laws, Frameworks, Standards)

## THE POLICY FRAMEWORK

### The Model

The policy hierarchy is encapsulated in a model developed by the Policy Lab (NSW). How a policy is implemented within an organisation can be seen in the following pyramid:



Essentially, a council policy is the intent (strategic direction) of Council whereas delegations are about “who may” conduct a particular requirement. Accordingly, a council policy may not be altered without a decision of Council.

Therefore the purpose of policy documents is to enable the effective and efficient management of Shire 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.

### **Key Elements – Council Policies**

With the exception of a Council Policy established under a Town Planning Scheme, legislative framework or Australian Standard which determines the policy format, all policies must use the below format:

Format (Template Attached)



## 1.5 Strategic Policy Framework

1. Council Policy Title – this is to be included within the header with the Shire logo to ensure it carries across all pages of the Policy.
2. Policy Objective – this is to outline the key reason why the policy is being developed in the first place and the benefit of having it in place.
3. Policy Scope – this determines who the policy is to apply to i.e. is it being set to govern councillor actions or employee actions
4. Policy Detail – this is where the actual content of the policy is to be included.
5. Definitions – if any acronyms or technical terminology is used within the policy then it should be defined within this section.
6. Related Legislation – this is where any Act or legislative framework that is linked to the Policy would be listed and where possible specific sections should be referenced.
7. Other Related Policies/Key Documents – this will detail and other related council or executive policies or key documents that guide the implementation of the policy.
8. Delegated Authority – detail any delegated authorities that need to align with the policy.
9. Review Date – the date the Council Policy is due for review.
10. History – details of original adoption date and previous revisions.

### Policy Process

All Council Policies are to be considered in their own right and the Shire must maintain a list of all adopted policies and when they are next due for review.

Once a Council Policy has been adopted it must be published on the Shire website to improve transparency and understanding of Shire practices.

Outlined below is a standard process that will be followed by the Shire for the development and adoption of new or substantially amended Council Policies:

- i. Need for Policy or review identified;
- ii. Draft Policy developed;
- iii. Draft Policy reviewed by CEO;
- iv. Draft Policy submitted to Council with a report outlining the reasoning behind the policy and requesting approval to develop further/undergo public consultation;
- v. Draft Policy revised based on public consultation\*\*;
- vi. Report submitted to Council outlining the results of public consultation, any changes made since the initial draft and requesting formal adoption;



## 1.5 Strategic Policy Framework

- vii. After adoption the list of Council Policies must be updated to keep an accurate measure of what policies are in place or due for review.

\*\* In order to add rigour to the Council Policy process the Shire may implement a public engagement process for the adoption of new or significantly amended council policies. Public consultation will be for a minimum of 14 days and the Shire will notify the community via a notice placed on the Shire's website, in the Newsletter, Noticeboards and where appropriate on the Shire's social media platforms.

**Important:** All Council Policies must be recorded in **ADM541** and reviewed at a minimum every 2 years.

### **Key Elements - Executive Policy (Executive Instruction)**

An Executive Policy adopted by the CEO is to establish a whole of organisation approach to operational practices. Executive Policies may be used to:

- Specify in detail how the administration will carry out, apply or action a Council Policy;
- Establish a minimum standard or rule to be applied across the organisation in areas such as Information Communication Technology and Human Resources to ensure there is a consistent approach.

Executive Policies are created as internal documents for operational purposes and do not require Council adoption. However, the CEO may discuss the development of Executive Policies with Council, or an appropriate Committee of Council and seek input regarding their development.

The CEO is responsible for determining the format and content of Executive Policies but they must be reviewed at a minimum every 2 years.

### **Key Elements - Procedures/Manuals**

As part of continuing better practice through continuous improvement, it is acknowledged that the CEO will encourage all employees to establish and keep up to date, appropriate procedures/manuals that detail the key processes, operations and activities conducted within their position on a day to day basis. This will provide the Shire with a record of operational practices and allow for an open transfer of knowledge and business continuity where necessary.

### **Key Elements – Tools/Forms/Templates and Tricks**

These are components that make life easier and are references in the procedures and manuals. Examples include:

- Spreadsheets;
- Registers;
- Word Templates e.g. memo templates, policy templates, letter templates and so on.

### **Key Elements – Measuring Success**



## 1.5 Strategic Policy Framework

When required, specific metrics and measures will be established as to whether the Shire has successfully achieved the Policy intent, and to what degree. This may be both quantitative data (a metric) and qualitative data (verbal, written feedback).

Measurements will be used to inform and regularly iterate your Policy and the supporting layers. These changes can be at the macro level (such as a change in the strategic objective) or involve more minor adjustments in the implementation of the Policy (such as changes to frameworks or standards, procedures or tools).

Consider will also be given to whether this information needs to be publicly available. It is acknowledged that making the Shire's analysis open to the public can help ensure transparency and accountability. Detailed data may also be useful to and reusable by other agencies, or to members of the public.

[Attachement B: 1.5 – Policy Template](#)



# 1.5 Strategic Policy Framework



Responsible Areas	Administration
Responsible Officer	Chief Executive Officer
Affected Staff	Nil

Objective

Scope

Policy

Definitions

Relevant management practices/documents

Legislation/local law requirements

Office Use Only			
Relevant delegations			
Initial Council adoption	Date	Insert date here	Resolution #
Last reviewed	Date	Insert date here	Resolution #
Next review due	Date	Insert date here	



## 1.6 Legal Representation for Elected Members and Employees

Responsible Areas	Governance
Responsible Officer	CEO
Affected Staff	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 – Model code of conduct for council members, committee members and candidates
- s.5.51A – Code of conduct for employees

*Local Government (Model Code of Conduct) Regulations*

- Part 2 – Model code of conduct and Schedule 1

*Local Government (Administration) Regulations 1996*

- Part 4A – Codes of conduct for local government employees

### CORPORATE CONTEXT

None

### POLICY STATEMENT

1. The following Council Policy Schedule is adopted, and forms part of this Statement –
  - a) Sch. 1.6 – 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.

### 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.

This policy is in keeping with DLGSC Guideline – Legal Representation for Council Members and Employees: <https://www.dlgsc.wa.gov.au/department/publications/publication/legal-representation-for-council-members-and-employees>



## 1.6 Legal Representation for Elected Members and Employees

Office Use Only			
Relevant delegations			
Initial Council adoption	<b>Date</b>	16 May 2018	<b>Resolution #</b>
Last reviewed	<b>Date</b>	23 March 2022	<b>Resolution #</b> 2203-05
Next review due	<b>Date</b>	March 2024	



# 1.6 Legal Representation for Elected Members and Employees

## 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.



## 1.6 Legal Representation for Elected Members and Employees

- 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.

