



Governance Framework

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1. INTRODUCTION

The City of Joondalup (the City) requires a corporate governance framework to be able to provide services and facilities, by proper and democratic government, to the broad range of people who have a stakeholder interest in the ~~city~~-region, including residents, commercial and retail business, workers, and local, national and international visitors.

Governance is an important concept and impacts on all sectors of the community. The practice of good governance is increasingly seen as critical for ensuring that:

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

There are a range of benefits that can be derived from the development and implementation of an effective governance framework in local government. These include:

- providing clear guidelines for the roles of the Council, Elected Members and the CEO, ensuring that all responsibilities are properly allocated and performance expectations are well understood
- enshrining best practice in relation to 'board processes' (which are relevant to the elected Council)
- assisting Council and the CEO in delivering good governance
- ensuring legal and ethical compliance
- influencing processes throughout the organisation by setting guidelines for strategic planning at all levels
- acting as a point of reference for disputes
- assisting as an induction tool for new Elected Members and employees.

The principles and practices of good governance and guiding documents plot the specific processes of decision-making and by which the City is directed, controlled and held to account. Good governance ensures that the City is able to manage its many complex responsibilities effectively in the best interests of the community.

For an organisation to demonstrate good governance, there needs to be a clear understanding about responsibility and accountability. This Governance Framework has been produced to set out the roles of Elected Members and the ~~Administration~~ organisation, and their relationships, along with financial, legal and ethical considerations.

The City's framework consists of four key principles required to achieve excellence in governance:

- **Culture and Vision.**
- **Roles and Relationships.**
- **Decision-making and Management.**
- **Accountability.**

Each principle is divided into sub-categories where the theory of the principle is explained and then the way the theory is put into action at the City of Joondalup.

This framework has been developed with reference to documents previously produced regarding the concept and practice of good governance (please refer to the Reference section of this document).

2. DEFINITIONS

Term	Meaning
Act	<u>The Local Government Act 1995.</u>
Administration	Employees of the local government, headed by the Chief Executive Officer.
<u>Audit</u>	<u>The inspection or examination of a City activity or facility to evaluate or improve its appropriateness, efficiency or compliance.</u>
<u>Business Unit</u>	<u>A functional work group of the organisation that consists of a Manager and employees that perform particular functions of the City.</u>
Chief Executive Officer CEO	The <u>Chief Executive Officer who is</u> most senior officer employee in the Administration <u>organisation</u> . He or she The CEO is <u>appointed by and</u> directly accountable to the Council.
<u>City</u>	<u>The local government of the City of Joondalup and includes the Council and the organisation.</u>
community	The entire population of within the City of Joondalup <u>district</u> . It could also <u>be extended</u> to those who work <u>or invest</u> in the district, or visit the area for recreational or similar reasons. <u>(See also section 3.2 – Community defined.)</u>
<u>committee member</u>	<u>A member of a committee appointed by the Council but does not include an Elected Member.</u>
Council	The Elected Members sitting formally <u>meeting</u> as a Council under the <u>Act</u> Local Government Act 1995.
Councillor	An individual elected representative of a local government, but does not include the Mayor.
Council Committee	A formal committee of the Council established under legislation <u>by Council under the Act and constituted by Elected Members, employees or members of the public.</u>
Council meeting	The Elected Members <u>A meeting of Council conducted in accordance with the Act.</u> formally in accordance with legislation.
Director	A senior position in the organisation <u>engaged by and</u> directly responsible to the CEO. Classified as a senior employee under the <u>Act</u> Local Government Act 1995.
<u>district</u>	<u>The area of the State prescribed by legislation that a local government is required to control.</u>
Elected Member	An elected representative of the local government. The <u>Mayor and Councillors of the City.</u>
employee	An employee of the Council including casual or contract employees. <u>A person employed by the local</u>

Term	Meaning
	<u>government in accordance with the Act.</u>
<u>Executive Leadership Team</u>	<u>The CEO and directors.</u>
<u>Joondalup 2022</u>	<u>The City's Strategic Community Plan adopted by Council in accordance with the Act.</u>
<u>Local Government Act 1995</u>	<u>The Local Government Act 1995 and amendments or regulations</u>
<u>Local government</u>	<u>A body corporate established under the Act.</u>
<u>Manager</u>	<u>An employee in the organisation directly accountable and responsible for a Business Unit of the organisation.</u>
Mayor	A person elected by the community to hold the position as the elected leader of the local government for a term as specified by <u>under</u> the <u>Act</u> Local Government Act 1995.
<u>Natural justice</u>	<u>The right to be given a fair hearing and the opportunity to present one's case, the right to have a decision made by an unbiased or disinterested decision maker, and the right to have that decision based on logically probative evidence.</u>
<u>Organisation</u>	<u>Includes employees of the local government, lead by the Chief Executive Officer.</u>
<u>Regulations</u>	<u>The Local Government (Administration) Regulations 1996.</u>
<u>Rules of Conduct</u>	<u>The Local Government (Rules of Conduct) Regulations 2007.</u>
<u>senior management</u>	<u>Means the CEO, directors and managers.</u>
stakeholders	Individuals and organisations that have an impact on the strategic direction and decision-making processes of the City of Joondalup.
Strategic Financial Plan	Long-term financial plan summarising the financial impacts of the objectives and strategies in the Strategic <u>Community</u> Plan.
Strategic <u>Community</u> Plan	An <u>The</u> overarching plan that provides <u>strategic</u> direction for all activities and guides the development and provision of the City's services and programs.
<u>ward</u>	<u>A part of the City's district that delineates an electoral boundary.</u>

3. LOCAL GOVERNMENT DEFINED

Local government in Western Australia is established under the Act Local Government Act 1995 and is the third sphere of government in Australia. Local government has legislative responsibility for many functions and activities that are relevant to a local community. As the level of government often seen as the 'closest' to the community population, local government activities relate to matters that are fundamental to people's lives and impact strongly on their quality of life.

~~Each~~ Under the Act each local government throughout the State is established as a corporate body, with perpetual succession and a Common Seal. ~~All power to do things for the local community is vested in this legal entity. It~~ has the legal capacity of a natural person which means that it can sue and be sued.

~~A~~ local government ~~includes~~ consists of a Council – ~~consisting~~ comprised of Elected Members, and an organisation ~~the Administration – that includes~~ consisting of the CEO and employees.

The Mayor and Councillors are the City's Elected Members and form the Council, and the following principles apply:

- Elected Members are able to exercise decision-making authority as ~~a~~ member of Council after they are elected and formally sworn in and when they meet ~~formally as the~~ a Council.
- All lawful decisions are made at ~~the Council meetings or through delegations (to CEO or the Council committees)~~ that are formally made by Council to the CEO (or a committee). The CEO can on-delegate decision making authority to other employees.

~~Employees are formally accountable to the Council through the CEO, whose role is detailed~~ The CEO is the only employee appointed by Council and is therefore ultimately accountable to Council. In this regard the role of the CEO, as detailed in Section 5.41 of the Act, and includes, but is not limited to:

- advising the Council in relation to the functions of the local government
- implementing ~~the~~ Council's decisions
- managing the day to day operations of the local government and the services that the local government provides for its community
- liaising with the Mayor on the local government's affairs and its performance
- being responsible for the employment of the local government's employees ~~day to day operations of the local government.~~

The City's directors are designated as senior employees for the purposes of section 5.37 of the Act. All City employees are accountable to the CEO.

~~The CEO is the only employee appointed by the Council.~~

3.1 **Role** Functions of local government

In order to consider the issues of good governance in the context of local government, it is also necessary to consider the ~~role and~~ functions of local government which include the following ~~Local government has a number of fundamental roles:~~

- **Planning and monitoring achievement**

Planning for the development and wellbeing of the community is a critical role for Council ~~a local government~~. The Act requires Councils ~~local governments~~ to develop and adopt a 'plan for the future', which sets overall directions for the CEO ~~City~~ through long-term planning. Examples include the ~~Strategic Plan and Strategic Financial Plan~~ City's 10 Year Strategic Community Plan, the 20 Year Strategic Financial Plan, the Five Year Corporate Business Plan and the City's Annual Plan. The ~~strategic planning framework~~ City's Integrated Planning Framework provides the direction for the ongoing management of Council's ~~City~~ activities.

- **Lawmaking and enforcement**

A local government makes decisions in areas over which it has legislative authority but cannot duplicate or contradict federal or state law. Laws made by local governments ~~s~~ are called local laws and cover such issues as the activities permitted on public land, animal management and use of local government facilities ~~infrastructure~~. Local laws are enforced by employees.

Local governments ~~s~~ are is also responsible for enforcing ~~local laws and other~~ legislation ~~over~~ under which it has authority.

- **Administrative**

The City has a range of responsibilities under state legislation and administers laws that effect a person's rights and interests. Decisions made by local governments must only be based on relevant considerations and facts, be procedurally fair and follow the principles of natural justice.

- **Policy development**

One of the most An important roles of Elected Members ~~Council~~ is to participate in making make policy decisions on behalf of the community. An essential element of policy making is identifying community needs, setting objectives to meet those needs, establishing priorities between competing needs, and allocating appropriate resources. A policy is a decision of ~~the~~ Council and sets out agreed views and ~~decisions~~ direction concerning a particular area of responsibility.

- **Representation**

~~Individual Elected Members or the~~ When Council ~~when formally meets~~ s in a general sense it represents the views of their local government constituents on matters of concern to the community. Elected Members ~~are to represent the~~ interests of electors, ratepayers and residents of the district. Elected Members need to listen to and be interested in the wider community ~~(and not just the people in the ward who elected them).~~

- **Advocacy**

Local governments have ~~has~~ a role advocating on behalf of their ~~its~~ ~~constituencies~~ community to other levels ~~spheres~~ of government, statutory authorities and private interests whose activities may have an impact on the community. ~~other relevant parties who have responsibility for the matter.~~

- **Service delivery**

~~Council~~ Local governments must ensure that services are delivered in the most efficient and effective manner. The Act provides a degree of autonomy to ~~Councils~~ local governments to determine policies, in consultation with their communities, about the nature and level of services provided. ~~The Council~~ A local government should ~~must~~ ensure the delivery of quality services for which it has ~~they have~~ responsibility.

3.2 Community defined

An appreciation of the term community is integral to an understanding of what constitutes good governance at a local government level. When discussed in connection with good governance the term is often used as though it is a homogenous entity and presupposes that there is a single community interest, community demand or community need.

The population ~~of~~ within the City of Joondalup district consists of a large number of communities, for example, the business community, the educational community, the visitor community and the resident community. These can be further broken down into subsets, for instance, the retail community, the developer community and the tenant community. Additionally, local communities can be defined by geographical area.

Often such diverse communities do not share the same aspirations, goals and interests. One of the challenges for all levels of government but particularly local government, ~~which defines itself as being the 'closest to the community'~~ is how to govern so that different, and often competing interests are recognised, addressed and managed.

When ~~referred to in this document the term~~ 'community' is referred to in this framework, it means the many groups, individuals and interests represented within the City of Joondalup district.

4. GOVERNANCE IN LOCAL GOVERNMENT

4.1 Definition of governance

~~Governance is the process by which decisions are taken and implemented, the process by which organisations go about achieving their goals and producing their outputs and the process by which organisations are directed, controlled and held to account.~~

Whilst the definitions of governance can vary between the public and private sector, CPA Australia in its publication 'Excellence in Governance for Local Government' defines governance as follows:

Governance is the process by which decisions are taken and implemented, the process by which organisations go about achieving their goals and producing their outputs and the process by which organisations are directed, controlled and held to account.

~~It encompasses~~ Governance can be seen as encompassing:

- authority
- accountability
- stewardship
- leadership
- ethics and values
- culture.

