

# Shire of Gnowangerup **Governance Manual**

April 2019

*Heart of the Stirlings*



**SHIRE OF GNOWANGERUP**

## REVIEW HISTORY

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## PART 1: CORPORATE GOVERNANCE IN LOCAL GOVERNMENT

Councillors and employees of the Shire of Gnowangerup are committed to the democratic process and the principles of good governance.

This document outlines the Shire's Corporate Governance Framework.

### 1. GOVERNANCE DEFINED

#### Purpose

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

It is an overview of the governance program that has been put in place so that Councillors and employees can meet their governance responsibilities. It also enables our community and stakeholders to have an understanding of governance and demonstrates how all people associated with our Council can participate.

#### What is governance?

Governance is the act of governing. It encompasses all the processes for making and implementing decisions, that define expectations, grant power or verify performance. Governance is how the Shire of Gnowangerup ensures and enhances good government principles throughout our organisation, in order to maintain the trust of the community.

It affects all sectors of our community and the practice of good governance is considered critical for ensuring that:

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

#### What is good governance?

Good governance for the Shire is about how well it provides goods, services and programs while also meeting its legislative and non-legislative requirements (e.g. internal standards) and community expectations.

This is achieved by having the best possible decision making processes and structures in place that are transparent and accountable, and displaying integrity when interacting with the community, businesses and government.

It is defined by the following principles:

#### Good governance is accountable

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

### Good governance is transparent and open

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

### Good governance follows the rule of law

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

### Good governance is responsive

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

### Good governance is equitable and inclusive

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

### Good governance is effective, efficient and sustainable

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

### Good governance is participatory

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

### Why is good governance important to the Shire?

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

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

## PART 2: GOVERNANCE STATEMENT

### 1. INTRODUCTION

Local governments are experiencing increasing scrutiny of their operations and activities, creating a need for full and open disclosure of their governance systems. As with the private sector's long-standing focus on governance issues, we must consider the principles of systems integrity, role delineation, accountability and strategic management, in order to develop suitable governance frameworks that ensure effective, transparent and sustainable administration of the Shire's affairs.

This Corporate Governance Manual provides information about the Council, Councillors and administration; the relationships that exist and how they work together to achieve good governance.

The framework links their roles under the *Local Government Act 1995* (the Act) and other relevant legislation, our suite of governance documents and the functions performed by the Shire. It provides guidance and information to the major participants in the governance processes of the Shire.

Supported by this framework, Councillors and the Chief Executive Officer are able to:

- Provide strong, effective leadership
- Maintain quality service delivery and the effective use of resources
- Adhere to the Shire's values and defined strategies
- Deliver effective stewardship of the Shire's assets, including infrastructure assets
- Provide systems that ensure compliance with relevant statutes
- Encourage innovation and continuous improvement throughout the organisation
- Deliver services in line with agreed performance measures. Our Governance Framework is underpinned by the Integrated Planning and Reporting (IPR) Framework and other strategic Council documents.

The IPR Framework demonstrates how we plan to sustainably and strategically meet the needs of our community, while focusing on community wellbeing, local business, our built and natural environments and a greater level of leadership and governance. It was formulated through a comprehensive community engagement process, which documented our community's priorities, aspirations and vision for the Shire and helped us shape and create a shared vision for the Shire of Gnowangerup. This involved extensive community consultation with approximately 485 community members contributing through seven community engagement activities.



## 2. CORPORATE GOVERNANCE MODEL

The following diagram represents the Shire’s internal/external stakeholder governance model.



### 3. ROLES, RESPONSIBILITIES AND COUNCIL COMPOSITION

#### 3.1 The Role of Council

The roles, functions and objectives of councils are set out in the *Local Government Act 1995* as follows. Section 2.7 describes the role of the Council:

The Council as a body corporate -

- a) governs the affairs of the Shire of Gnowangerup;
- b) is responsible for the performance of the Shire of Gnowangerup's functions;
- c) oversees the allocation of the finances and resources of the Shire of Gnowangerup; and
- d) Determines the policies within the Shire of Gnowangerup.

The following Council roles and responsibilities have been interpreted from the Act, in conjunction with the Shire's Governance Framework.

- a) Directs and controls the affairs of the Shire of Gnowangerup.

How strategic planning mechanisms are used by the Council to ensure the continuing viability and performance of the Shire, by setting appropriate strategic goals for the organisation and monitoring the Shire's performance against them.

- b) Is responsible for performance of the functions of the Shire of Gnowangerup.

The Council bears ultimate responsibility for the performance of the Shire's functions. It can exercise this through the development of appropriate governance frameworks including delegations of authority and determining an appropriate organisational structure.

- c) Oversees allocation of the finances and resources of the Shire of Gnowangerup.

The Council exercises this role by adopting the Shire's budget and Long Term Financial Plan, as advised by Shire officers responsible for the professional development of appropriate financial controls and strategic documents.

- d) Determines the policies of the Shire of Gnowangerup.