*End of Schedule*



## 1.7 Related Party Disclosures

Responsible Areas	Governance
Responsible Officer	Executive Assistant
Affected Staff	Elected Members and Employees

### OBJECTIVE

The objective of this policy is to ensure that Accounting Standard AASB 124 is applied so that the Shire's financial statements contain the disclosures necessary by Key Management Personnel and the Council 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 by transactions and outstanding balances, including commitments, with such parties."

### 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.



## 1.7 Related Party Disclosures

### **APPLICATION**

3. Disclosure requirement
  - a) The disclosure requirements apply to the existence of relationships regardless of whether a transaction has occurred or not.



## 1.7 Related Party Disclosures

- 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.

Refer: AASB 10 Consolidated Financial Statement', 'AASB 11 Joint Arrangement' and 'AASB 128 Investments in Associates and Joint Ventures.

### 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.



## 1.7 Related Party Disclosures

### 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.



## 1.7 Related Party Disclosures

- 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 or 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.
- d) Materiality



## 1.7 Related Party Disclosures

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

### 9. 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.

### 10. 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.

### 11. 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.



## 1.7 Related Party Disclosures

### 12. 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.

### 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.



## 1.7 Related Party Disclosures

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>

Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	21 June 2018	<b>Resolution #</b>	
Last reviewed	<b>Date</b>	22 March 2022	<b>Resolution #</b>	2203-05
Next review due	<b>Date</b>	March 2024		



## 1.7 Related Party Disclosures

### 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.



## 1.7 Related Party Disclosures

**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 of 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



# 1.7 Related Party Disclosures

## **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



## 1.7 Related Party Disclosures

(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*



## 1.8 Freeman of the Shire

Responsible Areas	Council
Responsible Officer	CEO
Affected Staff	Nil

### STATUTORY CONTEXT

None

### CORPORATE CONTEXT

None

### POLICY STATEMENT

1. Council may resolve to make an award of Freeman of the Shire to an individual.

### APPLICATION

2. The award of Freeman is intended to recognise outstanding Community Service over a significant period of time and in a diversity of activities within the Shire of Victoria Plains.
3. The award would not usually be presented for excellence of service in only one activity.
4. The award of Freeman is to be seen as independent of any other award.
5. The award is to be recognised as the highest honor that the Local Community, through its Council can confer on one of its citizens. The award will therefore be conferred sparingly and should only be conferred where there is a great assurance of public approval.
6. It is not seen as desirable that the Award of Freeman be presented to a sitting member of Council.



Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	24 April 2019	<b>Resolution #</b>	
Last reviewed	<b>Date</b>	23 March 2022	<b>Resolution #</b>	2203-05
Next review due	<b>Date</b>	March 2024		



## 1.9 Recording of Council, Committee, Electors Meetings

Responsible Areas	Governance
Responsible Officer	Executive Assistant/OCM Officer
Affected Staff	Nil

### STATUTORY CONTEXT

#### *Local Government Act 1995 –*

- s.5.22 – requirement to keep minutes of council and committee meetings
- s.5.32 – requirement to keep minutes of electors meetings
- s.5.25(2) – regulations to provide for electronic meetings
- s.5.41(h) – CEO must keep and maintain Shire’s records
- s.5.94 – public may inspect certain local government information
  - o does not specifically include recordings of meetings

#### *Local Government (Administration) Regulations 1996 –*

- r.29 – Information to be made available for public inspection
  - o includes unconfirmed minutes
- r.14A – r.14E:
  - o Attendance by electronic means;
  - o Recording and publicly broadcasting of meetings;
  - o Submission of public questions;
  - o Encapsulation of eMeeting Guidelines.

#### *Freedom of Information Act 1992 –*

- s.10 – right of access to documents

#### *Privacy Act 1998 (Commonwealth) –*

- s.13 – interferences with privacy

#### *State Records Act 2000 –*

- s.3 – refer –
  - o definition of **record** :
    - any paper or other material, including affixed papers on which there is writing;
    - any map, plan, diagram or graph;
    - any drawing, pictorial or graphic work, or photograph;
    - any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
    - any article or material from which sounds, images or writing can be reproduced



## 1.9 Recording of Council, Committee, Electors Meetings

whether or not with the aid of some other article or device;

- any article on which information has been stored or recorded, either mechanically, magnetically or electronically;
  - definition of **unauthorised possession**
- s.7 – local government bound by Act
- s.16(2) – keeping of records to comply with State Records Commission’s published principles
- s.16(3) – disposal of records permitted only in accordance with a disposal authority approved by the State records Office

### *Surveillance Devices Act 1988 –*

- s.5 – regulation of use etc of devices
- s.26 – use of devices with consent of parties
- s.34 – penalties for unlawful possession or use of device

### *Meeting Procedures Local Law 2018 –*

- cl.6.16 – recording of proceedings
- cl.19.1 – penalty for breach

## **CORPORATE CONTEXT**

### *Policy Manual*

- 1.1 – Code of conduct for council members, committee members and employees

### *Record Keeping Plan*

- s.16(2) – keeping of records to comply with State Records Commission’s published principles.
- s.16(3) – disposal of records permitted only in accordance with a disposal authority approved by the State records Office.

## **POLICY STATEMENT**

### 1. Definition

**Electronic Recording** means any recording made by an electronic device capable of recording sound and/or vision.”

### 2. Purpose

The primary purpose of recording of Council, committee and electors meetings is to assist with the preparation of meeting minutes.

Note:

- a. The electronic (video) recording of the meeting is evidence of the meeting being open to the public under a State or Health emergency;



## 1.9 Recording of Council, Committee, Electors Meetings

- b. Sessions behind closed doors (confidential matters) will not be recorded by any electronic recording device.
- c.

### APPLICATION

#### 3. Declaration to the Public

3.1 In order to comply with the *Surveillance Devices Act 1998* and the *Privacy Act 1998* advice is to be provided to the members of the public attending Council meetings that an official recording of the meeting will be made.

3.2 The disclosure statement is –

*Members of the public are advised that meetings of Council are recorded. In terms of the Privacy Act 1998 this may involve the recording of personal information provided at the meeting. The provision of any information that is recorded is voluntary, however if any person does not wish to be recorded they should not address or request to address the meeting. By remaining in this meeting, you consent to the recording of the meeting.*

*You are not permitted to record this meeting with any recording device, unless you have the express authorisation of the presiding member.*

3.3 The advice will be advised by –

- a) placement of the notice in the agendas for meetings,
- b) placement of notices at the entry to places where meetings are held,
- c) placement the meetings page of the Shire of Victoria Plains website.
- d) verbal announcement by the Presiding Member of the meeting to be recorded.