~~Democratic governance exists when a government governs for and on behalf of its community as a whole~~ occurs when governments govern as a result of being elected. Good democratic governance ~~occurs when governments govern as a result of being elected~~ exists when a government governs for and on behalf of its community as a whole. This provides the democratic basis, which is essential to an understanding of good governance in the local government sector.

Good governance involves a focus on:

- a clear vision and positive organisational culture
- clarity of roles and responsibilities
- robust management practices and systems which support both internal and external accountability
- public access to decision-making and information.

(Definition from Excellence in Governance for Local Government – CPA Australia)

4.2 Good governance in local government

Good governance in local government is about ensuring the local government is able to manage its many complex responsibilities effectively and in the best interests of the community. When a local government practices good governance, the community is more connected and engaged, appropriate services are provided and there is more effective use of the local government's resources.

Good governance in local government combines the characteristics of good governance and the definitions and roles of local government. Good governance in local government requires the following:

- Councils being elected by, representative of, and accountable to the community.
- Elected Members making decisions on behalf of and in the best interests of the ~~residents of the local government~~ community as a whole.
- Policies and programs reflecting the mandate local governments Council's have been given by their electors.
- Policy enactment arising from the Strategic Community Plan with appropriate performance management to assess the local government's Council's progress.
- Community participation in ~~governance~~ decision-making.
- Elected Members ~~Mayor and Councillors~~ providing leadership to the community and reflecting the community's collective aspirations.
- A management structure which implements the Council's local government's goals in accordance with Council's the local government's priorities and approved budget.
- Provision of services which meet the community's needs (sometimes in partnership with other levels of government, business or community organisations).
- Local government being well placed to facilitate coordination and integration at a local level.
- Cooperation between local governments and other spheres of government.

4.2.1 Good governance in practice

Good governance needs to be practised both within the local government, and between the local government, and the community and other spheres of government. Key internal and external issues include:

Internal

- Effective and positive working ~~R~~relationships are a key factor.
- Sound, relevant and timely advice ~~is crucial for good governance~~.
- Advice is provided through Council reports, Council briefings, strategic sessions and other means of communication.
- Good processes that contribute to good decisions.
- Decisions ~~also need to be~~ are made that are clear, accountable and transparent.
- Elected Members need timely and quality information in order to perform their role duties. Processes are required ~~need to be developed to~~ meet the legitimate information needs ~~requirements~~ of Elected Members.

External

- To ensure that a Council local government and its community share a sense of direction and purpose, long term strategic planning is vital. This ~~is particularly the case in local government~~ and must be done in a way that all stakeholders feel they have ownership.
- Performance management enables a local government to be accountable to its community. It assesses whether a local government has done what it said it

would do with the resources with which it has been provided, and within the defined time frames.

- Balancing 'community-wide' and sectional interests is central to democratic governance.
- Accountability of a local government to its community is a key factor in good democratic governance.
- Good governance means a community feels engaged, knows what is going on, is included in decision-making, and feels part of the governing process.
- Informed decisions are based on well-researched information, and some of the best information comes from the opinions of those who are affected by a decision or interested in an issue. Good consultation methods are needed to elicit these opinions.
- Another important aspect of good governance is community leadership. Sometimes local governments need to lead or influence communities on particular issues.
- Communities expect good services, and systems and facilities to be planned and provided. This is fundamental to good governance.

5. GOVERNANCE PRINCIPLES AND CHARTER

For the purposes of the City's Governance Framework, the following principles are contained in the 'Excellence in Governance in Local Government' Guide developed by CPA Australia have been adopted. The principles provide the foundation for good governance and a means for assessing the extent to which good governance is occurring at the City of Joondalup. The Principles are the 'what'. The Charter is the 'how'. Contained under each principle in the following sections are a range of activities and actions put into operation at the City to support that particular principle.

- **Principle One: Vision and Culture**

There is a clear vision and a Strategic Community Plan strategic plan that is produced through a comprehensive and inclusive process, which is owned by all sectors of the community local government.

There is a positive culture and value system in place that promotes trust, openness and honesty, in which constructive and respectful questioning is encouraged and accountability is clear.

- **Principle Two: Roles and Relationships**

There is clarity about the roles of within a local government and there exists a sophisticated approach to defining and implementing these.

There are effective working relationships that are promoted and supported within and between the Elected Members, the CEO and the organisation Administration.

- **Principle Three: Decision-Making and Management**

There are effective decision-making processes in place that reflect the transparency and accountability which underpin excellence in local government.

There should be robust and transparent business financial management practices established and maintained to meet the City's accountability to its stakeholders community, particularly in terms of stewardship of community assets and finances, both now and into the future.

An effective approach to the identification, assessment, monitoring and management of risks should be established and maintained.

Effective delegations should be implemented and maintained to enable Council to focus on strategic issues.

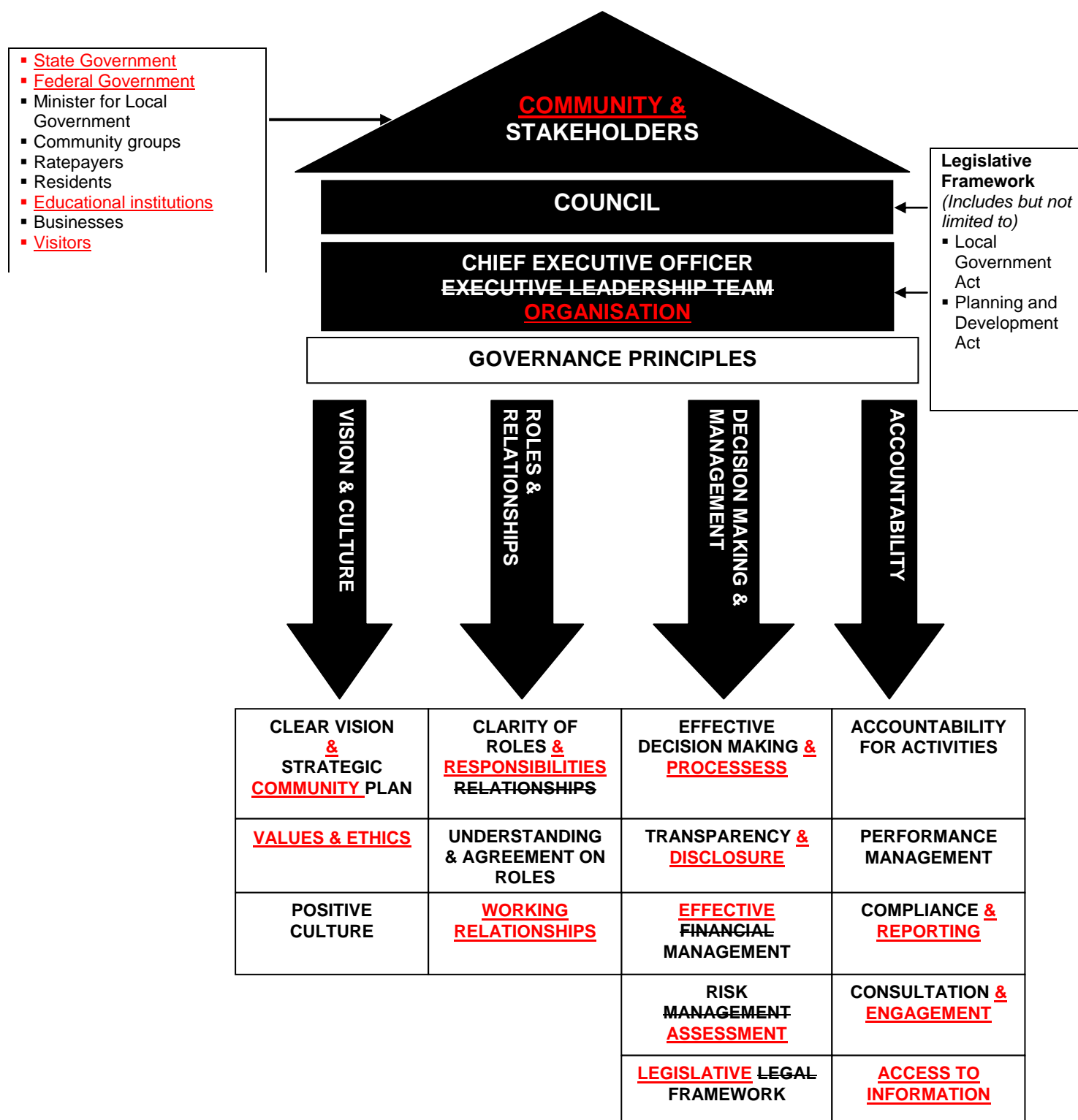
- **Principle Four: Accountability**

The City must account for its activities and have systems and processes that support accountability. The City should have an active performance management system in place that enables Elected Members and management employees to be openly accountable for their performance.

The City should establish internal structures that provide for independent review of processes and decision-making to assist ~~the Council~~ it ~~meeting~~ its accountability to stakeholders.

Consultation should be undertaken that is appropriate to the scope and potential impact of the matter. It should respect the position and opinion of all ~~stakeholders~~ sections of the community. The outcomes of the consultation should be taken into account when the decision is made and feedback should be provided to those who participated.

6. GOVERNANCE FRAMEWORK DIAGRAM



7. PRINCIPLE ONE: VISION AND CULTURE

7.1 Vision

7.1.1 ~~City~~ Vision and values ~~Mission~~

The City's 10 Year Strategic Community Plan (known as Joondalup 2022) articulates the City's vision as being 'A global City: bold creative and prosperous'.

In alignment with this vision, the City believes the following primary values should be inherent within any well-functioning and community-driven organisation:

- Transparent.
- Accountable.
- Honest.
- Ethical.
- Respectful.
- Sustainable.
- Professional.

Joondalup 2022 identifies the following distinguishing values to guide the direction and operations of the City into the future:

- **Bold** - We will make courageous decisions for the benefit of the community and future generations.
- **Ambitious** - We will lead with strength and conviction to achieve our vision for the City.
- **Innovative** - We will learn and adapt to changing circumstances to ensure we are always one step ahead.
- **Enterprising** - We will undertake ventures that forge new directions for business and the local economy.
- **Prosperous** - We will ensure our City benefits from a thriving economy built on local commercial success.
- **Compassionate** - We will act with empathy and understanding of our community's needs and ambitions.

Good governance is achieved when Council, Elected Members and employees show leadership and reflect the above values. Values shape an organisation's culture and are the fundamental beliefs the City considers to be important; are relatively stable over time; and have an impact on Elected Member and employee attitudes and behaviour.