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

To achieve the Shire's accountability, stewardship, sustainability and innovation objectives, Councillors are at their most effective when they focus on the above, while at the same time, representing the interests of

the community. They must also be involved in appointing the Chief Executive Officer and participating in that officer's performance review process.

Greater accountability and transparency is best achieved when:

Council deliberates and makes resolutions within a framework that is factually based, non-prejudicial and relevant to the issues at hand. It is fostered by Councillors' standards and behaviour, especially those adhering to legislation governing the declaration of financial and other interests, whenever these arise, and any other associated implications for their participation in any debate.

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

### Legislative

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

### Executive

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

### Quasi-judicial

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

## 3.2 Nominating for Council

Local Government elections are conducted biennially (every two years) on a fixed date prescribed by the Act, with candidates elected to the office of Councillor for a four (4) year term. Attachment 1 provides the eligibility criteria for nomination and current terms of office applicable to the Councillors.

The CEO will provide the 'Standing for Council Information Guide' to community members interested in standing for Council.

The CEO will provide the 'Information for Candidates Guide' prepared by the WA Electoral Commission to candidates, at time of nomination.

## 3.3 The Composition of Council

The Council comprises nine members, including the Shire President. Councillors (elected members) are elected by the whole community. The President is elected by the Council.

## 3.4 The Role of President

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

- a) Preside at meetings in accordance with the Act;
- b) Provide leadership and guidance to the Shire of Gnowangerup community;
- c) Carry out civic and ceremonial duties on behalf of the Shire;

- d) Speak on behalf of the Shire;
- e) Perform such other functions as are given to the President by the Act or any other written law;
- f) Liaise with the Chief Executive Officer on the Shire of Gnowangerup's affairs and the performance of its functions; and
- g) Otherwise fulfil the role of Councillor.

### 3.5 The Role of Deputy President

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

- a) The office of President is vacant; or
- b) If the President is not available, or is unable or unwilling to perform the functions of President.

### 3.6 The Role of Councillors

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

- a) Represent the interests of electors, ratepayers and residents of the Shire;
- b) Provide leadership and guidance to the Shire of Gnowangerup community;
- c) Facilitate communication between the community and the Council;
- d) Participate in the Shire of Gnowangerup's decision making processes at Council and Committee meetings; and
- e) Perform such other functions as are given to a Councillor by this Act or any other written law.

Each individual Councillor has a legislative requirement to fulfil this role and how they perform the role is outlined in this Governance Framework.

Individually, Councillors have a responsibility to act as a conduit between the community and the Shire. Not only must they represent the interests of the broader community on the Council, but also as community leaders they must represent the interests of the Shire within the broader community.

A Councillor's primary obligation is to represent the interests of the broader community within the Shire. It is not appropriate for individual Councillor's constituent concerns to interfere with their decision-making processes in providing good governance of the Shire as a whole.

### 3.7 The Role of Chief Executive Officer

Under the Act [Section 5.41] the Chief Executive Officer's functions are to:

- a) Advise the Council in relation to the functions of the Shire of Gnowangerup under the Act and other written laws;
- b) Ensure that advice and information is available to the Council so that informed decisions can be made;
- c) Cause Council decisions to be implemented;

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

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

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

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

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

This clear separation of Councillor and Chief Executive Officer roles and responsibilities as identified within the Act reinforces good governance principles. It also provides the basis for the Shire to adhere to all statutory requirements whilst meeting the expectations of its community.

However, it is also important for all parties to recognise and agree that maintenance of a close, effective and cooperative relationship between Councillors, the Chief Executive Officer and staff will be critical to the achievement of key goals and objectives.

It is a requirement that initial staff contact by Councillors on any matter is made through the Chief Executive Officer, Deputy CEO, or another person nominated by the CEO. Should a Councillor wish to contact any other member of staff directly, a request shall first be made to the Chief Executive Officer, who will assess the request.

### 3.8 Employees

In undertaking its functions and responsibilities, Council is supported by the Chief Executive Officer and an Executive Management Team (Manex) comprising:

- Deputy Chief Executive Officer
- Manager of Works
- Asset & Waste Management Co-ordinator
- Senior Finance Officer
- Community Development Coordinator

Manex meets fortnightly as a basis for ensuring effective co-ordination of the Shire's operations and implementation of Council resolutions.

### 3.9 The Role of Council as a Corporate Body

Under the Act [Section 2.5], a Local Government is a legal entity (body corporate) with perpetual succession (continues unaffected by death of leadership) and a common seal.

The Shire of Gnowangerup protects its Councillors and officers by mitigating their liability with liability insurance protection and incorporating effective risk management strategies and processes within our corporate governance framework.

*Attachment 2* outlines the limitation of Councillor liability.

Good corporate governance requires clear identification and definitions of responsibility and a clear understanding of relationships between the organisation's stakeholders and those responsible for managing its resources.

Effective risk management can be achieved by ensuring participants in the governance process are fully aware of their roles, responsibilities and accountabilities.

### 3.10 Councillor Support

The Chief Executive Officer, through an effective support process, will ensure that Councillors develop an understanding of their roles and responsibilities so they are able to add value and bring independent, informed and objective judgment to the governance decision making process of Council.