#### 4. Retention of Records

4.1 Recordings are not temporary records, but under the State Records Act are to be retained in the custody of the CEO.

4.2 The official record of a meeting is not the recording but the meeting minutes, which require confirmation by Council resolution and must be signed by the Presiding Member of the meeting at which they were confirmed.

#### 5. Availability and access

5.1 Access to electronic recordings is determined by the CEO in accordance with their responsibilities under the Local Government Act 1995 and its Regulations.

5.2 Requests for access to electronic recordings must be made to the CEO, and include details of the item concerned and a reason for the request.

5.3 Access to an electronic recording can only occur during business hours at the Shire Office in the presence of a Shire officer.



## 1.9 Recording of Council, Committee, Electors Meetings

5.4 Where a transcript of a recording is required, an application must be made in accordance with the Shire's process under the Freedom of Information (FOI) Act and is subject to meeting the application requirements and processing fees.

Office Use Only			
Relevant delegations			
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Last reviewed	<b>Date</b>	23 March 2022	<b>Resolution #</b> 2203-05
Next review due	<b>Date</b>	March 2024	



## 1.10 Enterprise Risk Management

Responsible Areas	Administration
Responsible Officer	Manager Finance and Administration
Affected Staff	Nil

### STATUTORY CONTEXT

*Audit Regulations 1996 –*

- r.17 – Audit Committee to review CEO report on risk management, internal control and legislative compliance

*Work Health and Safety Act 2020 (formerly Occupational Safety and Health Act 1984)*

### CORPORATE CONTEXT

Shire of Victoria Plains –

- Risk Management Framework (Risk Procedures)
- Risk Profiles and Dashboard (Risk Procedures)
- Work Health and Safety (Occupational Safety and Health)

### POLICY STATEMENT

1. The Shire of Victoria Plains Enterprise Risk Management Policy documents the commitment and objectives regarding managing uncertainty that may impact the Shire's strategies, goals or objectives.
2. It is the Shire's intent to achieve best practice (aligned with AS/NZ ISO 31000:2018 Risk Management), in the management of all risks that may affect the Shire, its customers, people, assets, functions, objectives, operations or members of the public.
3. Risk Management will form part of the Strategic, Operational, Project and Line Management responsibilities and where possible, be incorporated within the Shire's Integrated Planning Framework.
4. The Shire's executive staff will determine and communicate the Risk Management Policy, Objectives and Procedures, as well as, direct and monitor implementation, practice and performance.
5. Every employee within the Shire is recognised as having a role in risk management from the identification of risks to implementing risk treatments and shall be invited and encouraged to participate in the process.
6. Consultants may be retained at times to advise and assist in the risk management process, or management of specific risks or categories of risk.



# 1.10 Enterprise Risk Management

## APPLICATION

### 7. Definitions

**Risk:** Effect of uncertainty on objectives.

Note 1: An effect is a deviation from the expected – positive or negative.

Note 2: Objectives can have different aspects (such as financial, health and safety and environmental goals) and can apply at different levels (such as strategic, organisation-wide, project, product or process).

**Risk Management:** Coordinated activities to direct and control an organisation with regard to risk.

**Risk Management Process:** Systematic application of management policies, procedures and practices to the activities of communicating, consulting, establishing the context, and identifying, analysing, evaluating, treating, monitoring and reviewing risk.

### 8. Risk Management Objectives To –

- a) Optimise the achievement of our vision, mission, strategies, goals and objectives.
- b) Provide transparent and formal oversight of the risk and control environment to enable effective decision making.
- c) Enhance risk versus return within our risk appetite.
- d) Embed appropriate and effective controls to mitigate risk.
- e) Achieve effective corporate governance and adherence to relevant statutory, regulatory and compliance obligations.
- f) Enhance organisational resilience.
- g) Identify and provide for the continuity of critical operations

### 9. Risk Appetite

9.1 The Shire quantified its risk appetite through the development and endorsement of the Shire's Risk Assessment and Acceptance Criteria. The criteria are included within the Risk Management Procedures and are subject to ongoing review in conjunction with this policy.

9.2 All organisational risks to be reported at a corporate level are to be assessed according to the Shire's Risk Assessment and Acceptance Criteria to allow consistency and informed decision making. For operational requirements such as projects or to satisfy external stakeholder requirements, alternative risk assessment criteria may be utilised, however these cannot exceed the organisation's appetite and are to be noted within the individual risk assessment.

### 10. Roles, Responsibilities & Accountabilities

The CEO is responsible for the allocation of roles, responsibilities and accountabilities. These are documented in the Risk Management Procedures (Operational Document).



## 1.10 Enterprise Risk Management

### 11. Monitor & Review

- 11.1 The Shire will implement and integrate a monitor and review process to report on the achievement of the Risk Management Objectives, the management of individual risks and the ongoing identification of issues and trends.
- 11.2 This policy will be kept under review by the Shire's executive staff and its employees. It will be formally reviewed every two years in line with the Local Government Audit Regulations (reg. 17).

Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	24 April 2019	<b>Resolution #</b>	
Last reviewed	<b>Date</b>	23 March 2022	<b>Resolution #</b>	2203-05
Next review due	<b>Date</b>	March 2024		

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## 1.11 Swearing in of Elected Members

This policy was revoked on 22 March 2022

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## 1.12 Councillor Continuing Professional Development

Responsible Areas	Administration
Responsible Officer	Manager Finance and Administration
Affected Staff	Nil

### Objective

The Councillor Continuing Professional Development Policy demonstrates Councils commitment to providing professional development for its Councillors.

### Scope

Council will ensure professional development activities are available to Councillors on the basis that such professional development contributes to the achievement of the strategic and good governance objectives of Council.

### Policy

Each Councillors will be allocated a maximum of \$1,000 per financial year to pay for all professional development (excluding mandatory training).

If a Councillor wishes to exceed the value of this allowance in a financial year they may either:

- i. Seek council approval to exceed the allowance; or
- ii. Pay the difference

An elected member must advise the CEO of his/ her intention to attend professional development at least three weeks prior to the event. The CEO will then advise the Councillor whether sufficient budgeted funds for the professional development are available and then approve the expenditure.

### Categories of Professional Development

When selecting professional development opportunities priority will be given for training and seminars that particularly enhance the required skills of Councillors and provide the greatest outcome for the Council including:

- Roles and responsibilities of councillors
- Relationship between Councillors, the CEO and staff
- Meeting procedures
- Conflict of interest
- Code of conduct
- Strategic planning
- Budgets and financial sustainability
- Long term financial planning Asset management
- Community engagement and public participation
- Risk management



## 1.12 Councillor Continuing Professional Development

- Legal issues for councillors
- Specific training due to legislative change

Other professional development opportunities may emerge that are directly related to specific areas and other community issues and addresses environment, social and economic challenges facing the community.