~~The City's Vision is to be a sustainable City and community that is committed to service delivery excellence and operates under the principles of good governance.~~

~~The City's mission is to undertake all its activities with the endeavour of meeting community expectations and achieving sustainable lifestyles.~~

~~The City's Values and Principles as detailed in the City's Strategic Plan 2008 – 2011 underpin the way the City achieves its Vision and Mission. These Values and Principles include:~~

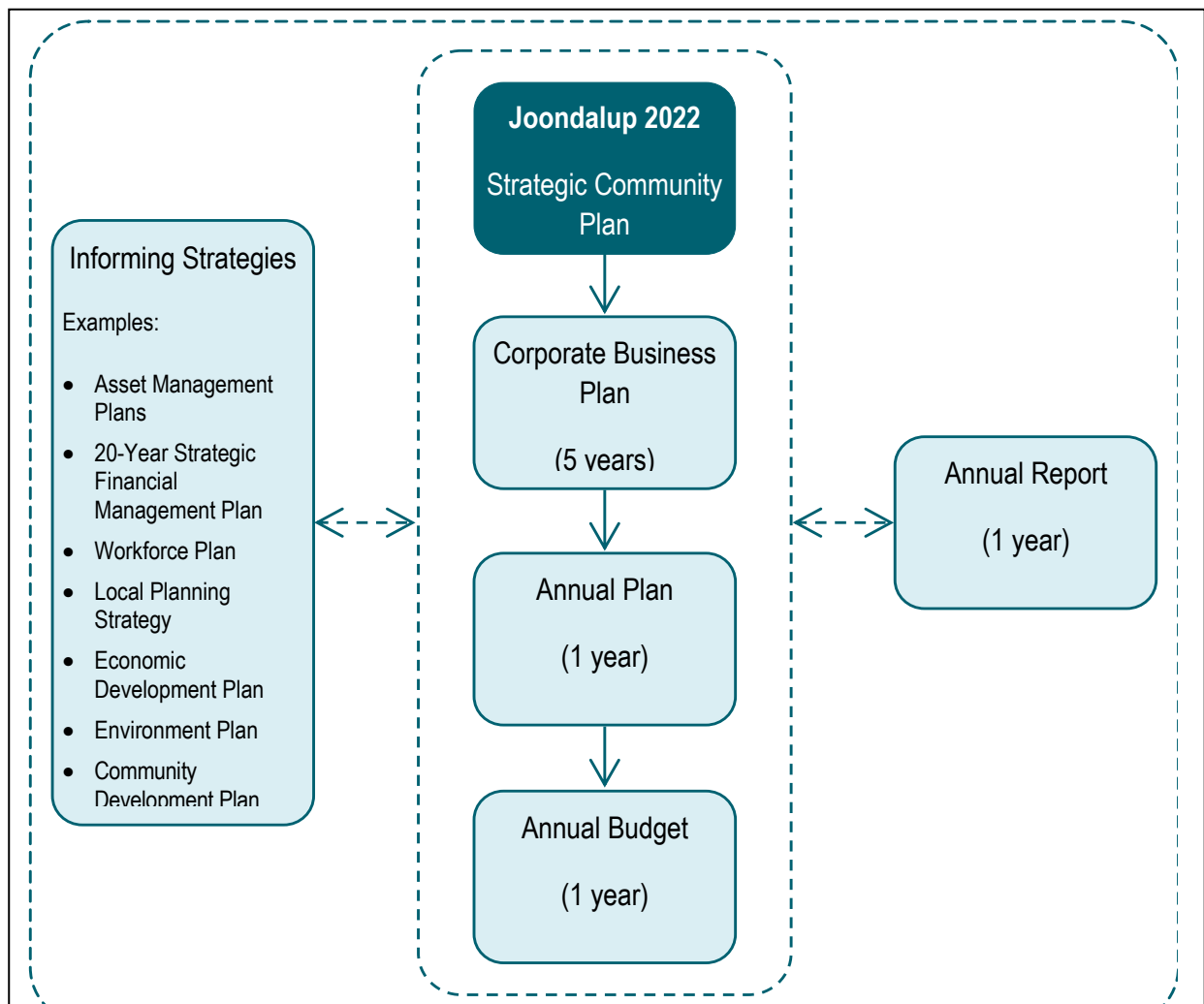
- ~~Customer Focus.~~

- Purpose, Direction and Planning.
- Sustainability.
- Data, Measurement and Understanding.
- Honesty and Integrity.

7.1.2 Integrated Planning Framework

To ensure the City's vision permeates throughout the organisation, the City has developed an Integrated Planning Framework that aligns with the Department of Local Government's Integrated Planning and Reporting Framework. This approach ensures that the City's planned activities and resourcing requirements over an extended period of time align with the City's vision and strategic priorities, thereby forwarding the opportunity for the City's vision in becoming a reality.

Integrated Planning Framework Diagram:



Joondalup 2022 is the over-arching document within the City's Integrated Planning Framework, articulating the City's vision and setting the highest level of direction for the City for the next ten years. It outlines strategic priorities around key themes of:

- Governance and leadership
- Financial sustainability
- Quality urban environment
- Economic prosperity, vibrancy and growth
- The natural environment
- Community wellbeing.

High-level plans enable the key themes in Joondalup 2022 to be more comprehensively articulated. Actions in these plans are measured against key performance indicators, which enable the City and the community to gauge success in the implementation of strategic priorities and objectives.

7.1.2 Strategic Planning Framework

The City's Strategic Plan articulates the highest level of direction for the City for the coming four years. It is an overarching framework that aims to achieve better leadership and decision making with greater community participation.

The City has developed a planning framework to ensure that programs and services are being delivered in alignment with the strategic priorities of the organisation. The Strategic Plan is the key document within the planning framework as it outlines these strategic priorities or 'key focus areas' of:

- Leadership and Governance.
- The Natural Environment.
- Economic Prosperity and Growth.
- The Built Environment.
- Community Wellbeing.

The City's Corporate Plan is responsible for driving internal operational activities, which are developed in line with the priorities set in the Strategic Plan. Internally focused priorities that support the Corporate Plan are not included in the Strategic Plan because of their internal operational nature.

High-level plans enable key focus areas in the Strategic Plan to be more comprehensively articulated. Actions in these Plans are measured against key performance indicators, which enable the City and the community to gauge success in the implementation of strategic objectives.

7.1.3 Annual Planning Process

The City's Annual Plan, adopted by the Council each year, focuses on the City's actions to be achieved within each of the Strategic Plan strategies and forms the basis of the City's Capital Works Program and Strategic Financial Plan. Financial information relating to capital works projects can be accessed from the City's Annual Budget.

The Annual Plan also assists in meeting the requirements of the Local Government Act for a 'plan for the future'. This includes community consultations undertaken by the City as an integral part of its planning and decision making processes, in order to meet the diverse and changing needs of the public, including residents, ratepayers and the wider community.

~~Quarterly progress reports against the Annual Plan provide Council and the community with a full assessment of the City's progress in relation to the achievement of pre-determined milestones for major projects and programs. Full progress reports against the Capital Works Program are provided at the same time as Annual Plan progress reports to Council.~~

7.2 Culture

A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues. It is also more likely that the organisation will retain high caliber employees who want to work and participate in the activities of the City. An organisation seeking excellence in governance should have the following elements: The City's culture should consist of the following elements in pursuit of excellence in governance:

7.2.1 Support for frankness, honesty and questioning

Elected Members are to debate issues openly and honestly. Employees are to provide frank and timely advice to the CEO and senior management Directors, and ~~the CEO and senior management will~~ who in turn are to provide sound and frank advice to Elected Members and Council ~~Council and Elected Members.~~

7.2.2 Innovation

The City considers new and better ways of going about its business in the achievement of its goals, through innovation which will be assessed critically by using appropriate risk management and other analysis.

The City has dedicated itself to encouraging a climate of innovation and continuous improvement and has adopted the Australian Business Excellence Framework as one of the ~~principal~~ means by which to assess the City's progress towards achieving its goals.

7.2.3 Effective management structures and practices

~~The organisation~~ City is to ensure it has have a management structure that meets its goals and needs and the structure is characterised by efficient and effective use of human resources and with clear accountability.

Management practices and protocols ~~are to~~ reinforce accountability and outcomes and ~~also must~~ also incorporate the nurturing of people's capacities to do their jobs.

7.2.4 Communication and engagement

The City is to have effective communications policies, and practices and protocols, internally and externally, and be open to, and encourage, feedback from all stakeholders and the community.

~~7.2.6~~**7.2.5** Ethical standards of behaviour

~~Good governance is characterised by honesty and integrity. Elected Members will behave in a way that generates community trust and confidence in them as individual Elected Members and enhances the role and image of both the Council and local government generally.~~

~~Elected Members and employees are expected to own and adhere to the City's core values of:~~

- ~~• Vibrancy.~~
- ~~• Innovation.~~
- ~~• Responsiveness.~~
- ~~• Respect.~~
- ~~• Trust.~~
- ~~• Safety.~~
- ~~• The Code of Conduct.~~

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

The Act requires that every local government ~~shall~~ prepare or adopt a Code of Conduct to set out the standards of behaviour expected to be observed by ~~all~~ Elected Members, committee members and employees.

The City's ~~of Joondalup~~ has adopted a Code of Conduct which outlines the principles, values and behaviours expected of all Elected Members, committee members and employees. It is not intended to control or prohibit the actions of Elected Members, committee members or employees, but simply to document the standards of conduct expected of all who serve the community.

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

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

~~In 2007 the State Government introduced the The Local Government (Rules of Conduct) Regulations 2007 (Rules of Conduct) to provide a disciplinary framework to deal with individual misconduct by Elected Members. Previously, apart from prosecution, the only avenue for action in response to inappropriate behaviour was against the whole Council. The Regulations Rules of Conduct provide a mechanism to take action against individual Elected Members where they do not comply with the 'rules' or they contravene particular laws applying to them in legislation Acts and Regulations.~~

The ~~Regulations~~ Rules of Conduct prescribe the following uniform rules of conduct for Elected Members in relation to:

- standards of general behaviour
- use of confidential information
- securing ~~unauthorised~~ personal advantages or advantaging/disadvantaging others ~~es~~
- misuse of local government resources
- prohibition against involvement with the organisation
- relations with employees
- disclosing interests that may affect impartiality (not financial)
- ~~restricting receiving~~, and disclosure of, ~~certain~~ gifts of a prescribed value.

These Rules of Conduct do not limit the provisions within the City's ~~own adopted~~ Code of Conduct, however, the Rules of Conduct, ~~as specified in the Regulations as well as the City's Standing Orders Local Law~~ local law (relating to meeting procedures and conduct) are enforceable and disciplinary action can be taken for any breach.

7.2.76 Confidentiality

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

The Code of Conduct also states the following in relation to disclosure of confidential information:

"Council members, committee members and employees shall not use confidential information to gain improper advantage for themselves or another person or body in ways which are inconsistent with their obligation to act impartially in the public interest; or to improperly cause harm, detriment or impairment to any person, body, or the Council."

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

7.2.87 Conflicts and Disclosure of conflicting interests

The nature of the City's business may result in conflicts of interests arising between an individual's personal interests and the performance of their public or professional duties. Conflicts of interests may arise from a number of sources, including friends, relatives, close associates, financial investments, past employment and the like. Conflicts of interests are not necessarily wrong, however it is not only important to ensure that real or potential conflicts are handled appropriately, but also perceived conflicts of interest.

Council members, committee members and employees are to comply with the requirements for the disclosure of interests as ~~de~~prescribed in the Local Government Act 1995, the Rules of Conduct and the City's Code of Conduct.

Elected Members, committee members and employees of the City of Joondalup should must ensure that there is no actual or perceived conflict or incompatibility between the important fulfilment of their public or professional duties and either their personal interests, or which may include the interests of those persons closely associated to them.

9.8.7.2.8 Acceptance of gifts and acts of hospitality

~~The Code of Conduct adopted by the City of Joondalup a provision Members and employees shall not seek or accept (either directly or indirectly) any immediate or future gift, reward, donation, hospitality or benefit (referred to generically as gifts for the following paragraphs) for themselves or for any other person or body as a result of their employment with, or appointment to a committee of, the City of Joondalup.~~

~~If any gift, reward or benefit is offered (other than gifts of a token kind, or moderate acts of hospitality), disclosure must be made in a prompt and full manner and in writing in the appropriate register.~~

The City's Code of Conduct and the Rules of Conduct contain provisions in respect of Elected Members, employees and committee members seeking and/or accepting certain types of gifts and gifts of a certain value while performing in their respective roles.

Notwithstanding, where a gift is accepted by an Elected Member, employee or committee member and is worth between \$50 and \$300 (being a notifiable gift) details of the gift must be disclosed to the CEO in a prompt and full manner and in writing within the appropriate register.