The CEO provides a comprehensive induction program upon their appointment and makes available to Councillors (subject to budget provisions) appropriate resources for their continuing education and development programs as necessary to ensure effective representation of the community and key stakeholders and in accordance with Council policy. Individual support and advice is available through the CEO and relevant executive management.

## 4. GOVERNANCE PRINCIPLES

The foundations of our Shire's governance framework are in the strategies, policies and procedures established to meet legislative requirements, and manage issues and relationships affecting our Shire while achieving the goals outlined in our strategic plans.

These detailed strategies and plans help us work effectively for and with the communities and businesses within the Shire to meet the needs and expectations of our residents and ratepayers and administer the Shire's affairs. Good governance requires accountable and sustainable strategic planning, and robust and transparent financial management, particularly concerning the stewardship of community assets.

These plans also serve to support our organisation's Mission and Vision.

### Our Mission

Our mission statement outlines the purpose and core business of the Shire of Gnowangerup. This statement identifies the important roles of the community, the Council and the staff in ensuring that the strategies outlined in the Strategic Plan 2017–2027 can be achieved.

*"To demonstrate leadership in the provision of facilities, infrastructure and services that meet the needs of our community"*

### Our Vision

Our vision statement describes how the Shire of Gnowangerup will respond to the community's aspirations and priorities for the future.

*"A progressive, inclusive and prosperous community built on opportunity."*

The governance foundations are outlined below:

### 4.1 Integrated Planning and Reporting Framework

Following legislation put in place by the Department of Local Government in 2012 all local governments are required to have an integrated planning and reporting framework in place.

Our framework comprises:

## Strategic Community Plan

This is the overarching plan guiding the Council. It has a long-term focus and a strong emphasis on our community's aspirations, priorities and vision for the future. Community consultation identified key focus areas based around six themes, as the Shire's broad priorities.

These themes are:

### Sustainable Business Growth

### The Natural Environment

### Our Community

### A Sustainable and Capable Council

### Financial Sustainability

### Quality Built Form

The Strategic Community Plan informs our Long Term Financial Plan.

## Corporate Business Plan

This four-year rolling plan contains details of the projects, services, operations and performance measurements required, to achieve the priorities identified in the Strategic Community Plan. It works in conjunction with the Long Term Financial Plan (see below), to set the Shire's resource and budgeting priorities over its life.

Councillors are provided with quarterly updates of the Corporate Business Plan, to enable them to access the performance of strategic initiatives and to assist with decision-making.

## Long Term Financial Plan

Set for ten years, the Long Term Financial Plan aligns our community aspirations, strategic intent and organisational capacity and guides how we responsibly deliver infrastructure and services to the community, in a financially sustainable and affordable manner.

## Asset Management Plans

The Asset Management Plans identify responsibilities, maintenance standards, inspection regimes and asset renewal requirements required to manage civil liability. They demonstrate that the Shire, as the asset infrastructure authority, is responsibly managing the assets under its control.

## Workforce Plan

The Workforce Plan sets out workforce requirements and our resourcing strategies for current and future operations, for the life of the Corporate Plan. Effective management of our human resources is an imperative as the Shire's staff play an important role in achieving strategic/operational goals and objectives.

## Annual Budget and Annual Report

This twelve-month budget provides a framework for the allocation of financial, physical and administrative resources required to pursue the Shire's objectives.

Budget reviews are conducted every six months and reflect changing circumstances and priorities.

The Annual Report has its basis in legislation, but enables the Shire to monitor, control and report on the outcome of its activities over a particular financial year.

Both the Annual Budget and the Annual Report are aligned with the Shire's Strategic Community Plan.

## 4.2 Customer Consultation and Engagement

### Customer Service Charter

The Shire has developed and implemented a Customer Service Charter, which outlines the level of service a customer can expect from the Shire; how information can be obtained; how to address matters if standards are not met; and, offers advice on how customers can help us to serve them better.

The Customer Service Charter reflects our commitment to the quality of service we provide.

The Charter promotes flexibility, innovation and responsiveness in the delivery of service, in an environment of openness, transparency and co-operation between the Shire and its customers, pivotal to the achievement of positive outcomes. The Charter establishes minimum standards by which Shire staff will attend to customer enquiries, complaints and information requests to support these outcomes.

The Shire is committed to reviewing the Charter in order to reaffirm its customer-focused culture.

The Shire has also undertaken to develop and implement internal/external customer satisfaction surveys to improve the effectiveness of organisational processes.

### Community Surveys

The Shire undertakes regular community surveys and other consultative mechanisms to evaluate and measure performance and contribute to decision-making processes.

## 4.3 Ethics and Values

Ethical and values-based behaviour is a vital component of good governance. It is built into our governance framework through Corporate Values and a Code of Conduct for Councillors and officers. This establishes clear parameters and standards of conduct.

## 4.4 Statutory Compliance

The Shire recognises that matters involving deliberations of Council, the implementation of resolutions and any reporting of performance/outcomes must be fully compliant with all legislation and regulations applicable to local government and as reflected in the Statutory Compliance Audit Return.