Opportunities for professional development are regularly received from WALGA and other training providers. Specific training that is identified as being directly relevant to Councillors will be sent to Councillors via email seeking an indication of interest.

### Method of Professional Development

It is recognised that a range of delivery methods will be required to support the professional development needs of councillors including:

- In house workshop, seminars and briefing sessions conducted by appropriate staff, trainers and guest speakers
- Attendance at workshops, seminars and conferences offer by training providers and including WALGA, LGPro, AIM, AICD and other industry providers and / or appropriate providers offering courses for members to gain new skills and knowledge and to network with other Councillors from other Local Governments.
- Printed material, including training booklets and discussions papers that may be provided for information;
- On line self-paced learning; and
- CD Rom / DVD information

### Newly elected Councillors

Councillors who are new to Council are required to undertake all five modules of The Council Member Essential Course which comprises of the following five units:

- Understanding local government;
- Serving on council;
- Meeting procedures;
- Conflict of interests; and
- Understanding financial reports and budgets.

The cost of undertaking the five units of the Council Member Essential Course is excluded from the individually allocated funds for professional development.



# 1.12 Councillor Continuing Professional Development

## Reporting

The Local Government is required to report annually on who has completed professional development and publish this on the Shire's website. The report will list each Councillor and the professional development completed by each councillor in that financial year. This will include both the Councils Members Essential Course where applicable and continuing professional development consistent with this policy

## Continuing Professional Development

Each councillor will be required to complete at least 8 hours every financial year of professional development.

## Definitions

Councillor includes the Shire President, Deputy Shire President and all Councillors.

## Relevant management practices/documents

Nil

## Legislation/local requirements

Section 5.128 requires Council to adopt a Councillor continuing Professional Development Policy.

Office Use Only				
Relevant delegations				
Initial Council adoption	<b>Date</b>	18 December 2019	<b>Resolution #</b>	1912-07
Last reviewed	<b>Date</b>	23 March 2022	<b>Resolution #</b>	2203-05
Next review due	<b>Date</b>	March 2024		



## 1.13 Attendance at Events Policy

Responsible Areas	Governance
Responsible Officer	Chief Executive Officer
Those Affected	Elected Members and CEO

### Objective.

Section 5.90A of the *Local Government Act 1995* (the Act) requires that local governments must adopt an “Attendance at Events” policy as part of the Local Government’s Gifts Framework to ensure transparency and accountability in decision-making. Decision-making could be influenced, or perceived to be influenced in a number of ways, including through financial and personal relationships and the receipt of gifts.

### Scope

This policy applies to Elected Members and the CEO in respect of their acceptance of invitations to Events where it is offered at a discounted rate or free of charge, as part of a sponsorship agreement or paid for by the Shire of Victoria Plains (the **Shire**). The acceptance of this benefit (if not paid for by the local government) is considered a gift and is subject to the disclosure of interest provisions unless the Event is detailed or is expressly approved under this policy.

### 1. When Disclosure Is Not Required

Elected Members and the CEO are not required to disclose interests in relation to gifts or Event invitations from the following entities:

- a) Western Australian Local Government Association (**WALGA**);
- b) Local Government Professionals Australia WA (**LG Pro**);
- c) Australian Local Government Association (**ALGA**);
- d) A department of the public service;
- e) A government department of another State, a Territory or the Commonwealth;
- f) A local government or regional local government.

However, Elected Members and the CEO must disclose the receipt and acceptance of the gift or Event invitation in accordance with Section 5.87A and 5.87B of the Act.

### Note:

- are valued over \$300; or
- are of a cumulative value that exceeds \$300 where the gifts are received from the same donor in a 12-month period.

### 2. Pre-Approved Events

The Shire approves attendance by Elected Members and the CEO regarding the following Events (Pre-approved Events):

- a) Advocacy lobbying or Ministerial briefings.
- b) Awards functions specifically related to local government.
- c) Shire hosted ceremonies and functions.



## 1.13 Attendance at Events Policy

- d) Shire-run tournaments or Events.
- e) Community cultural Events/festivals/art exhibitions.
- f) Events hosted by Clubs or Not for Profit Organisations within the Shire to which the Elected Member or CEO are officially invited.
- g) Events run by schools within the Shire.
- h) Free Shire Events.
- i) Industry and Economic briefings, specifically related to the function of government.
- j) Meetings of clubs or organisations.
- k) Major professional bodies associated with government at a local, state and federal level.
- l) Opening or launch of an Event or facility within the Shire.
- m) Where the President or CEO representation has been formally requested.

### 3. Events Not Approved

Events not considered for approval are:

- a) Political party Events and fundraisers.
- b) Shire sponsored functions or Events. Not approved in the situation where the Elected Member of CEO seeks reimbursement for a ticket that is required to be purchased for the function or event, even if it is at a discounted rate.
- c) Social Events.
- d) Entertainment Events with no link to the Shire.
- e) Events that primarily benefit Elected Members in a personal capacity or in a role other than their role at the Shire.

### Policy

The purpose of this policy is to provide a framework to enable Council Members and the CEO to attend Events as representatives of the Shire without restricting their participation in the Council decision making process.

### 4. Implications

The Shire's Strategic Community Plan requires the Shire to demonstrate effective civic leadership so that it can better allocate scarce resources and effectively interact with the community along with improving organisational efficiency and the performance of the elected members. This policy demonstrates Council's commitment to good governance and leadership through identifying those Events, Council Members and the CEO may attend in their official capacity without restricting their participation in the Council decision process.

The interest relating to gift provisions recognises that a relationship is created between the donor and a recipient of a gift which could be perceived to affect, influence and possibly prejudice the decisions made by the gift receiver. This applies to any gift received, not just a gift that must to be disclosed in accordance with sections 5.87A and 5.87B of the Act.

Notwithstanding the above, there are certain Events whereby attendance by Elected Members and/or the CEO provides a clear benefit to the Shire, the community and/or the professional



## 1.13 Attendance at Events Policy

development of the respective Elected Member or the CEO, and due to this benefit the respective Elected Member and/or the CEO are encouraged to attend.

### 5. Key Considerations

Whether a benefit such as an invitation to an event or hospitality given to an Elected Member or the CEO is a gift, for the purposes of the Act and Regulations, the key considerations are:

- a) who is providing the invitation to the Event (the donor);
- b) the cost to attend the Event, (or estimated value of the Event per invitation) and any other expenses such as travel and accommodation;
- c) the location of the Event in relation to the local government (within the district or out of the district);
- d) the role of the Elected Member or CEO when attending the Event (participant, observer, presenter) and the value of their contribution. If the value of the contribution outweighs the value of the benefit it will not be a gift for the purposes of the Act and Regulations;
- e) the benefit of Elected Member or CEO representation at the Event;
- f) the number of invitations / tickets received;
- g) whether the Event is sponsored by the Shire; and
- h) whether the Event is paid for by the Shire.