A gift with a value of \$300 or more is considered a "prohibited gift" and cannot be accepted, and includes two or more notifiable gifts received from the same person within a six month period with a value that exceeds the prohibited gift limit.

7.2.9 Comprehensive induction programs

The City's ~~positive~~ objective of a positive work culture is communicated to Elected Members and employees through effective induction programs. Induction and training for Elected Members is provided to assist in understanding the functions and role of local government, governance in local government and how to operate effectively to produce good outcomes for their community.

The City's induction programs for both Elected Members and employees focuses on:

- the differing ~~but~~ and complementary roles of Elected Members and employees
- working relationships
- decision-making processes
- responsibility, accountability and delegations
- code of conduct
- organisational values and culture.

7.2.5¹⁰ Learning and ~~feedback~~ training opportunities

The City invests in training both for Elected Members and employees and the learning will be focused on what is required to achieve organisational goals. Training for Elected Members and employees is important and opportunities are offered to ~~Elected Members~~ to assist in the development of skills required to fulfill their roles.

8. PRINCIPLE TWO: ROLES AND RELATIONSHIPS

8.1 Roles

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

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

~~The City recognises that t~~The Mayor's leadership role is very important when it comes to good governance. The Mayor is to seek to ensure that all Councillors are a part of the decision-making process and are well and equally informed. The Mayor must also assist and help Councillors to understand the need to represent the interests of the entire community, not just their Ward constituents. balance their accountabilities to their constituents and their accountability to the Council as a whole, and therefore to the whole community.

The Mayor should also facilitate good relationships between the Councillors and the ~~Administration~~organisation and help to create an environment where good communication, ~~systems and processes can thrive~~s.

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

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

~~Council~~ The Act recognises the CEO's role in managing the organisation to achieve the goals and strategies endorsed by Council, and the CEO is expected to fulfill these duties in a way that promotes an organisational culture of openness, accountability, fairness and good communication.

The general function of local government as prescribed in the Act is 'to provide for the good government of persons in its district'. This general function in conjunction with other expressed powers set out in the Act is the basis of the City's powers. The Act sets out a framework for the way in which local governments ~~in general~~ are to

operate and also ~~It specifies the roles and responsibilities that are to be undertaken by various parties~~ within a ~~each~~ local government.

Specific roles are given to the Council, the Mayor, Councillors and the CEO.
--

8.2 The role of Council

Under the ~~Local Government Act 1995~~ Act the City of Joondalup is a body corporate and Council is charged with the following responsibilities:

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

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

- **Governs the City's s of Joondalup's affairs**

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

- **Is responsible for the performance of the City's s of Joondalup's functions**

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

- **Oversees the allocation of the City's s of Joondalup's finances and resources**

The Council exercises this role by overseeing and adopting an Annual Budget ~~and~~ the City's long term financial plan ~~Strategic Financial Plan and Annual Budget~~. Council is advised by ~~employees~~ the CEO who ~~are~~ is also responsible for the ~~professional~~ development of appropriate financial controls, and ~~strategic documents~~ management protocols and practices.

- **Determines the City's s of Joondalup's policies**

The role of Council in setting policy is most effective when it is linked with a professional organisation that implements these policies through the development of appropriate management ~~practices~~ protocols and work processes. The policies of ~~the~~ Council provide the direction for the ongoing management of ~~Council~~ City activities.

~~The general function of local government is 'to provide for the good government of persons in its district'. This general function is the basis of the City of Joondalup's powers.~~

8.3 Role and responsibilities of the Mayor

While ~~est~~ there are a number of provisions within the Act outlining the role and functions of the ~~position of~~ Mayor it should be understood that ~~he/she~~ the Mayor is a key public official civic leader of the community. In the pursuit of good governance, from an internal and external perspective, the Mayor performs an important function. The Mayor is elected to represent the views and directions of ~~the~~ Council in the performance of the role.

Section 2.8(1) of the Act defines the role of the Mayor as follows:

The Mayor:

- (a) *Presides at meetings in accordance with the Act.*
- (b) *Provides leadership and guidance to the community in the district.*
- (c) *Carries out civic and ceremonial duties on behalf of the local government.*
- (d) *Speaks on behalf of the local government.*
- (e) *Performs such other functions as are given to the Mayor or President by the Act or any other written law.*
- (f) *Liaises with the CEO on the local government's affairs and the performance of its functions.*

The Mayor, ~~even though elected by the community~~ also has the following ~~additional responsibilities~~ role, which is ~~are~~ similar to Councillors and as ~~outlined~~ in section 2.10 of the Act:

- (a) *Represents the interests of electors, ratepayers and residents of the district.*
- (b) *Provides leadership and guidance to the community in the district.*
- (c) *Facilitates communication between the community and the Council.*
- (d) *Participates in the local government's decision-making processes at Council and Committee meetings.*
- (e) *Performs such other functions as are given to an Elected Member by the Act or any other written law.*

The ~~roles and duties~~ role of the Mayor can be categorised as:

- Governance.
- Presiding Member of Council.
- External relations.
- Media management liaison and public relations.
- Supporting the community.
- Civic and ceremonial.

The 'Governance' and 'Presiding Member of Council' functions of the Mayor are critical to good governance as they cover leadership of the City and the community, and ensure that the decision-making processes are fair, equitable and inclusive.

The Mayor should be seen to support good governance by modeling good behaviour and ethics in fulfilling ~~their~~ his leadership roles. The Mayor has a pivotal role in both the pursuit and demonstration of good governance.

A very specific role that the Mayor has is in representing and advocating the decisions of the Council. Section 2.8(1)(d) of the Act provides that the Mayor speaks on behalf of the City.

The position of Mayor is pre-eminent and when they speak they are considered by the community to be articulating the Council's views. The Mayor must put aside ~~their~~ any individual views and clearly outline the views of ~~the~~ a Council decision in an all-inclusive way.

Where the Mayor desires to speak contrary to the position of ~~the~~ Council, ~~they~~ he or she should clearly preface ~~their~~ ir comments that they are expressing ~~as an individual opinion~~ and not on the Council's behalf.

The Mayor's role of presiding at meetings of the Council is a very responsible one in achieving a balance of opinion and outcomes that demonstrates leadership by Council in the community. The most important aspect of the role is a good understanding of meeting procedures and a detailed knowledge of the requirements relating to the conduct of meetings. This will enable the Mayor to provide impartial interpretations and to ensure the smooth flow of the meeting's business.

As a community leader the Mayor represents the City at many civic and ceremonial functions including the role as "host" of many City activities. The Mayor should be familiar with etiquette and protocol arrangements and familiarise themselves with the expectations of greeting guests in a formal manner. Any speeches made on these occasions should not be used to present a point of view contrary to a decision of Council.

8.4 Role and responsibilities of the Deputy Mayor

Section 5.34 of the Act states the ~~The~~ Deputy Mayor may perform the functions of the Mayor if:

- (a) the office of Mayor is vacant
or
- (b) the Mayor is not available or is unable or unwilling to perform the functions of the Mayor.

~~(Section 5.34 Local Government Act 1995)~~

8.5 Roles and responsibilities of the Elected Members

~~At the outset it~~ It is necessary to understand the legislative framework within which the Elected Members operate and from where they derive specific details of their roles and responsibilities.

~~It is important to note that an~~ An individual Elected Member, ~~unless delegated, as a part of a committee arrangement has no authority~~ to make decisions or to participate in the day-to-day management or operations of the ~~Council~~ City. ~~This includes making any form of representation on behalf of the Council or the City, unless they are specifically authorised by Council to do so. Regulation 9 of the Rules of Conduct also prevents Elected Members from undertaking tasks that contribute to the administration of the local government unless so authorised by the Council or the CEO.~~

It is important to note that Elected Members have no direct authority over employees with respect to the way in which they perform their duties.

~~Within the Act~~ Section 2.10 of the Act outlines the role of Councillors as follows:

A Councillor:

- (a) Represents the interests of electors, ratepayers and residents of the district.*
- (b) Provides leadership and guidance to the community in the district.*
- (c) Facilitates communication between the community and the Council.*
- (d) Participates in the local government's decision-making processes at Council and Committee meetings. and*
- (e) Performs such other functions as are given to a Councillor by the Act or any other written law.*

The Council and Elected Members have a number of roles to undertake ~~and they must do this with the support of the CEO.~~ One of the challenges for good governance from an Elected Member viewpoint is to be provided with the opportunity to raise specific issues so as to get a fair hearing. ~~Many of these issues may have been the platform on which the Elected Member was elected.~~ The Mayor and CEO all have an important role to play in this process as well as the fellow Elected Members.

8.6 Role and responsibilities of the CEO ~~Chief Executive Officer~~

The functions of the CEO are outlined in section 5.41 of the Act. ~~Earlier reference was made to liaising with the Mayor.~~ The full CEO's range of defined functions of the CEO are defined as follows:

- (a) Advise the Council in relation to the functions of a local government under the Act and other written laws.*
- (b) Ensure that the advice and information is available to the Council so that informed decisions can be made.*
- (c) Cause Council decisions to be implemented.*
- (d) Manage day to day operations of the local government.*
- (e) Liaise with the mayor or president on the local government's affairs and the performance of the local government's functions.*
- (f) Speak on behalf of the local government if the Mayor or 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 local government are properly kept for the purposes of the Act and any other written law.*
- (i) Perform any other function specified or delegated by the local government or imposed under the Act or any other written law as a function to be performed by the CEO.*

The CEO has a statutory responsibility to manage the organisation through the implementation of goals and strategies that have been ~~previously approved by the Council.~~

~~The most important~~ A significant role of the CEO plays in promoting good governance is through the development of a culture that sees the ~~Elected Members and the Council~~ as the peak decision-making body and that ~~management~~ the organisation exists to support ~~the Council~~ in the delivery of good governance.

A key accountability of the CEO is financial management. While Council has overall accountability, the CEO has ~~administration and its key management have~~ critical responsibilities for managing the organisation soundly from a financial perspective and reporting the results and performance ~~to the Council~~.

The Act enables ~~the Council~~ to delegate in writing to the CEO, the capacity to exercise any of its powers or duties, with the following exceptions:

- (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, 5.98A, 5.99 or 5.100 (determining fees, allowances and expenses of members and Committee members).*
- (f) *Borrowing money on behalf of the City.*
- (g) *Hearing or determining an objection of a kind referred to in Section 9.5.*
- (h) *Authorising a person to sign documents on behalf of the City.*
- (i) *Carrying out any power or duty that requires the approval of the Minister or the Governor.*
- (j) *Such other powers or duties as may be prescribed.*

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

~~Under the Act both the Council and the CEO are given certain functions and duties to be discharged. Council may delegate authority to perform some of its functions and duties to the CEO.~~

~~The CEO may delegate to any other employee the authority to perform functions and duties that are exercisable by the CEO under the Act or that have been delegated to the CEO by the Council (with the exception of the power to delegate).~~

~~This accords with a governance framework whereby employees are responsible to the CEO and the CEO is responsible to Council. Similarly, the implementation of Council decisions and instructions are conducted by the CEO, who may delegate some of this responsibility to other employees of the City.~~

~~All delegations by the Council are reviewed on an annual basis.~~

~~The use of delegated authority means that routine matters can be acted on promptly and this facilitates efficient service delivery to the community. Delegated authority also allows Council to concentrate on policy development, representation, strategic planning, and community leadership.~~

In summary the CEO is responsible for:

- putting in place appropriate systems to achieve accountability and integrity

- implementing and maintaining a management structure which can achieve Council's vision and the Strategic Community Plan objectives
- managing relationships between the various elements in the City local government
- ensuring that the ~~organisation~~ City is staffed by suitably qualified and motivated employees and that policies are in place that promote this
- ensuring that employees ~~are aware that~~ understand the ~~Administration~~ organisation is working for a democratically elected Council and that Council decisions form the basis for the ~~Administration's~~ organisation's activities.