Compliance is pursued by maintaining the integrity of key financial-based planning and reporting mechanisms underpinning the Shire's operations – notably, the Annual Budget and Annual Report, and supplemented by internally-based, performance measurement mechanisms such as Quarterly Reports.

Compliance with key financial and statutory requirements is assessed through the annual audit, conducted in accordance with the Act, by a professionally qualified external party appointed by the Shire.

## 4.5 Asset and Risk Management

The Shire actively pursues effective risk management and internal systems of control in the conduct of its business, to safeguard its assets, by implementing a number of specific and organisation wide initiatives.

These initiatives include:

- Policies and procedures relating to financial investments;

- Limits on the approval of operational and capital expenditure;
- A quality budget development and implementation program that entrenches sound financial management in the Shire's operations;
- A proactive approach to meeting statutory compliance objectives;
- Preparation and monitoring of infrastructure asset management plans;
- Appropriate procedural and technological controls to ensure a safe, reliable and secure approach to knowledge management;
- A coordinated plan of providing insurance cover for all the Shire's operational risks;
- Responsible guidelines and practices established for Occupational Safety and Health, Equal Employment Opportunity and Sexual Harassment; and
- Procedures that ensure quality, customer-focused decision making while meeting the requirements of administrative law.

The Shire maintains a wide range of assets including:

- Infrastructure assets;
- Real property;
- Financial assets; and
- Information assets and intellectual property.

Effective stewardship of all Shire assets is a key element in ensuring the Shire optimises the use of financial, physical and intellectual resources for the benefit of its residents and ratepayers.

Strategic initiatives including the 10-year capital works program and an annual works program schedule provide the Shire with a basis upon which infrastructure assets are managed and developed.

#### Audit, Indemnity and Liability Insurance Protection

The Shire's performance in implementing effective risk management strategies and adhering to sound business practice, is reinforced through access to independent legal advice, the completion of an annual statutory compliance audit and the annual financial audit undertaken by professional, external auditors as required by the Act.

These strategies are intended to enable maintenance of comprehensive professional indemnity and public liability insurances, which are supported by appropriate insurance policies to ensure that the Shire is more than adequately safeguarded against unforeseen risks.

## 4.6 Performance Measurement and Review

The Shire has implemented a range of mechanisms to ensure that performance is measured and reviewed so that remedial action can be taken, where necessary.

#### Funding of Services/Operations

From a strategic perspective and through the agency of its Long Term Financial Plan, the Shire has ensured that its priorities are sustainable and can be appropriately funded.

The Shire's primary aim is the maximisation of community benefit and value for money from expenditures and the use of assets.

The Shire is committed to identifying opportunities for introducing a 'user pays' fee charging model for appropriate functions and services, and developing strategies for implementing this philosophy while continuing to recognise community service obligations.

#### Performance Monitoring / Reporting / Strategic Planning / Business Planning / Quarterly Reporting

The Shire is committed to developing appropriate sustainable financial policies and strategic plans to ensure long term financial viability.

The Shire's level of 'rate competitiveness' is regularly benchmarked relative to other local governments. The level of dependence on rates, as the primary funding source for Shire programs, is monitored as part of the budget development process.

Financial performance of the Shire's operations is monitored through internal systems and processes, with reporting occurring at the Manex and Council levels.

The Shire's progress in implementing the Long Term Financial Plan, in terms of its effective coordination between strategic and operational elements is monitored through quarterly reporting to Council.

## 5. CORPORATE VALUE AND STANDARDS

### 5.1 Code of Conduct

The Shire of Gnowangerup has adopted a Code of Conduct in accordance with the legislative requirements of the Local Government Act. It is based on the Shire's Values (as above) and is available for public inspection on the Shire's website.

The Code establishes the minimum appropriate standards for the honest and ethical behaviour of Councillors and employees.

The Code is not a replacement for any act, regulation or local law. If there is a conflict between the Code and the provisions of any act, regulation or local law, the latter provisions prevail.

Councillors and employees are required to familiarise themselves with the Code and ensure they observe its provisions.

The President is to ensure that the Code is brought to the notice of all Councillors. Councillors must observe the Code and behave in accordance with its provisions. Councillors, upon taking the oath or affirmation of allegiance, will declare that they will abide by the standards set out in the Code.

The Chief Executive Officer is to ensure that the Code is brought to the notice of all employees. Employees must observe the Code's contents as part of the conditions of their contract of employment.

In view of the open and accountable environment within which Western Australian Local Government operates, the Code occupies an important role in promoting good governance.

A fundamental tenet of the Code is that it involves self-regulation and relies upon Councillors and the Chief Executive Officer to ensure the Shire is accountable and transparent and that business of the Council is conducted in an environment of openness and honesty.

In developing its Code, the Shire has recognised the need to meet these objectives and the focus of the Code, being good government for the residents and ratepayers.

Instructions for obtaining a copy of the current Code of Conduct are included at [Attachment 3](#).