### 6. Action Required When Attending Events: When is A Gift and/or Conflict of Interest Declared?

- a) Any Event invitation accepted by an Elected Member or CEO without payment, where a member of the public is required to pay, unless noted in this policy, will generally be classified as a gift to which the declaration of interest provisions apply.
- b) Where attendance by an Elected Member or the CEO at an Event where a member of the public is required to pay is in the interests of the the Shire (such as for their professional development or to undertake a function as an Elected Member), the Shire may pay for the cost of the Event. The declaration of interest provisions would not apply.
- c) If the Shire does not pay for the Elected Member or CEO's attendance at an Event, it would be classified as a 'gift' unless the contribution by the Elected Member or CEO to the Event (such as by way of presenting a paper or speaking engagement) is reasonably considered to outweigh the value of registration or other benefit given to the Elected Member or CEO.
- d) Acceptance of reasonable and modest hospitality by an Council Member or CEO at an unpaid Event run by a local community group where the Elected Member or CEO attends the Event in his or her capacity as an Elected Member or CEO would not generally be classified as a 'gift' where the contribution by the Elected Member or CEO to the Event is reasonably considered to outweigh the value of the hospitality.
- e) Any Event that is not noted as a pre-approved Event or otherwise approved in accordance with this policy, or the Event invitation is received in a personal capacity would not be considered an approved Event.
- f) If the Event is a free Event to the public, then no action is required.



## 1.13 Attendance at Events Policy

- g) If the Event is ticketed and the Elected Member or CEO pays the full ticketed price and does not seek reimbursement, then no action is required.
- h) If the Event is ticketed and the Elected Member or CEO pays a discounted rate or is provided with a free ticket, then the recipient must adhere to the gift and declaration of interest provisions.

### 7. Approval Guidelines - Process For Non Approved Events

The approval to attend a non approved event must be conducted in accordance with Schedule 1 to this policy.

### 8. Roles and Responsibilities

1. The CEO must report to Council annually of all decisions to approve or refuse Elected Members and CEO attendance at Events that are not Pre-Approved Events in accordance with this policy. See Attachment A.
2. The CEO is to cause an up to date version of this policy (as amended from time to time) to be published to the Shire's website.
3. Governance Officer is to:
  - a) include a provision in the Shire's annual budget to address the costs associated with this policy; and
  - b) adopt procedures for the processing and approval of applications by Elected Members and CEO to attend Events in accordance with this policy.

### 9. Dispute Resolution

All disputes in regard to this policy will be referred to the Governance Officer in the first instance. In the event that the Elected Member/CEO and the Governance Officer cannot reach an agreement, the matter will be submitted to Council for determination.

#### Definitions

**Event:** In accordance with the *Local Government Act 1995* s 5.90A, an event is defined as a:

- Concert;
- Conference;
- Function;
- Sporting event;
- Occasions prescribed by the *Local Government (Administration) Regulations 1996* (r.20B).

**Disclose Interest/ Disclosure of Interest:** Attendance at events may lead to a perceived or actual conflict, which may prevent council members participating, or the CEO, providing advice at a future meeting through a written report of verbal advice during a meeting As per regulation 20A of the *Local Government (Administration) Regulations*, if the amount of an event ticket (gift) is \$300 - \$1,000, and relates to a matter before Council:

- Under section 5.68 of the Act, Council may allow the disclosing Elected Member



## 1.13 Attendance at Events Policy

to participate in the discussion and vote on the condition that the interest, the council's decision and the reasons for that decision are recorded in the minutes;

- Under section 5.71A and 5.71B the CEO, Council may allow the CEO to provide advice or a report.

If the gift amount is above \$1,000, the Council or CEO must apply to the Minister under section 5.69 for permission to allow the Elected Member to participate. Section 5.69A. is applicable to Committees regarding the same criteria. Sections 5.71A and 5.71B are applicable to the CEO. However, only Council can apply to the Minister regarding CEO matters in excess of \$1,000.

**District:** As per Part 2 of the Local Government Act, the Shire of Victoria Plains.

### Definitions

Nil

### Relevant management practices/documents

Nil

### Legislation/local requirements

See Document Control Box

Document Control Box			
<b>Document Responsibilities:</b>			
<b>Owner:</b>	CEO	<b>Owner Business Unit:</b>	CEO
<b>Reviewer:</b>	Governance Officer	<b>Decision Maker:</b>	Council
<b>Compliance Requirements:</b>			
<b>Legislation:</b>	<a href="#">Local Government Act 1995</a> s.5.90A Policy for Attendance at Events s.5.65 Members interests in matters to be discussed at meetings to be disclosed s.5.68 Councils and Committees may allow participation in Council and Committee Meetings s.5.71A and s.5.71B CEOs to disclose interests in regard to reports and Council or Minister allows the CEO to provide advice s.5.87A and 5.87B Elected Members and CEOs to disclose gifts r.20A re s5.89A(3) r.20B re 5.62(1B)(b) 28A Register of Gifts – Form 4		
<b>Other:</b>			
<b>Organisational:</b>	Policy - Code of Conduct for Council Members, Committee Members and Candidates		



## 1.13 Attendance at Events Policy

Document Management:							
Risk Rating:	High	Review Frequency:	Biannual	Next Due:	July 2023	Records Ref:	
Version #	Decision Reference:	Synopsis:					
1.	28 July 2021	Initial policy adopted					
2.	23 March 2022	Major Policy Review – Part 1. No change required					



## 1.13 Attendance at Events Policy

Attachment A – Events Authorised in Advance for Non-Approved Events (Not Applicable to 3 - Events Not Approved)

Event	Date of event	Approved Attendee/s	Approved local government contribution to cost	Date of council resolution or CEO authorisation
Example: Greater Westralia Regional Agricultural Ball	20 December 2019	<ul style="list-style-type: none"> <li>• President Cr Brown and partner</li> <li>• Deputy President Cr Green and partner</li> <li>• CEO and partner</li> </ul>	6 tickets @ \$190 each  Total cost \$1,140	Ordinary Council Meeting 4 November 2019



## 1.13 Attendance at Events Policy

### Schedule 1 – Process For Non Approved Events

#### Approval Process - Checklist

- a) All invitations to Events for an Elected Member or CEO must be in writing quoting official titles and addressed to the Shire.
- b) Invitations to Events valued at \$300 and over (or the cumulative value of \$300 and over within a 12 month period) are considered gifts for the purposes of the Gift Framework and must be disclosed. However, declarations of interest are not required if the Event is listed in this policy as a pre-approved Event.
- c) Invitation to Events that are not addressed to the Shire and are not listed as a Pre-Approved Event must be disclosed in accordance with the gift and the declaration of interest provisions of the Local Government Act.
- d) Where an invitation or ticket to an Event is received that is not a Pre-Approved Event, approval to attend and accept may be requested as follows:
  - (i) for Elected Member acceptance and attendance, approval by the CEO; and
  - (ii) for CEO acceptance and attendance, approval by the President.
- e) Requests for approval are to be forwarded to the Manager Finance for processing on the approved form available from the Manager Finance.
- f) Where an Elected Member or the CEO request has been approved and there is a fee associated with attending the Event, then the cost, excluding the attendance of a partner, is to be paid for by the Shire subject to the budget.