The table below depicts the separation of roles between the Council (~~directing and controlling~~ governing the affairs of the local government) and the CEO (managing day-to-day operations):

COUNCIL	CEO
Sets direction	Provides professional and technical advice to the Council
Responsible for the performance of the City of Joondalup <u>local government's</u> functions	Implements the decisions of Council
Decides <u>s</u> on matters of policy	Liaises with the Mayor
Ensures <u>s</u> that services and facilities are integrated with and do not unnecessarily duplicate other public services	Manages the day-to-day operations
Oversees <u>s</u> the allocation of the City's finances and resources	Responsible for the employment and management of employees
Monitors <u>s the City's</u> performance through the CEO to ensure efficiency and effectiveness in service provision	<u>Monitors the performance of employees to ensure efficiency and effectiveness in service provision</u>
Mayor to liaise with the CEO and preside at Council meetings	

The following quotation exemplifies the distinction between the governance role of the Council and the management role of the CEO:

"There is a world of difference between governance and management. Governance involves the responsibility for approving the mission and goals of the institution; the oversight of its resources; the approval of its policies; ...and an informed understanding of its programs and activities. Management, in contrast, involves the responsibility for the effective operation of the institution and the achievement of its goals within the policies ...set by the board; the effective use of its resources;...the responsibility of a board is to govern but not to manage. 'Noses in, fingers out' remains sound and tested advice to board members."

Glion Declaration II: The Governance of Universities

8.7 Working relationships

Elected Members are members of a team, elected by their ~~communities~~ constituents to work collectively in the interests of the whole community. ~~The Achievement of good governance for the local area is dependent on a mature and constructive working relationship between Elected Members.~~

Elected Members should behave in a manner that generates community trust and confidence in them as individual Elected Members and enhances the role and image of both the Council and the City ~~local government generally~~. Elected Members are expected to:

- conduct their ongoing relationship with other Elected Members, ~~Council~~ employees and the community with respect and courtesy
- act within the law at all times
- act in good faith and not for improper or ulterior motives
- act in a reasonable, just and non-discriminatory manner
- undertake their role with reasonable care and diligence.

As previously referred to, the Act requires Council to prepare and adopt a Code of Conduct to be observed by ~~the members of the Council~~ Elected Members. Elected Members must also abide by the Rules of Conduct. The Code of Conduct is a public declaration of the principles of good conduct and standards of behaviour that the Council agrees individual Elected Members should conform to when carrying out their role. It also provides guidance to Elected Members about carrying out their duties and responsibilities.

8.7.1 Working relationships between the Mayor and Councillors

The relationship between a Mayor and Councillors is critical to good governance. ~~and An effective relationships between the Mayor and Councillors will help to promote the successful delivery of the Strategic Plan~~ achieve the outcomes within Joondalup 2022 and to promote the credibility of the City.

In summary the important aspects of the Mayor/Councillor relationship are ~~the following~~ as follows:

- The Mayor is the Presiding Member of ~~the Council~~ and this role should be respected by all Councillors.
- The Mayor should facilitate an inclusive approach to decision-making and involvement in Council activities in general.
- The Mayor should assist Councillors to get their issues considered by ~~the Council~~.
- The Mayor should take some responsibility for Elected Member training and development and should work with the CEO to ensure that Elected Members receive necessary training opportunities.
- The Mayor is a source of assistance for Councillors and also has the responsibility for facilitating resolution of any disputes between Councillors ~~in accordance with the process outlined in the Code of Conduct.~~

The Mayor as the Presiding Member of ~~the Council~~ needs to play an integral and influential role both within ~~the~~ meetings and outside of the formal process, by facilitating and encouraging all points of view to be expressed and respected. This

will enable Elected Members, who may not have their point of view supported by the majority, be satisfied that they have been given a fair hearing and the process is transparent.

Through this facilitation role, the Mayor can manage conflict and differing opinions in a constructive manner. The complexity and diversity of opinion in the community, and therefore of Elected Members, can be made to work in the broader interest of the local government City as a whole, rather than be a source of division.

The Mayor is also a first point of contact for Councillors who wish to achieve a particular goal. ~~This~~ and this is especially true for newly elected Councillors who may be unfamiliar with a local government setting. Amongst other things, the nature of any local government business involves the need to bring together many diverse and sometimes-conflicting goals ~~together~~. By advising, supporting and facilitating negotiations, the Mayor can assist this process considerably, and in so doing, assist Councillors to meet their accountabilities to their communities.

This advisory and support role of the Mayor for other Councillors is possibly the single most important contribution to good governance a Mayor can make. It requires great skill and experience and as such, is critical to the overall operation of Council.

~~The Mayor's role of presiding at all meetings of the Council is an onerous one in order to achieve a balance of opinion and an outcome that demonstrates leadership by the Council in the community. The most important aspect of the role is a good understanding of meeting procedures and a detailed knowledge of the City's Standing Orders Local Law. This will enable the Mayor to provide impartial interpretations and to ensure the smooth flow of the meeting. Training programs are available and the Administration encourages Elected Members to participate in such programs on an ongoing basis in order to assist with an understanding and knowledge of the processes of local government.~~

~~As a community leader the Mayor represents the Council at many civic and ceremonial functions including the role as "host" of many Council activities. The Mayor should be familiar with etiquette and protocol arrangements and familiarise themselves with the expectations of greeting guests in a formal manner. Any speeches made on these occasions should not be used to present a point of view contrary to a decision of Council.~~

8.7.2 Working relationships between the Mayor and CEO

The Mayor and CEO work closely together and the relationship should be characterised by openness and good communication, with each keeping the other informed about important and relevant issues.

~~The functions of the CEO are outlined in section 5.41 of the Act. Two of these functions specifically relate to the CEO's relationship with the Mayor, being:~~

- ~~(e) Liaise with the Mayor or President on the local government's affairs and the performance of the local government's functions.~~
- ~~(f) Speak on behalf of the local government if the Mayor or President agrees.~~

It should be noted from the above extracts of the Act that both Both the Mayor and the CEO have a role to liaise in liaising with each other on the local government's City's affairs and the performance of the local government's City's functions.

However this liaison is qualified in that any liaison between the Mayor and the CEO is only relevant to those matters that enable each part to perform their statutory role.

~~They also~~ Both parties have a crossover of responsibilities in ~~relationship to speaking~~ on behalf of the City. While ~~est~~ this right rests with the Mayor there are occasions when it is considered prudent and more applicable for this function to be undertaken by the CEO. As such ~~Both of these matters involve the development of a clear relationship and an understanding of the limits of each other's authority.~~

~~While t~~ The Act does not detail how the liaison is to occur, this liaison function should be seen in the context of the separation of powers described in the Act, between the governing role of Council and the managing role of the CEO, and as such ~~T~~ the Mayor and the CEO ~~of the day of the City of Joondalup~~ are to adopt an approach that suits their particular circumstances and needs. The overall essential principles that should be followed are the ability to effectively communicate and to have a large degree of trust in each other as well as respecting each other's opinion and role ~~and role in delivering good governance to the people of the City of Joondalup.~~

The essential principles for an effective Mayor/CEO relationship are as follows:

Communication

- Both parties are in a position to brief and inform the other about information each is privy to and which would assist the other in ~~doing their job~~ performing their role. Deciding on what information is important and what should be passed onto each other must be negotiated and understood.
- Regular meetings – over and d above those scheduled to discuss specific issues or problems – are necessary to enhance planning and communication.
- The 'no surprises' principle should apply. The Mayor and CEO should brief one another so that neither is caught off guard within other forums.

Role clarity

- The Mayor and the CEO need to understand and respect one another's role. A clear understanding of their different roles is absolutely crucial and should be a subject of ongoing discussion.
- There is a power of differential, which should be acknowledged. While the Mayor has status and leadership capacity, the position has no direct authority in its own right. On the other hand, the CEO has direct authority through the Act. It can be frustrating for the Mayor and ~~Elected Member~~ Councillors that they cannot just 'fix' problems that come to their attention, while the CEO has this capacity.

Features of a good and effective relationship between the Mayor and the CEO are:

- The need to work closely together and put energy into achieving a good working relationship.
- A relationship characterised by consistency, openness and good communication. Each has the responsibility to keep the other informed about

important and relevant issues. Open communication ensures that an understanding develops about what is important and relevant.

- An understanding that each has different roles and authorities. While the Mayor is the civic leader of the local government City, this position has no specific authority while the CEO has particular authorities under the various sections of the Act.
- The need for the relationship between the Mayor and the CEO should aim to facilitate involvement and inclusion amongst the ~~elected representative~~ Elected Members and the organisation ~~Administration~~. It does not seek to concentrate power in the relationship.
- Consistent communication and regular fixed meetings.

8.7.3 Working relationships amongst Elected Members

When thinking of a Parliament, people often envisage an adversarial environment in which political groupings try to beat their opponents through debate. In contrast, the 'small group' nature of Council ideally features an environment where good relationships, respect and an appreciation of constructive diversity, lead to good decision-making.

All Elected Members have issues of particular concern and interest to them. Given the open nature of the local government system and the absence of a political party structure which exist at the State and Federal levels of government, Elected Members need to work together to achieve satisfactory outcomes.

Given this interdependency, Elected Member relationships should be characterised by mutual respect and an acknowledgement that, while they may not agree on all issues, they are all doing important and often difficult work.

~~When thinking of a Parliament, people often envisage an adversarial environment in which political groupings try to beat their opponents through debate. In contrast, the 'small group' nature of Council ideally features an environment where good relationships, respect and an appreciation of constructive diversity, lead to good decision-making.~~

At times, the very nature of local government business leads to conflict. How this conflict is addressed has implications for good governance. The role of the Mayor has been discussed, and this role, together with an appreciation of the particular dynamics at play, should assist in facilitating good governance.

With regard to behaviour ~~in the Council Chamber~~ at Council and committee meetings, Elected Members should model good constructive relationships and show personal respect for one another. There is not the requirement to agree with every Elected Members' opinion, but there is the need to respect those opinions and allow other members to be free to express their ~~opinions~~ point of view.

Elected Members need each other to achieve their individual and collective goals. Effective relationships between Elected Members assist in achieving a successful Council, a pleasant working environment and a Council with public credibility.

Features of an effective relationship are include the following:

- While they may have different views, Elected Members should treat each other with respect and courtesy.
- Disagreements, if they must be aired, should be expressed in ways that are not personal attacks, and do not cause detriment to individual Elected Members or the Council as a whole.
- Elected Members should not undermine each other, either within the local government or in the public domain.
- Elected Members must have effective working relationships in order to succeed individually and collectively.

8.7.4 Working relationships between Elected Members and CEO and Employees

One of the most complex issues in local government that is critical to good governance is the relationship between the Elected Members and the CEO ~~and employees~~.

Elected Members need support to manage pressures in such a way that their constituents feel their issues or concerns are being heard, but also need to appreciate that their demands cannot always be met. Advice and support on consultation and engagement, good systems that refer ~~complaints~~ requests and queries to the relevant area for ~~addressing~~ advice, and responsive services and processes all assist in furthering good governance.

~~A clear understanding by the~~ Elected Members need to understand that the role of the CEO ~~and employees~~ is to implement Council's goals, strategies and manage the City's services and to as well as advise and support the Council, ~~is important in fully understanding the process by which local government operates.~~

The CEO and Elected Members are likely to be in regular contact about issues, ~~problems~~ concerns and information. As with the Mayor/CEO relationship, a level of trust needs to be fostered which in turn, is based on good communication and understanding of each other's roles and functions.