### 5.2 Rules of Conduct Legislation

The Local Government (Rules of Conduct) Regulations 2007 were introduced to provide statewide principles to guide the behaviour of Councillors and specific rules of conduct that must be adhered to. Regulations apply only to Councillors and breaches of the Rules of Conduct can result in sanctions.

The Regulations list eight general principles to guide elected members' behaviour. A person in his or her capacity as a Councillor should;

- a) Act with reasonable care and diligence;
- b) Act with honesty and integrity;
- c) Act lawfully;
- d) Avoid damage to the reputation of the local government;



- e) Be open and accountable to the public;
- f) Base decisions on relevant and factually correct information;
- g) Treat others with respect and fairness; and
- h) Not be impaired by mind affecting substances.

The Regulations' Rules of Conduct of Council members, as referred to in Section 5.104 of the Act, cover:

- a) Use of Information
- b) Securing personal advantage or disadvantaging others
- c) Misuse of local government resources
- d) Prohibition against involvement in administration
- e) Relations with local government employees
- f) Disclosure of interest
- g) Gifts

Copies of the Local Government (Rules of Conduct) Regulations are available on the Department of Local Government, Sport and Cultural Industries website [www.dlgc.wa.gov.au](http://www.dlgc.wa.gov.au) .

### 5.3 Conflicts of Interest

The Act, Rules of Conduct Regulations and the Shire's Code of Conduct all deal with financial and conflicts of interest and require that:

- a) Councillors and employees will ensure there is no actual or perceived conflict or incompatibility between their personal interests and the impartial fulfilment of their public and professional duties.
- b) Where a Councillor or employee has a conflict of interest referred to in (a) above, then that Councillor or employee will openly and fully disclose the conflict of interest.
- c) Discretionary employees will notify the Chief Executive Officer when dealing with a matter in which they have a direct or indirect conflict of interest and when dealing with relatives and closely associated persons. In such cases, discretionary employees will disqualify themselves from dealing with the matter.
- d) Where a report on a matter is submitted to Council by an employee, a disclosure of interest by the discretionary employee will be made in the report, where it could be perceived that the discretionary employee has an influence in the Shire's dealing with the matter.
- e) Employees will not engage in private work with or for any persons or body with an interest in a proposed or current contract with the Shire without first making a disclosure to the Chief Executive Officer or Council. In this respect, it does not matter whether advantage is in fact

obtained, as any appearance that private dealings could conflict with performance of duties must be scrupulously avoided.

- f) Councillors and employees will lodge written notice with the Chief Executive Officer, describing an intention to undertake a dealing in land or otherwise take action within the district, which may be in conflict with the Shire's function. This provision does not apply to dealings with the Councillor's or employee's principal place of residence.
- g) Councillors will make a disclosure before dealing with a matter that involves relatives or closely associated persons and will disqualify themselves from dealing with such a matter.

#### 5.4 Disclosure of Conflict of Interest

- a) Where disclosure of a conflict of interest is required by law, the Code, or otherwise seems appropriate, it should be made promptly, fully and preferably in writing.
- b) In addition to disclosure of financial or non-financial interests, a Councillor or employee:
  - i) attending a Council meeting; or
  - ii) giving advice to a Council meeting,

will disclose any interest they have in a matter to be discussed at the meeting.

- c) Where a conflict of interest is disclosed under (b) above, the disclosure will be made at the meeting immediately before the matter is discussed or at the time the advice is given, and will be recorded in the minutes of the meeting.

#### 5.5 Financial Interests

Councillors must disclose certain financial interests.

- In matters before Council and Committee meetings
- In Primary and Annual Returns

Councillors need to inform themselves about their obligation to disclose because there are a number of offences that can be committed. Fines of up to \$10,000 or imprisonment of up to two years can be imposed.

Disclosures at meetings and in Primary and Annual returns are recorded in a register to which the public has access. This enhances the accountability of Councillors to the public. At the same time, protection is given to Councillors because it is an offence for a person to publish information from the register unless under specified circumstances.

The Financial Interests Handbook, detailing the financial interest provisions of the Local Government Act 1995, is available from the Department of Local Government, Sport and Cultural Industries.

It is a requirement that:

- a) Councillors and employees will faithfully observe the principles of disclosure of financial interest, as contained within the Act and the Standing Orders Local Law.

- b) Councillors and employees who have a direct or indirect financial interest in a matter, which is the subject of a report or advice, will disclose to the Chief Executive Officer or Council receiving the report, the fact that such an interest exists.
- c) The onus is on Councillors and employees to identify possible conflicts of interest or financial interest and to determine whether such interests, to which no exemption applies, exist.

## 5.6 Disclosure of Interests Affecting Impartiality

In addition to financial interests, Councillors must declare any interest, which the community may perceive, would affect their ability to act with impartiality.

Interests that commonly fall within this definition are when a Councillor is a member of a group, club or association and that organisation requires Council to make a decision on an application it has made. In addition, if a Councillor's parents, siblings or children (not living at home) have an item before Council, it would be wise for the Councillor to disclose an interest affecting their impartiality.