#### Approval Process Considerations

The following are the pertinent factors that must be considered in determining approving attendance at a non-Pre-Approved Event, subject to clause 3 of this policy:

- a) The donor providing the invitation or ticket to the Event (for example, the donor is a person who is undertaking or seeking to undertake an activity involving a Council discretion);
- b) The location of the Event in relation to the Shire (whether within the district);
- c) The role that the Elected Member or CEO will have when attending the Event (participant, observer, presenter) and the value of their contribution;
- d) Whether the Event is sponsored by the Shire;
- e) The benefit to the Shire of an Elected Member or the CEO attending;
- f) Alignment to the Shire's Strategic Objectives;
- g) The number of Shire representatives already approved to attend; and
- h) Any justification provided by the applicant when the Event is submitted for approval.



## 1.14 Election Caretaker Policy

Responsible Areas	Governance
Responsible Officer	Chief Executive Officer/Manager Finance and Administration
Affected Staff	All Staff, Elected Members and Candidates

### Objective

This Policy establishes protocols for the purpose of avoiding actual and perceived advantage or disadvantage to a candidate in a Local Government Election, through the use of public resources or decisions made by the Council or administration on behalf of the Shire of Victoria Plains during the period immediately prior to an election.

### Scope

This policy applies to Elected Members and Employees during a 'Caretaker Period' relevant to:

- (a) Decisions made by the Council;
- (b) Decisions made under delegated authority;
- (c) Decisions made administratively;
- (d) Promotional materials published by the Shire of Victoria Plains;
- (e) Discretionary community consultation;
- (f) Events and functions, held by the Shire of Victoria Plains or other organisations;
- (g) Use of the Shire of Victoria Plain's resources;
- (h) Access to information held by the Shire of Victoria Plains.

### Policy

#### 1. Caretaker Period Protocols - Decision Making

The CEO will ensure that:

- (a) At least 30-days prior to a Caretaker Period, the CEO will advise Council Members and employees in writing of the dates that the Caretaker Period commences and concludes.
- (b) Candidates are provided with a copy of this Policy at the time of their nomination for election, to ensure their awareness of the protocols and equitable access requirements.

#### 1.1 Scheduling Significant Local Government Decisions

1. During a Caretaker Period, unless Extraordinary Circumstances apply, the CEO will reasonably ensure that:
  - (a) Council or Committee Agenda, do not include reports and / or recommendations that constitute Significant Local Government Decisions; and



## 1.14 Election Caretaker Policy

- (b) Council Forums, Workshops or Briefings, do not list for discussions matters that relate to Significant Local Government Decisions.
2. The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Significant Local Government Decisions are either:
  - (a) Considered by the Council prior to the Caretaker Period; or
  - (b) Scheduled for determination by the incoming Council.
3. The CEO shall reasonably ensure that, unless Extraordinary Circumstances apply, Delegated Authority from the Council to the CEO or a Committee is not exercised where the exercise of that delegated authority relates to a Significant Local Government Decision or an election campaign issue.

### 1.2 Council Reports Electoral Caretaker Period Policy Statement

#### 1.2.1 Extraordinary Circumstances

##### 1. Council Reports

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may submit a report on a Significant Local Government Decision for Council's consideration, subject to the report including:

- (a) Details, if applicable, of options for what aspects of the decision are necessary to be made within the Caretaker Period and what aspects may be deferred until after the Caretaker Period.
- (b) An Electoral Caretaker Period Policy Statement, which details why Extraordinary Circumstances apply.

##### 2. Council Forums, Workshops or Briefings

Where, during a Caretaker Period, the CEO determines that Extraordinary Circumstances apply, the CEO may include matters relating to a Significant Local Government Decision for Elected Member discussion at Council Forums, Workshops or Briefings.

The CEO is required to provide Council with advice as to why Exceptional Circumstance apply. Details of this advice is to be retained, with the Forum, Workshop or Briefing notes, as a Local Government record.

### 1.3 Managing CEO Employment

This Policy, prohibits Significant Local Government Decisions relating to the employment, remuneration or termination of the CEO during a Caretaker Period.

The Council is however required to fulfil its obligations as the CEO's employer regardless of a Caretaker Period. Therefore, during a Caretaker Period:

1. The Council may consider and determine:
  - (a) CEO's leave applications;



## 1.14 Election Caretaker Policy

- (b) appoint an Acting CEO, where necessary;
- (c) suspend the current CEO, where appropriate and in accordance with the terms of their contract.

2. The Council may not initiate a new CEO recruitment process or initiate or undertake a CEO performance review process, during a Caretaker Period.

### 1.4 Delegated Authority Decision Making in Extraordinary Circumstances

During a Caretaker Period, Employees who have Delegated Authority are required to consider if a proposed delegated authority decision may relate, or be subsidiary, to a Significant Local Government Decision or election campaign issue and if so, refer the matter to the CEO for review and consideration in accordance with clause 1.1(3) above.

### 2 Caretaker Period Protocols - Candidates

Candidates, including Elected Members who have nominated for re-election, relevant to an Election Day or Extraordinary Election Day, shall be provided with equitable access to the Shire of Victoria Plain's public information in accordance with s.5.94 of the *Local Government Act 1995*.

The CEO shall ensure that assistance and advice provided to candidates as part of the conduct of the election is provided equally to all candidates.

Elected Members nominating for re-election, may access information and assistance regarding the Shire of Victoria Plain's operations and Council matters during a Caretaker Period, but only to the extent necessary to perform their role as a Councillor and limited to matters currently relevant to the Shire of Victoria Plains [refer s.5.92 of the *Local Government Act 1995*].

All election process enquiries from Candidates, including Elected Members who have nominated for re-election, will be directed to the Returning Officer, or where the matter is outside the responsibility of the Returning Officer, to the CEO.