A number of factors contribute to a good relationship between Elected Members and the CEO ~~and employees~~. These include:

- goodwill
- a clear understanding of each other's roles
- good communication
- agreed structures and protocols
- an appreciation of legislative requirements
- clear delegation of authority.

While the Elected Members and the CEO ~~and employees~~ have different roles, this is not to say that each does not have a legitimate interest in the other's role.

It is crucial that appropriate channels for information, discussion and consultation be developed to allow each other's interests to be discussed freely and openly shared. ~~for the legitimate interest the Elected Members have in the role in the CEO and employees, and the legitimate interest of the CEO and employees in the role of the Elected Members.~~

8.7.5 Relationships s and contact between Elected Members and employees

~~The City of Joondalup, like most other Councils~~ Local governments often grapples with the issue of direct contact between individual Elected Members and employees versus contact through the CEO and directors.

Individual Elected Members ~~should~~ must not seek to foster special relationships with employees for the sole purpose of seeking information that may not otherwise be available to all Elected Members. Elected Members and employees are entitled to privacy and protection from inappropriate behaviour and ~~T~~his includes un-authorised access to the ~~Council Administration~~ organisation's work area.

Some issues to consider ~~are~~ in respect of this relationship include the following:

- Elected Members need to understand that accountable advice needs to go through an organisational process. Advice must be sought ~~through~~ from the CEO or Directors. Elected Members should not seek advice from other employees as the employee may have a particular interest or point of view in ~~promoting~~ respect of the issue, but may not be in command of the full facts ~~of the issue~~.
- Employees are accountable ~~through the~~ to the CEO, ~~to the whole Council~~. They are not accountable to ~~individual~~ Elected Members and are not required to take direction from them.

The point above has been made clear as a result of ~~It is important to note~~ regulation 10 of the ~~Local Government (Rules of Conduct) Regulations 2007~~ which Rules of Conduct which specifically deals with the relationships between Elected Members and employees.

10. Relations with local government employees

- (1) *A person who is a Council member must not -
 - (a) *direct or attempt to direct a person who is a local government employee to do or not to do anything in the person's capacity as a local government employee; or*
 - (b) *attempt to influence, by means of a threat or the promise of a reward, the conduct of a person who is a local government employee in the person's capacity as a local government employee.**
- (2) *Subregulation (1) does not apply to anything that a Council member does as part of the deliberations at a Council or Committee meeting.*
- (3) *If a person, in his or her capacity as a Council member, is attending a Council meeting, Committee meeting or other organised event and members of the public are present, the person must not, either orally, in writing or by any other means -*

- (a) *make a statement that a local government employee is incompetent or dishonest; or*
- (b) *use offensive or objectionable expressions in reference to a local government employee.*
- (4) *Subregulation (3)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV.*

8.8 Elected Member access to information

One of the areas that can cause many issues is the access by issues for Elected Members is their ability to access information held by the City to information that enables them to undertake their role as an Elected Member. Section 5.92 of the Act provides that an Elected Member can have access to any information held by the City local government that is relevant to the performance of their functions under the Act or any other written law.

However this provision does not give an Elected Member an automatic right to have access to all records held by the City as any information must be relevant to the performance of an Elected Member's role.

In this respect requests for information held by the City are to be referred to the CEO who is to determine if the information is to be released, on the basis that he or she is satisfied that the requested information is relevant to the Elected Members' role and functions.

Notwithstanding, section 5.96 of the Act provides that if any person can inspect certain information then Elected Members may also request a copy of that information. An Elected Member is also entitled to be given access to records that are accessible to other persons under the Freedom of Information Act 1992.

Additionally Section 5.96 of the Act provides that if a person can inspect information then they may request a copy.

~~In response to the requirements of the Act the City of Joondalup has developed a policy relating to access to information by Elected Members.~~

8.9 Effective relationships - summary

~~The comment on the role of the Elected members in this section is to provide~~ information in this section provides an insight into the role ~~they~~ Elected Members, the CEO and employees need to play in developing effective relationships ~~with their fellow Elected Members, CEO and employees.~~

~~The fundamental role differences between the Council and the CEO and employees underpin the relationship.~~ There are fundamental role differences between the Council, Elected Members, the CEO and employees. The focus of Council and Elected Members should be on strategy, policy and outcomes. That is, who is to benefit from the local government's City's activities and in what way. The CEO and employees role is to focus on advice, implementation and operations.

Taking into account these role differences, the features of an effective relationship between the Elected Members and the CEO and employees are:

- a mutual understanding, acceptance and respect for each others' roles
- a preparedness to identify, discuss and resolve issues and problems if and when they arise
- on the part of the organisation Administration, a respect for and commitment to democratic governance and the primacy of Council in the local government structure.

9. PRINCIPLE THREE: DECISION-MAKING AND MANAGEMENT

9.1 Effective decision-making

Decision-making is the most important activity undertaken by Council ~~the City, both by Council and by employees.~~ Effective decision-making processes increases the likelihood that the decisions themselves will be in the best interests of the entire community. The Council can only make decisions by resolution, that is, a motion being considered at a properly convened meeting and passed by the required majority vote.

Many of the decisions made by the City (including Council and employees) are subject to administrative law, and therefore subject to challenge or appeal. The principles of administrative law are:

- to act in good faith
- to take into account only relevant considerations
- to act reasonably
- to provide procedural fairness.

~~The City has an effective and efficient strategic planning process in place, and processes to ensure that Council Plans are properly implemented.~~

~~A responsibility~~ An important role of the CEO is to ensure that Council receives quality and timely ~~reports~~ advice and relevant information to enable informed and effective decisions to be made. At meetings, this includes ensuring that all reports presented include with all the necessary background information and detail; any options; and ~~clear recommendations~~ any including financial or legal impacts; and any associated risks. Council decisions need to have clarity and that clarity arises from the recommendations in reports from the CEO. The decisions made at meetings provide the direction and authority for the ongoing operation of the City and give direction to the CEO to act.

9.12 Decision-making forums and processes

9.12.1 Council meeting schedule

~~An Elected Member's most important function as part of the governing body of Council is to attend and participate in the decision-making processes of Council.~~

~~The decisions made by Elected Members at formal Council meetings provide the direction and authority for the ongoing operation of the Council. The decisions of the Council give direction to the CEO to act.~~

~~The Council is a corporate body and as such it can only make decisions by resolution, that is, a motion has to be put to a properly convened meeting and passed by the required majority.~~

Council operates a four weekly meeting cycle, (except in January when Council is in recess) as follows:

Week 1 - Strategy Sessions

Strategy Sessions provide a forum for two-way communication between Elected Members and ~~employees~~ the CEO on strategic or complex issues. The ~~workshops~~ sessions are open to all Elected Members, the CEO and other employees designated by the CEO as required. Strategy Sessions are not open to members of the public.

Week 2 - Briefing Sessions

~~The~~ Briefing Sessions are used to inform ~~the~~ Elected Members on the ~~agenda~~ items of business to be presented and discussed at the forthcoming Council meeting. ~~No decisions are made at briefing Sessions.~~ Briefing Sessions are open to the members of the public, and question and statement time is permitted. Questions and statements must relate to an item on the current agenda. A member of the public may request to present a deputation to the Elected Members relating to an item on the agenda. ~~Deputations sessions are~~ received ~~held~~ on the same evening as the Briefing Session and at the commencement of the meeting. No decisions are made at Briefing Sessions although Elected Members may request additional information or may request alternative wording for recommendations to be prepared for possible consideration at the future Council meeting.

Week 3 - Council Meetings

Council meetings are formal meetings of Council as defined under the Act and are required to be open to the public, although under certain conditions, ~~Council meetings can be closed under the provisions of the Act~~ when Council considers certain items of business as prescribed by the Act. In order to promote transparency and accountability required for good governance, ~~these provisions~~ the closure of meetings should be applied as infrequently as possible.

Good decision making at a Council meeting is enhanced when the meeting is well run. This requires a clear and informative agenda ~~paper~~, good chairing and facilitation, adherence to meeting procedures and adherence to statutory requirements. There should also be a strong commitment to ~~the principle of~~ Council meetings being open to the public so that the community are fully informed and, where appropriate, involved in the decisions and affairs of ~~the~~ Council.

Elected Members, the CEO and directors attend all Council meetings.

Week 4 – No scheduled meetings

The fourth week of the ~~Council's~~ meeting cycle does not have any scheduled forums or meetings. This week is traditionally kept free to allow any special or urgent meetings of Council or committee, other functions or other forums, to be held.

9.4.2 Committee meetings

To assist with its decision making responsibilities, Council is able to establish committees from time to time. The work of committees is significant in local government due to the wide range of activities and functions of ~~the~~ Council. Committees report to ~~the~~ Council and are subject to the requirements of the Act.

When a Council establishes a committee, ~~comprising Elected Members~~ it must determine the reporting and other accountability requirements that are to apply in relation to that committee. Committees may comprise of:

- Elected Members only
- Elected Members and employees
- Elected Members, employees and members of the community
- Elected Members and members of the community
- Employees and members of the community
or
- Members of the community only.

The role and tasks of committees are varied. ~~Councils establish~~ however committees are generally established to:

- inquire into matters and to provide and make recommendations to Council on matters within ~~the Council's~~ responsibilities
- carry out a specific project or task on behalf of Council
or
- exercise, perform or discharge delegated powers, functions or duties.

The list below details the current internal committees of the City of Joondalup Council:

- Art Collection and Advisory Committee (open to the public).
- Audit Committee.
- Chief Executive Officer - Performance Review Committee.
- Capital Works Committee.
- Joondalup Performing Arts and Cultural Facility Steering Committee.
- Ocean Reef Marina Committee.
- Office Development Committee (open to the public).
- Policy Committee.
- Strategic Financial Management Committee.

Committees meet as and when required and make recommendations to Council however where a committee has delegated authority, it is able to make a decision in its own right.

9.4.2.3 Working groups and reference groups ~~Advisory Committees~~

Council may also establish working groups or reference groups as a mechanism for facilitating and improving community participation in the City's decision-making process.

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

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

Council has established:

- an Ocean Reef Marina Community Reference Group to assist it in the decision making related to the Ocean Reef Marina Project
- a Strategic Community Reference Group that provides advice and assistance to Council on matters of significant community interest and strategic initiatives.

~~Council has established a number of Advisory Committees to provide a vehicle for facilitating and improving community input and participation in the City's decision-making processes. The role of the Advisory Committees facilitates greater community consultation in accordance with the Act. Advisory Committees comprise community representatives and are resourced by the City.~~

~~Committees that are established by the Council provide Council with the opportunity to obtain the views of community representatives and enable Elected Members to network with a wide range of community representatives on issues of common interest. The opportunity to obtain such view serves to assist Elected Members to address strategic issues and priorities.~~

~~In effect, the Advisory Committees act as advisory bodies to Council by enabling the community to have a clearly defined mechanism for communication with Council.~~

~~The list below details the current Advisory Committees of Council:~~

- ~~• Art Collection and Advisory Committee.~~
- ~~• Community Safety and Crime Prevention Advisory Committee.~~
- ~~• Conservation Advisory Committee.~~
- ~~• Seniors Interest Advisory Committee.~~
- ~~• Streetscape Advisory Committee.~~
- ~~• Sustainability Advisory Committee.~~
- ~~• Design Advisory Panel.~~

~~Advisory Committees are able to make recommendations to the Council as part of the decision making process. Prior to these recommendations being submitted to the Council, the CEO, as part of their role in advising the Council, is to ensure employees of the City provide professional advice, which may include alternative recommendations to those submitted by the Committees in the report to Council.~~

9.2.4 Agendas and minutes

The level of decision-making and transparency needed for good governance requires comprehensive meeting agendas and minutes to be prepared. Matters to be considered at meetings of Council or committees are to be presented in an agenda prepared by the CEO. Agendas comprise of reports prepared by the organisation. Reports are structured to include information on the background, details, summary and funding of the proposal under consideration. All reports are the professional advice of the organisation and contain recommendations as to the most appropriate course of action to take based on the information presented.