It is important to note that if a Councillor has an interest affecting impartiality, once they have declared their interest, they may still take part in debate and vote on the matter.

The Department has produced guidelines in relation to interests affecting impartiality.

## 5.7 The Declaration and Recording of Gifts

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

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

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

All notifiable gifts must be declared and recorded in accordance with the *Local Government Act 1995* and the *Local Government (Rules of Conduct) Regulations 2007* (outlined in the Shire's Code of Conduct).

The Shire's Code of Conduct requires that:

- (a) The Chief Executive Officer is to maintain a gifts register accessible to the public.
- (b) The gifts register contains the name of the persons who gave and received each gift, the date of receipt of each gift, a description of each gift and the estimated value of each gift.
- (c) The gifts register does not contain details of gifts that do not need to be disclosed under the provisions of the Code.

Section 5.82 of the Act requires Councillors and Shire Officers with delegated authority to make decisions or act on behalf of the Shire, to:

- Notify the CEO in writing within 10 days, of any notifiable gift accepted with a value over \$200;
- Refuse to accept any gift valued at \$300 or more.

## 6. MEETINGS AND REPORTING STRUCTURES

### 6.1 Agenda and Minutes

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

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

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

### 6.2 Council Meetings

The Shire of Gnowangerup operates on a monthly Council meeting cycle as a basis for decision-making and management for its operations.

Ordinary Council Meetings are open to the public (except as otherwise prescribed under the Act) and are generally convened at 3:30pm on the fourth Wednesday of each month.

The conduct of meetings is governed by the Standing Orders Local Law. Business at the Shire of Gnowangerup Council meetings is based on an agenda prepared by the Shire's administration; incorporated within are reports and recommendations relating to matters requiring consideration and resolution.

The Standing Orders incorporated within the Local Law are designed to:

- a) provide the rules and guidelines which apply to the conduct of meetings of Council and meetings of Electors.
- b) ensure that all meetings of Council and other matters as prescribed are to be conducted in accordance with the Act, the Regulations and the Standing Orders.
- c) result in:
  - Better decision making by Council;
  - The orderly conduct of meetings dealing with Council business;
  - Better understanding of the process of conducting meetings dealing with Council business; and
  - The more efficient and effective use of time at meetings.

### 6.3 Briefing Sessions (Including Information Bulletin)

These sessions are convened on a monthly basis and occur on the same day as but prior to the Council meeting, to provide a forum for officers to provide information to Councillors, in respect to current business. These sessions are open to the public and are subject to certain rules, which provide that:

- No decisions are made.
- Councillors shall not canvass for votes, discuss voting patterns or take straw polls. The focus of discussions is on the provision of information by staff.
- Notes of the meeting are to be kept.
- Nothing on the day's Council meeting agenda is to be discussed.

### 6.4 Councillor & Executive Workshops (CEWs)

CEWs are held two weeks prior to each Ordinary meeting of Council, to update Councillors on some of the more important projects that the Shire is involved in and the progress that has been made on them.

Session outcomes are frequently a report for Council consideration, which enables Councillors to have a greater level of knowledge and understanding of the topic.

No decisions are made at these workshops. Notes are kept as background information and to serve as a record of the session.

### 6.5 Advisory Committees and Advisory Groups

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

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

### 6.6 Qualified Privilege for Councillors in the Performance of their Duties

Councillors, in the performance of their duties, are only protected by a qualified privilege in certain circumstances. This qualified privilege allows Councillors to make public comment on issues under consideration, either at a Council meeting or Council briefing session. Qualified privilege provides Councillors with a limited protection from actions in damages for defamatory statements.

The qualified privilege is available on occasions where a Councillor has a moral, legal or social duty that is shared by the other Councillors, as a result of their consideration of an issue in the performance of their duties. The exercise of their duty requires the Councillor to make a communication to the Council to allow the other Councillors to fulfil their duty.

This qualified privilege is limited to items under consideration by Council. Councillors can only claim it where they believe they are making a genuine and honest statement. Any maliciousness on behalf of the Councillor claiming qualified privilege, may result in a finding that the Councillor has misused the qualified privilege.

Councillors must be able to speak honestly, openly and frankly, taking into account all matters that are relevant to the items under consideration, when representing the interests of the community in Council decision making procedures, Qualified privilege allows Councillors to honestly raise genuine concerns, in the fulfilment of their duty to provide good governance for the community, without fear of an action in defamation.

## 6.7 Access to Information and Decision Making

The Shire is committed to fostering high levels of public awareness of its activities, by providing its residents and ratepayers with the broadest possible access to information.

In addition to meeting the statewide and local public notice requirements prescribed by the Act in respect to particular proposals and activities, the Shire also ensures that information is available via traditional and electronic means. These include:

**Shire's website:** [www.gnowangerup.wa.gov.au](http://www.gnowangerup.wa.gov.au): provides up to date information and service delivery to ratepayers and residents.

**Official notice board at Shire's Administration Centre:** relevant information is regularly posted on the board.

**Local media:** local newsletters and other media are used to inform residents and ratepayers about important issues and Council activities.