#### 2.1 Candidate Requests on behalf of Electors, Residents or Ratepayers

Where a Candidate, including Elected Members who have nominated for re-election, requires the assistance of the Administration to respond to a request made by an Elector, Resident or Ratepayer, then the Administration will provide the response directly to the requesting Elector, Resident or Ratepayer and will also advise the candidate of the outcome.

#### 2.2 Candidate Campaign Electoral Materials

Candidates, including Council Members who have nominated for re-election, should note that the Shire of Victoria Plains official crest or logo may not be used in campaign Electoral Materials without the express permission of the Shire.

#### 2.3 Candidate attendance at Meetings

To ensure equitable access to information about Council's decision making during a Caretaker Period, the CEO shall ensure that Candidates, who are not sitting Elected Members, are advised of Ordinary and Special Council Meetings (if open to the public) called



## 1.14 Election Caretaker Policy

and convened during a Caretaker Period; providing each Candidate with a copy of the meeting agenda at the time it is distributed to Elected Members.

For the purposes of transparency and the benefit of the public gallery, Candidates are requested to identify themselves as an election candidate prior to asking a question or making a statement at a Council or Committee meeting.

### 3 Elected Member Caretaker Period Protocols

#### 3.1 Access to Information and Advice

During a Caretaker Period all Elected Members will scrupulously avoid using or accessing Shire of Victoria Plains information, resources or employee resources and expertise for the purpose of gaining electoral advantage or disadvantage relevant to their own candidacy or any other person's candidacy [refer s.5.93 of the *Local Government Act 1995*].

During a Caretaker Period, all Elected Member requests for information and advice from the Shire of Victoria Plains will be reviewed by the CEO and where the subject of the information or advice is considered as relating to an election campaign issue, the CEO will either make a determination, or refer the request for Council's determination, as to if the information or advice is / is not to be provided, including if information is provided to one candidate, or if that information is also to be provided to all candidates (i.e. including candidates who are not current Council Members).

#### 3.2 Media and Publicity

During a Caretaker Period, all Elected Member requests for media advice or assistance, including Council Members who have nominated for re-election, will be referred to the CEO for review.

The CEO will only authorise Elected Member access to media advice or assistance where, in the CEO's opinion, the subject matter is relevant to the Shire of Victoria Plains objectives or operations and is not related to an election campaign purpose or issue or to the Council Member's candidacy or the candidacy of another person.

#### 3.3 Elected Member Business Cards, Shire Printed Materials

Elected Members must ensure that Shire of Victoria Plains business cards and Local Government printed materials are only used for purposes associated with their role as a Councillor, in accordance with section 2.10 of the *Local Government Act 1995*.

Elected Members are prohibited from using Shire business cards or printed materials at any time, including times outside a Caretaker Period, for any election campaign purpose, either in support of their own candidacy or the candidacy of another person.

#### 3.4 Elected Member Participation in Events and Functions

During a Caretaker Period Elected Members may continue to fulfil their role through attendance at events and functions hosted by external bodies.



## 1.14 Election Caretaker Policy

### 3.5 Elected Member Delegates to External Organisations

At any time, including times outside of a Caretaker Period, Elected Members who are the Council's appointed delegate to an external organisation, must not use their attendance at an external organisation's meeting, event or function for any purpose associated with an election campaign purpose, including; recruiting campaign assistance or to promote their own candidacy or the candidacy of another person.

### 3.6 Elected Member Addresses / Speeches

Excluding the Shire President and Deputy Shire President, when fulfilling their functions prescribed in sections 2.8 and 2.9 of the *Local Government Act 1995*, Elected Members who have nominated for re-election, shall not be permitted to make speeches or addresses during a Caretaker Period at events or functions organised or sponsored by the Shire, unless expressly authorised by the CEO.

In any case, the Shire President, Deputy Shire President and Elected Members are prohibited from using an official speech or address during a Caretaker Period to promote an election campaign purpose.

### 3.7 Elected Member Misuse of Local Government Resources

An Elected Member who uses Shire resources for the purpose of persuading electors to vote in a particular way is a "misuse of Local Government resources" breach in accordance with Regulation 17 of the *Model Code of Conduct Regulations 2021* and Clause 17 of the *Code of Conduct for Elected Members, Committee Members and Candidates*.

This prohibition on misuse of Local Government Resources for electoral purposes applies at all times and is not only applicable to a Caretaker Period.

For clarity, Local Government resources includes, but is not limited to: employee time or expertise, Shire provided equipment, information and communication technologies, stationery, hospitality, images, communications, services, reimbursements and allowances provided by the Shire.

## 4 Shire Publicity, Promotional and Civic Activities

Publicity campaigns and promotional activities during a Caretaker Period may be undertaken only for the purposes of:

- (a) Promoting Shire services and activities, where such promotion do not relate to an electoral campaign issue and would otherwise be undertaken as part of normal operations; and,
- (b) Conducting the Election and promoting Elector participation in the Election.

All other, publicity and promotional activities of Shire initiatives will be, where reasonably practicable, avoided during the Caretaker Period, including the announcement of Significant Local Government Decisions, made prior to the commencement of a Caretaker Period or proposed to be made after a Caretaker Period.



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The CEO may determine if Exceptional Circumstances apply and if a Significant Local Government Decision announcement is necessary during a Caretaker Period.

### 4.1 Civic Events and Functions

The Shire will avoid the scheduling of Civic Events and Functions during a Caretaker Period, which may give rise to any actual or perceived electoral advantage to Elected Members who have nominated for re-election.

Where the Shire is required to schedule a Civic Event or Function during a Caretaker Period at which Elected Members would usually be invited, then all Candidates will also be invited to attend and will be acknowledged as candidates immediately following any acknowledgement provided to Council Members. For example; Candidates will be introduced at the function immediately following the introduction of Council Members.

### 4.2 Shire Publications and Communications

All Shire publications and communications distributed during a Caretaker Period must not include content that:

- (a) may actually, or be perceived to, persuade voting in an election; or
- (b) is specific to a candidate or candidates, to the exclusion of other candidates;
- (c) draws focus to or promotes a matter which is a Significant Local Government Decision or which is an electoral campaign issue.

All Shire publications and communications proposed to occur immediately prior to, throughout or during, a Caretaker Period must be reviewed and approved by the CEO prior to publication or distribution.

### 4.3 Shire Website and Social Media Content

1. During the Caretaker Period, this Policy applies to content proposed for publication on the Shire's website and social media channels.

Website and social media content regarding Elected Members will be limited to: Elected Member names, contact details, membership of committees and Council appointments as Shire Delegates on external committees and organisations however, all other biographical information related to a sitting Elected Member who is also a candidate will be removed from public access for the duration of the Caretaker Period.