The decision to adopt, amend or reject a recommendation rests with Council, or in some cases a committee (if it has delegated authority). Where a Council or committee decision is different to that which has been recommended, reasons for that decision must be stated and recorded.

Agendas are made available to Elected Members and the public before the Briefing Sessions and Council meetings. Where a committee is open to the public, committee agendas. In most circumstances, agendas of the various committees of Council are also made available.

Unconfirmed Council and committee minutes are to be made available to the public. The minutes of a meeting comprise all items considered at the meeting and include attendances, all motions, their movers and seconders and the results of the motions and the decisions that have been made.

9.1.42.5 Apologies and leave of absence

An important function of an Elected Member, when being a part of the governing body of Council or a committee, is to attend and participate in the decision-making processes at meetings.

Elected Members who are going to be absent from a meeting of the Council or a committee should submit an apology. For extended periods of absence, Elected Members should apply to the Council for to grant a leave of absence for that extended period. The Council may, by resolution, grant leave of absence to an Elected Member *(Section 2.25 Local Government Act 1995)*

Leave of absence is not to be granted to an Elected Member in respect of more than six consecutive ordinary meetings of the Council without the approval of the Minister of Local Government, unless all of the meetings are within a period of three months *(Section 2.25(2) Local Government Act 1995)*

An Elected Member who is absent, without first obtaining leave of the Council, throughout three consecutive ordinary meetings of the Council is disqualified from continuing his or her membership of the Council unless all of the meetings are within a two month period *(Section 2.25(3) Local Government Act 1995).*

9.82.6 Meeting procedures and conduct~~Standing Orders Local Law 2005~~

~~The Standing Orders Local Law 2005~~The Council has adopted a local law that provides a set of enforceable meeting procedures and rules to ~~achieve better decision making and a greater community understanding of the business of the Council.:~~

- ensure better decision making of council and its committees
- assist in the good and orderly conduct of meetings
- greater community understanding of the business of the Council.

It is recommended that Elected Members are to familiarise themselves with the provision of the City's Standing Orders Local Law 2005. Breaches of the Standing Orders Local Law may be liable for a penalty upon conviction. the meeting

procedures as any breaches may result in the matter being referred to the Local Government Standards Panel.

9.73 Decisions on land use planning and development ~~Planning and Development Functions~~

9.73.1 ~~Quasi-judicial~~ Administrative role

The City Council of a local government has particular decision-making responsibilities under the planning legislation, other state laws and planning policies. Council, has a 'quasi-judicial' role in deciding on development applications in certain instances.

The Council and employees are is responsible for applying and assessing factual situations and circumstances to against the legislative regime detailed in a quasi-judicial manner under the aspects of the Act, the Planning and Development Act 2005 and other relevant planning laws legislation.

The controls and procedures for assessment of development applications are set in place by a statutory framework and the City is local government are responsible for undertaking this role in accordance with the planning legislation and any other relevant laws Regulations.

~~Councils are~~ The City is required to decide on planning matters in an unbiased manner that satisfies the principles of administrative law and natural justice / procedural fairness. ~~Whilst it is recognised that lay members of the community constitute~~ Elected Members Councils, they must exercise their decision-making discretion over planning matters in a way that is mindful of this quasi-judicial role responsibility.

The City employs specialist planning officers to ~~draft~~ prepare reports and provide Council with all the relevant information ~~on the facts and~~ facts of a particular planning matter and the relevant law that is legislative provisions that are applicable.

There may be some occasions when Elected Members feel that they do not have enough information to make a decision and the best time to get additional information is prior to the meeting by contacting the CEO.

Council, in determining planning matters must take care to ensure that the following principles are adhered to:

- (a) Elected Members must read the report on the matter before voting at a Council meeting. An Elected Member who has not read the report and who 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) Elected Members must ensure 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 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 validity of the decision making process.

- (c) Council must be careful when making a resolution that is different to the ~~Administration~~ organisation's recommendation. In resolving differently from the recommendation, Council is required to include reasons for the variation from the recommendation. These reasons must take into account the relevant considerations of fact and law and must not be based on irrelevant considerations.
- (d) If a development has the potential to impact on neighbours and/or the locality, and where a statutory obligation exists, the City has a duty to ensure that consultation occurs in relation to that development. The report of the ~~Administration~~ organisation is to include details of any neighbour notification or consultation that has occurred. The City must ensure that neighbours who may be adversely affected by a proposed development have had an adequate opportunity to make a submission 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 a person with a sufficient interest requests it.

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

Generally, Council as a body, and each Elected Member 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 facts and should not take into account irrelevant considerations.

9.7.3.2 Planning schemes

~~Local government is required to~~ Under the *Planning and Development Act 2005* local governments are required to have a planning scheme in place for their respective district. A local government's planning scheme is required to be consistent with the Metropolitan Region Scheme, which is administered by the State Government. ~~The Local Government Planning Scheme~~ and must also take into consideration State Government planning strategies, plans and policies.

A 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 planning scheme are formulated through a collaborative and consultative process involving the State Government, the local government and the broader community. The State Government, through the Minister for Planning

provides final approval to the content of a planning scheme and once ~~gazetted~~ published in the Government Gazette, the scheme comes into operation and has the force of law. ~~The authority to operate its planning scheme is delegated to the City by the State Government.~~

A planning scheme requires review every five years and 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 input.

At the present time the City operates under the City's *District Planning Scheme No. 2* (often referred to as DPS2), which was gazetted in November 2000.

Amendments can be made to an operative planning scheme to 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 any scheme amendment.

Local planning policies are also used to support and guide the implementation of the planning scheme. These planning policies ~~include the City's Home Business and child Care policies.~~ are wide and varied and range from the installation of cubby houses to the installation of telecommunication facilities. 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 government 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 Council in administering a planning scheme includes:

- consideration of development applications
- consideration of subdivision proposals
- consideration of Planning Scheme Amendment proposals (whether suggested by the City or by the community)
- enforcement of planning scheme provisions
- development of planning policies
- review of existing planning scheme
- formulation of new 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 provides Elected Members with detailed information relating to the particular planning issue requiring Council ~~consideration~~ determination. In certain circumstances applicants have rights of appeal to challenge a planning related decision of Council or an employee. It is therefore important for Elected Members to gain a full understanding of the issues and follow proper process before reaching a decision.

The State Administrative Tribunal (SAT) reviews decisions made by local governments regarding a range of matters including town ~~and regional~~ planning and building approvals. ~~Landowners and/or applicants can apply~~ Applications can be made to the SAT ~~to make decisions, settle disputes and~~ for a review of ~~decisions made by local governments~~ under a range of enabling laws.

The District Planning Scheme No. 2 permits Council to delegate its decision-making powers to certain qualified persons or committees, subject to certain conditions. This is important in terms of allowing those applications that meet certain criteria to be determined by employees. The criteria used for determining the types of development that can be decided by employees is set out in a Notice of Delegation, which is reviewed bi-annually or earlier if so determined by Council.

All decisions made under delegated authority are binding and represent a 'Council decision'. ~~The following positions of Council have varying degrees of decision-making powers under the Notice of Delegation:~~

- ~~• Director Planning and Development.~~
- ~~• Manager Planning Approvals and Environmental Services.~~
- ~~• Coordinator Planning Approvals.~~
- ~~• Senior Planning Officers.~~

Delegations are necessary for good governance in order to permit:

- Council to focus on strategic matters and major developments that are beyond the Notice of Delegation
- the large volume of development applications received by the City to be dealt with in an efficient and effective manner.

9.7.3.3 Design Advisory Panel

Council has established a Design Advisory Panel, the purpose of which is to provide independent technical advice and recommendations to Council on design issues related to the more significant development applications the City receives.

The membership of the Design Advisory Panel comprises members from relevant professional institutions representing:

- architecture
- urban design planning
- town planning
- landscape architecture.

9.3.4 Development Assessment Panels

The Western Australian State Parliament enacted legislation that has altered the Western Australian planning system with the introduction of Development Assessment Panels. Development Assessment Panels consist of three specialist independent members and two Elected Members from the City and all membership appointments are made by the Minister for Planning.

Development Assessment Panels are the decision making body for a certain type, class and/or value of planning applications the City receives from time to time. The City's planning specialists provide technical reports to the Department of Planning, who in turn refer this report and any other information to the Development Assessment Panel, which will make a determination on the planning matter.

Development Assessment Panels are not managed by the City but by the State Government's Department of Planning, with certain resources being provided by the City. Development Assessment Panels have their own meeting procedures and a Code of Conduct. Only the Presiding member of the panel is able to speak on decisions or matters that concern the panel.

The City of Joondalup forms part of the Metro North-West Joint Development Assessment Panel.

9.34 Declarations of interest

One important aspect of the City's decision-making responsibilities is how conflicts of interests are identified, recorded and treated throughout the organisation. It is not only important to ensure that real or potential conflicts of interests are handled appropriately, but also perceived conflicts of interests.

Interests can be categorised as being:

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

It is an Elected Member's responsibility to decide whether or not to declare an interest.

9.34.1 Financial interests

It is the fundamental ~~a~~ statutory obligation and duty of an ~~Elected Members~~ and committee members of the Council to vote on every item of business discussed at meetings of the Council or a committee (with delegated authority). However, an Elected Member or a committee member may be ~~prohibited~~ excluded from presiding and voting in the meeting if that ~~Elected Member~~ person, or a person that is closely associated ~~person~~ to them, has a direct or indirect financial interest in the subject under discussion.

~~Elected Member's~~ A Attention is drawn to Division 6 ~~Disclosure of Financial Interests of Part 5 of the Local Government Act 1995~~ which details disclosure of financial interests in matters affecting local government decisions. This division defines financial interests, closely associated persons, and interests that need not be disclosed by Elected Members and committee members.

~~An Elected Member~~ A member who has an interest in any matter to be discussed at a Council or Committee meeting that will be attended by that ~~Elected Member~~ member must disclose the nature of the interest:

- in a written notice given to the Chief Executive Officer before the meeting; or*
- at the meeting immediately before the matter is discussed.*

(Section 5.65 (1) of the ~~Local Government Act 1995~~)

~~An Elected member~~ A member who makes a disclosure under section 5.65 must not:

- (a) *preside at the part of the meeting relating to the matter; or*
(b) *participate in, or be present during, any discussion or decision making procedure relating to the matter, unless, and to the extent that, the disclosing Elected Member is allowed to do so under Section 5.68 or Section 5.69.*

(Section 5.67 of the ~~Local Government Act 1995~~)

Sections 5.68 and 5.69 of the Act detail the circumstances in which Council, committees and the Minister may allow Elected Members and committee members disclosing interests to participate in meetings.

Failure to comply with certain sections of ~~Division 6~~ of the Act can result in a penalty of \$10,000 or imprisonment for two years.

The Department of Local Government Operational Guideline No. 20 – Disclosure of Financial Interests at Meetings provides a comprehensive guide to identifying and declaring financial interests and steps to take in safeguarding liability.