**Social media:** Facebook is utilised by the Shire to inform a broader audience of Council related news.

Public consultation with the Shire's residents and ratepayers occurs through a range of mechanisms such as direct information provision, consultation, public comment, Special Meetings and Annual Electors Meetings.

## 7. PLANNING AND DEVELOPMENT FUNCTIONS OF THE COUNCIL

### 7.1 Town Planning Schemes

A Local Government is required under the Planning and Development Act 2005 to have in place a Local Planning Scheme for the district. The Local Planning Scheme must also take into consideration State Government Planning Strategies, Plans and Policies.

A Local Planning Scheme provides a legal framework for a range of functions including:

- Providing land use and development controls;
- Supporting housing choice, variety and amenity;
- Providing the mechanism for the development of convenient and attractive retail centres;



- Assisting economic development through facilitation of commercial, industrial and business development to maximise job opportunities;
- Establishing high quality open space areas and protecting areas of environmental significance;
- Assisting in the provision of a transport network, which serves the needs of the community by providing a range of alternative networks catering for different transport modes, which are closely integrated with land use considerations.

The provisions of a Town Planning Scheme are formulated through a collaborative and consultative process involving the State Government, Local Government and the community.

The State Government, through the Minister for Planning provides final approval to the contents of a Local Planning Scheme and once gazetted, a Scheme comes into operation and has the force of law. Authority to operate its Local Planning Scheme is delegated to the local government by the State government.

A Local Planning Scheme requires review every five years. This is to ensure that the Scheme continues to meet changing community needs and expectations. This review process is facilitated by the Local Government and involves community consultation.

At the present time the Shire operates under Local Planning Scheme 9, which was gazetted in September 2012 and is amended as the need arises.

Amendments can be made to an operative Local Planning Scheme, which vary the Scheme provisions. An amendment to a Scheme again involves a range of stakeholders including the Local Government, the State Government and the community. The Minister for Planning provides the final decision in relation to a Scheme Amendment.

A range of local planning policies is also used to support and guide the implementation of the Scheme. Planning policies can be developed to also provide guidance, detail and consistency of treatment with respect to amenity and other relevant planning issues.

Importantly, Local Planning Schemes incorporate by reference the Residential Design Codes (R-Codes), which is the planning policy of the State Government providing detailed development control for residential development. The State Government revises the R-Codes from time to time.

The role of a Council in administering a Town Planning Scheme includes:

- Consideration of development applications
- Consideration of subdivision proposals
- Consideration of Local Planning Scheme Amendment proposals (whether suggested by the Shire or by a customer)
- Enforcement of Local Planning Scheme provisions
- Development of planning policies
- Review of existing Local Planning Scheme
- Formulation of new Local Planning Scheme

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

While all decisions relating to development applications represent a 'Council decision', the Shire's professional planning staff have 'delegated authority' to make various determinations.

## 7.2 Consideration of Development Applications

When a Council considers a development or planning application, it undertakes a quasi-judicial role. It is required to consider the information the applicant has provided and test it against the provisions of the Town Planning Scheme and any other relevant planning instruments or policies. It is guided in its consideration by the professional advice of its technical officers. The Council has particular responsibilities under the Town Planning Legislation.

Councils are required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law and natural justice / procedural fairness. While it is recognised that councils are composed of members of the community, they must exercise their discretion over planning matters in a way that is mindful of this quasi-judicial role.

The Shire employs a specialist planning officer to draft reports and provide Council with the information it needs to consider a development or planning application and the relevant law that is applicable.

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

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

is generally sufficient, though an opportunity to make a submission in person to a relevant meeting may be appropriate, where it is requested by a person with a significant interest.

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

Generally, Council as a body, and each Councillor individually, must be certain that they have a clear understanding of the relevant facts and law before making a decision. This decision must be based on the relevant considerations and should not take into account irrelevant considerations.

## 8. LOCAL LAWS, POLICIES, MANAGEMENT PRACTICE AND DELEGATIONS

The Shire has adopted a number of local laws, policies, delegations and management practices to guide the administration in the conduct of the Shire's operations. The policy and delegation regimes are key components of the Shire's governance framework.

### 8.1 Local Laws

The *Local Government Act 1995* outlines the process by which the Shire may adopt local laws. This legislative role allows the Shire to adopt local laws that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws. The application of enforcement provisions in Local Laws by Council is discretionary, but this discretion should be based on formally established guidelines that are followed by authorised persons. This ensures that, where discretion is used in not enforcing a Local Law provision, it is applied consistently and is not based solely on the judgement of the individual. This way, fairness and equity in application of the law will apply.

When a local law is proposed, the community has an opportunity to submit comments. After the purpose and effect of a local law is read out at a Council meeting, there is a six-week advertising and submission period. The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local law is then considered by the Western Australian Parliamentary Committee on Delegated Legislation and listed in the Government Gazette. Local laws must also comply with the National Competition Policy principles adopted by agreement between local, state and federal governments.