The Candidate Election Profiles prescribed in s.4.49(b) of the Local Government Act 1995, may also be published on the Shire's website and social media.

2. Website and social media content, published prior to a Caretaker Period, will not be subject to this Policy.
3. New website or social media content which relates to Significant Local Government Decisions or election campaign issues will not be published during a Caretaker Period, unless Exceptional Circumstances apply.



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4. Content posted by the public, candidates or Elected Members on the Shire's social media channels, which is perceived as candidate election campaign material or promotes a candidate or candidates will be removed.

### 4.4 Community Consultation

The Shire will undertake planned community consultation (discretionary and legislative) during a Caretaker Period, unless the consultation relates to a Significant Local Government Decision or potentially contentious election campaign issue.

#### Definitions

**'Caretaker Period'** means the period of time prior to an Election Day, specifically being the period from the close of nominations (37 days prior to the Election Day in accordance with s.4.49(a) of the *Local Government Act 1995*) until 6.00pm on Election Day.

**'CEO'** means the Chief Executive Officer of the Shire of Victoria Plains.

**'Election Day'** means the day fixed under the *Local Government Act 1995* for the holding of any poll needed for an election. For the purposes of this Policy, 'Election Day' meaning generally excludes an Extraordinary Election Day unless otherwise specified in this Policy.

**'Electoral Material'** includes any advertisement, handbill, pamphlet, notice, letter, email, social media post or article that is intended or calculated to affect an Election Day result, but does not include:

- (a) An advertisement in a newspaper announcing the holding of a meeting (s.4.87(3) of the *Local Government Act 1995*); or
- (b) Any materials exempted under Regulation 78 of the *Local Government (Elections) Regulations 1997*; or
- (c) Any materials produced by the Shire of Victoria Plains relating to the election process by way of information, education or publicity, or materials produced by or on behalf of the Returning Officer for the purposes of conducting an election.

**'Events and Functions'** including gatherings for the purpose of discussion, review, acknowledgement, communication, consultation, celebration or promotion, of any matter relevant to the Shire of Victoria Plains and / or its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities, social occasions such as dinners and receptions, including; gatherings coordinated or facilitated by the Shire of Victoria Plains or an external entity.

**'Extraordinary Circumstances'** including a circumstance that requires the Council to make or announce a Significant Local Government Decision during the Caretaker Period because, in the CEO's opinion, delaying the decision or announcement to occur after the Caretaker Period has reasonable potential to:

- (a) incur or increase legal, financial and/or reputational risk; or



## 1.14 Election Caretaker Policy

- (b) cause detriment to the strategic objectives of the Shire of Victoria Plains.

**'Significant Local Government Decision'** includes any decision:

- (a) Relating to the employment, remuneration or termination of the CEO or any other designated Senior Employee [s.5.37], other than a decision to appoint an Acting CEO, or suspend the current CEO (in accordance with the terms of their Contract of Employment), pending the Election Day result;
- (b) Relating to the Shire of Victoria Plains entering into a sponsorship arrangement with a total Shire contribution that would constitute Significant Expenditure, unless the Council resolved "in principle" support for the sponsorship prior to the Caretaker Period taking effect and sufficient funds are allocated in the Annual Budget;
- (c) Relating to the Shire of Victoria Plains entering into a commercial enterprise as defined by Section 3.59 of the *Local Government Act 1995*;
- (d) That would commit the Shire to Significant Expenditure or actions that, in the CEO's opinion, are significant to the Local Government operations, strategic objectives and / or will have significant impact on the community;
- (e) To prepare a report, initiated by the Administration, an Elected Member, candidate or member of the public that, in the CEO's opinion, may be perceived as or is actually an election campaign issue;
- (f) Initiated through a Notice of Motion by an Elected Member, where the effect of that motion will change the status quo or, in the CEO's opinion, may be relevant to the circumstances described in sub-clauses (a) to (e) above.
- (g) That adopts a new, or significantly changes an existing, policy, service or service level that incurs Significant Expenditure, unless the decision is necessary to comply with legislation.
- (h) That initiates or adopts a new Local Planning Scheme, amendment to a Local Planning Scheme or Planning Policy.
- (i) Significant Local Government Decision does NOT include any decision necessary in response to an Emergency, either declared by the State or Federal Government or by the Shire President in accordance with s.6.8(1)(c) of the *Local Government Act 1995*.

**'Caretaker Protocol'** means the practices or procedures prescribed in this Policy.

**'Public Consultation'** includes a process which involves an invitation to individuals, groups, organisations or the wider community to provide comment on a matter, proposed action or proposed policy which may be perceived as or is actually an electoral / campaign issue, but does not include statutory consultation / submission periods prescribed in a written law.

**'Significant Expenditure'** means expenditure that exceeds the Shire of Victoria Plains Budget Material Variances. As of the 2020-2021, the material variances are 10% or \$10,000.



# 1.14 Election Caretaker Policy

Document Control Box						
Document Responsibilities:						
<b>Owner:</b>	CEO	<b>Owner Business Unit:</b>	CEO			
<b>Reviewer:</b>	Governance Officer	<b>Decision Maker:</b>	Council			
Compliance Requirements:						
<b>Legislation:</b>	<i>Model Code of Conduct Regulations 2021 – Regulation 17</i>					
<b>Industry:</b>	N/A					
<b>Organisational:</b>	<i>Code of Conduct for Elected Members, Committee Members and Candidates Social Media Policy</i>					
Document Management:						
<b>Risk Rating:</b>	High	<b>Review Frequency:</b>	Biennial	<b>Next Due:</b>	March 2024	<b>Records Ref:</b>
Version #	Decision Reference:	Synopsis:				
1.	28 July 2021 #2107-05	Initial Adoption				
2.	23 March 2022	Major Policy Review – Part 1. No change required				



# 1.15 Legal Proceedings and Prosecutions

Responsible Areas	Governance
Responsible Officer	Chief Executive Officer
Affected Staff	All Staff, Elected Members

## Objective

## Scope

## Policy

1. No action shall be taken to institute legal proceedings or prosecution unless by specific resolution of Council or by specific delegation.

**NOTE: For the purpose of paragraph (1) the issue of a modified penalty under a local law or Regulation or where uniform guidelines are already in place shall not be deemed to be legal proceedings.**

2. Where in the opinion of the relevant officer it will not be in the interest of the Council to include the names and personal details of persons who are subject to recommendation for prosecution such details may be omitted other than necessary to describe the place and nature of the offence.

## Definitions

## Relevant management practices/documents

## Legislation/local law requirements

Office Use Only				
Relevant delegations				
Initial Council adoption	Date	23 March 2022	Resolution #	2203-05
Last reviewed	Date	N/A	Resolution #	
Next review due	Date	March 2024		