Local Laws must be reviewed every eight years under the *Local Government Act 1995*. The Shire undertook a comprehensive review of its suite of local laws in 2016.

The Shire maintains the following local laws:

- Animals, Environment and Nuisance Local Law 2016
- Bushfires Brigades Local Law 2016
- Dogs Local Law 2016;
- Health Local Law 2016;
- Local Government Property Local Law 2016;

- Standing Orders Local Law 2016;

## 8.2 Policies and Procedures

Policies provide the administration with guidance for the implementation of processes.

These policies focus on setting standards in compliance with legislation, adopting values or guiding processes. They have been drafted broadly, to encourage innovation by the administration, in the development of practices and processes to implement the policies.

Procedures and processes are descriptive of the functions and tasks that are required to achieve each policy objective. Procedures and processes are developed by the Manex and approved by the Chief Executive Officer, and must be consistent with their related policy.

## 8.3 Delegations

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

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

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

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

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

## PART 3 - KEY GOVERNANCE DOCUMENTS, POLICIES AND PROCEDURES

### 1. Integrated Planning Framework and Reporting

- Shire's Vision
- Strategic Community Plan
- Corporate Business Plan
- Long Term Financial Plan
- Workforce Plan
- Asset Management Plans
- Annual Budget and
- Annual Report

### 2. Ethics and Values

- Code of Conduct for Elected Members and Officers
- Rules of Conduct Regulations

### 3. Statutory Compliance

- Statutory Compliance Return
- Annual Budget and Annual Report
- Monthly Financial Report

### 4. Asset and Risk Management

- Policies, management practices and delegations
- Sound budgetary framework
- Procedural and technological safeguards
- Legislative and regulatory compliance
- Independent, external legal advice
- Quality, customer-focused decision making
- Assets register
- Capital works programs
- Audit, Indemnity and Liability Insurance Protection

## 5. Performance Measurement and Review

- Long Term Financial Plan
- Community Surveys

## 6. Customer Consultation

- Customer Service Charter
- Communication and Consultation Strategy (to be developed)



## PART 4 – ATTACHMENTS

### Attachment One: Council Nomination Eligibility

There are no professional qualifications or pre-requisites for individuals to nominate for election to Council. A person is eligible provided that they are:

- At least 18 years of age;
- An elector of the district; and
- Not disqualified from being elected due to their incumbency as a representative of State or Federal parliament or due to insolvency, criminal convictions and membership of another council.

A person is unable to serve as a member of the Local Government of which he or she is an employee. However, they are able to stand as a candidate in any Council election and relinquish their employment in the event of their election to office.

### Current Terms of Office of the President and Councillors

As a consequence of the October 2017 elections, terms have been allocated to the Council as follows:

Cr K House	Term Expiring	October 2021
Cr C Thomas	Term Expiring	October 2021
Cr R House	Term Expiring	October 2021
Cr F Hmeljak	Term Expiring	October 2021
Cr G Stewart	Term Expiring	October 2021
Cr F Gaze	Term Expiring	October 2019
Cr B Moore	Term Expiring	October 2019
Cr S Hmeljak	Term Expiring	October 2019
Cr L Martin	Term Expiring	October 2019

## Attachment Two: Limitation of Councillor Liability

The Shire of Gnowangerup has the legal capacity of a natural person. Therefore, the Shire may instigate legal proceedings in its corporate name and have proceedings taken against it.

Section 9.56 of the Act provides that:

- a) *a member of the Council or of a Committee of the Council, of a local government; and*
- b) *an employee of a local government; or a person appointed or engaged by a local government to perform functions of a prescribed office or functions of a prescribed class;*

is a protected person.

Further to this, the Act specifies that:

*“An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under the Act or under any written law”. (2)*

The Act also determines that [Section 9.56]:

*“It does not relieve the local government of any liability that it might have for the doing of anything by a protected person”. (4)*

It is important to also note that, under the Act:

- a) *a reference to the doing of anything includes a reference to the omission to do anything;*
- b) *a reference to the doing of anything by a protected person in the performance or purported performance of a function under any written law other than this Act is limited to a reference to the doing of anything by that person in a capacity described in subsection (1) (a), (b) or (c) as the case may be.*

## Attachment Three: Instructions for Accessing the Shire of Gnowangerup [Code of Conduct](#)

The Code of Conduct provides Council Members and staff of the Shire of Gnowangerup with consistent guidelines for an acceptable standard of professional conduct. The Code addresses in a concise manner the broader issue of ethical responsibility and encourages greater transparency and accountability in individual Local Governments.

The Code of Conduct is complementary to the principles adopted in the Local Government Act 1995, Regulations and local laws which incorporate four fundamental aims:

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

The Code of Conduct has been developed to assist Council Members and staff to:

- (a) understand the standard of conduct that is expected of them;
- (b) enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of due care and diligence; and
- (c) act in ways that enhance public confidence in the integrity of local government.

A copy of the Code of Conduct can be obtained from the Shire's website <http://www.gnowangerup.wa.gov.au/> under Corporate Documents and Plans.