~~There are additional obligations set out in the City's Standing Orders Local Law 2005.~~

~~The Publication 'Financial Interest Handbook' published by the Department of Local Government provides a comprehensive guide to identifying and declaring financial interests and steps to take in safeguarding liability.~~

~~It is an Elected Member's responsibility to decide whether or not to declare an interest.~~

9.4.2 Proximity interests

Elected Members and committee members also have a responsibility to declare interests around matters that are in close proximity to that person's land. Section 5.60B of the Act states a person has a proximity interest in a matter if the matter concerns:

- (a) a proposed change to a planning scheme affecting land that adjoins the person's land
(b) a proposed change to the zoning or use of land that adjoins a person's land
or
(c) a proposed development of land (as defined by section 5.63(5) of the Act as being the development, maintenance or management of the land or of services or facilities on the land) that adjoins the person's land.

Land (the proposed land) adjoins a person's land if:

- (a) the proposed land, not being a thoroughfare, has a common boundary with the person's land
(b) the proposed land, or any part of it, is directly across a thoroughfare from, the person's land
or
(c) the proposed land is that part of the thoroughfare that has a common boundary with the person's land.

Similar to financial interests, an Elected Member of committee member with a proximity interest must disclose their interest (in accordance with sections 5.65 of the Act) and not preside or participate in discussion on the matter (section 5.67 of the Act). Although under certain circumstances the Council, committee or the Minister may allow Elected Members and committee members disclosing interests to participate in meetings.

9.3.24.3 Interests that may affect impartiality

Elected Members are required to disclose any interest, which could, or could reasonably be perceived to, adversely affect their impartiality, and includes an interest arising from kinship, friendship or membership of an association. ~~where they believe that the public may have a perception that their impartiality may come into question. The disclosure must occur when the matter is to be discussed at a Council or committee meeting where the person who has the interest will be in attendance and/or has given, or will give, advice.~~

The disclosing of an interest that may affect impartiality is to be made immediately before the matter is discussed at a Council or Committee meeting or in a written notice given to the CEO before the meeting. ~~or at the time the advice is given, and shall be recorded in the minutes of the meeting.~~

The disclosure of an interest that may affect impartiality does not affect the ability of the Elected Member to discuss or vote on the matter.

~~Elected Member's a~~Attention is drawn to Regulation 11 of the ~~Local Government (Rules of Conduct) Regulations 2007~~ Rules of Conduct which deals with disclosure of interests that may affect impartiality:

<p>11. Disclosure of interest</p> <p>(1) <i>In this regulation —</i></p> <p>interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the person having the interest and includes an interest arising from kinship, friendship or membership of an association.</p> <p>(2) A person who is a Council member and who has an interest in any matter to be discussed at a Council or Committee meeting attended by the member must disclose the nature of the interest —</p> <p>(a) in a written notice given to the CEO before the meeting; or</p> <p>(b) at the meeting immediately before the matter is discussed.</p> <p>(3) Subregulation (2) does not apply to an interest referred to in section 5.60 of the Act.</p> <p>(4) Subregulation (2) does not apply if —</p> <p>(a) a person who is a Council member fails to disclose an interest because the person did not know he or she had an interest in the matter; or</p> <p>(b) a person who is a Council member fails to disclose an interest because the person did not know the matter in which he or she had</p>

an interest would be discussed at the meeting and the person disclosed the interest as soon as possible after the discussion began.

(5) *If, under subregulation (2)(a), a person who is a Council member discloses an interest in a written notice given to the CEO before a meeting then —*

(a) *before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*

(b) *at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before a matter to which the disclosure relates is discussed.*

(6) *If:*

(a) *under subregulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or*

(b) *under subregulation (5)(b) notice of a person's interest in a matter is brought to the attention of the persons present at a meeting,*

the nature of the interest is to be recorded in the minutes of the meeting.

Note: ~~The Local Government Act 1995, the Local Government (Rules of Conduct) Regulations 2007 and the City's Code of Conduct require all interests to be declared at the meeting at which the matter is to be discussed, and are to be declared immediately prior to the matter being raised.~~

9.4.4 Disclosure of interests of employees

Similar to Elected Member and committee members, employees should ensure that there is no actual or perceived conflict or incompatibility between the important fulfillment of the public or professional duties and either their personal interests, or those persons closely associated with them.

Section 5.70 of the Act states that where an employee has an interest in any matter in which the employee is providing advice or a report directly to Council or a committee, they must disclose the nature of the interest when giving the advice or report. There is no requirement however for employees to leave meetings where interests have been disclosed.

In situations where an employee has been delegated a power or duty by the CEO, and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and must either disclose the nature of the interest to the CEO (or should the employee be the CEO, disclose the nature of the interest to the Mayor).

The City's Code of Conduct also places a requirement on employees to disclose any interests, where the interest could, or could reasonably be perceived to, affect the impartiality of the employee having the interests and includes an interests arising from kinship, friendship or membership of an association. In some situations this may require the employee to disqualify themselves from dealing with a particular matter.

9.4.5 Primary Returns and Annual Returns

Section 5.75 of the Act requires Elected Members and certain employees to complete a Primary Return within three months of commencing in Office or being employed at the City.

A Primary Return can best be described as a snapshot of personal information and certain financial interests a person has at a particular point in time.

At the end of each respective financial year, Elected Members and certain employees must complete an Annual Return, which discloses any changes to the information previously disclosed in their Primary Return or new interests that have accumulated since completing their Primary Return or last Annual Return.

Primary Returns and Annual Returns assist with the decision-making process as they highlight an individual's interests at a particular point in time, thereby clarifying whether a conflict of interest may arise.

9.45 Qualified privilege and pProtection from liability

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

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

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

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

~~Members of the Federal and State Parliaments have absolute privilege. This means that they cannot be sued for defamation for anything they say inside their respective parliaments.~~

~~Elected Members have what is known as 'qualified privilege'.~~

~~This means that they cannot be sued for defamation for what they say inside the Council Chambers (or committee rooms) provided what they say is in 'good faith' or without malice. Malice is evident (and will lead to the Elected Member being vulnerable to a defamation action) if the said statement is:~~

- ~~•—— irrelevant to the issue being debated or discussed~~

- ~~said in the knowledge that it is untrue~~
~~or~~
- ~~in circumstances where there has been recklessness as to whether it is true.~~

~~Outside the Council Chambers (or Committee Room), qualified privilege may still provide basic protection so long as the Elected Member is discussing a matter considered to be related to the business of the local government.~~

~~Qualified privilege may also protect Elected Members when making comments to the media or to public gatherings. However, this protection may be lost if malice exists.~~

9.86 Legislative Legal framework

The City of Jeondalup is constituted as a district under the Local Government Act 1995 and has a formal geographical area, known as a district. The general function of the local government City is to provide for the good government of people living and working within its district and includes legislative and executive powers and responsibilities given to it through the Act.

Overall, the Act is intended to provide excellence in governance through:

- better decision-making by local governments
- greater community participation in the decisions and affairs of local governments
- greater accountability of local governments to their communities
- more efficient and effective local government.

To allow local governments better decision-making, greater accountability and to be more efficient and effective, the Act provides a number of ways of achieving these objectives.

9.8.26.1 Delegations

Delegations form part of the City's decision-making approach. Delegations entrust certain types of decisions to the CEO, employees or committees.

~~All delegations should be in the context of Council policy that provide guidance to the delegate to make decisions that are consistent with the council's desire policy outcomes.~~

~~Delegations of authority are established, maintained and documented by the Council to empower the actions of delegates so that Council can retain oversight of and accountability for the decisions made by delegates. Decisions made under delegation are reported to the Council on a regular basis, and records of delegations are retained in accordance with legal requirements for document retention and record keeping.~~

~~Council reviews delegations at least once every year.~~

Under the Act both Council and the CEO are given certain functions and duties to be discharged. Council may delegate authority to the CEO to perform some of its functions and duties on its behalf. The use of delegated authority means that the large volume of routine work of Council can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

Delegated authority allows Council to concentrate on policy development, representation, strategic planning, and community leadership.

The CEO may delegate to any other employee the authority to perform functions and duties that are exercisable by the CEO under the Act or that have been delegated to the CEO by Council (with the exception of the power to delegate). This accords with employees being responsible to the CEO and the CEO being responsible to Council. Similarly, the implementation of Council decisions and instructions are conducted by the CEO, who may in turn require responsibility to be undertaken by other employees of the City.

Delegations of authority are required in order to provide employees of the City with the power to exercise duties and make determinations. It is essential that the City's delegations are performed in a manner that is in accordance with the delegation and is compliant with the relevant legislation. The City is required to keep records on the exercise of its delegations and delegations by Council are to be reviewed on an annual basis.

9.6.2 The concept of 'acting through'

Not all functions or duties of the local government require formal delegation. The Act details that a local government and / or the CEO is not prevented from performing any of their functions under the Act or any other written law by 'acting through' another person.

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

9.6.3 Authorised persons

Under legislation, Council or the CEO (with delegated authority) can 'appoint' persons or classes of persons to perform particular functions. These persons are generally termed 'authorised persons' or some other similar term. Legislation or local laws may specify that an 'authorised person' can perform a particular function and those functions or duties are normally specified in the applicable provision.

An appointment is made, as the case requires, by either a formal resolution of the Council, or a written appointment by the CEO (with delegated authority or other employee with delegated authority), or as detailed in the specific legislation. Authorised persons are not necessarily employees with delegated authority.

Employees appointed as authorised persons are required to have a certificate of appointment or some other form of identification to confirm their appointment and to demonstrate their ability to perform that function.

9.8.56.4 Local laws

~~Council is responsible for adopting a set of local laws.~~ Under the Act and as part of its legislative functions, Council is able to make local laws as a way of providing good governance to the community and which that reflect current community standards and provide for the good governance of the City.

The Act outlines the process by which the Council may adopt local laws. This legislative role allows the Council to adopt a regulatory regime that may be enforced through the courts, by the issue of infringement notices or by performing other executive functions to enforce the local laws. When adopting local laws the Council must be aware that they operate with the force of legislation and the City has a duty to enforce all of its local laws.

The process for ~~adopting~~ making a local laws provides the community with a six-week advertising period to allow ~~for the opportunity for comment on proposed local laws.~~ The local law is then presented once more to Council and any public submissions are considered. Upon final adoption, the local laws ~~are gazetted~~ is published in the Government Gazette and reviewed by the Western Australian Parliamentary Committee on Delegated Legislation.

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

The City maintains local laws relating to:

- ~~Animals Local Law 1999~~
- ~~Bushfire Prevention and Control Local Law 1998~~
- ~~Extractive Industries Local Law 1998~~
- ~~Health Local Law 1999~~
- ~~Local Government and Public Property Local Law 1999~~
- ~~Parking Local Law 1998~~
- ~~Private Property Local Law 1998~~
- ~~Signs Local Law 1999~~
- ~~Standing Orders~~ (Meeting Procedures) ~~Local Law 2005~~
- ~~Trading in Public Places Local Law 1999.~~

The City is required to review all its local laws every eight years from the date they came into operation or from the date they were last reviewed. This review process also allows for community consultation and feedback.

9.8.46.5 Policies

Section 2.7(2)(b) of the Act states that the Council is to “determine the local government’s policies”.

Policies provide the Council and ~~staff~~ the organisation with the ability and direction to make decisions that are considered to be consistent and unbiased. A policy can also provide detail on the manner in which the City undertakes, or requires others to undertake, certain works or activities.

The Council has established the following level of policy:

- Council Policies - these are strategic policies that set governing principles and guide the direction of the organisation to align with community values and

aspirations. These policies have a strategic, external focus and align with the vision and strategic direction of the City.

- City Policies - these policies are developed for administrative and operational requirements. They have an internal focus.

9.8.36.6 Executive functions

The Council is responsible for overseeing the executive functions of the City. The executive functions of the local government City are to provide services and facilities In performing its executive functions, section 3.18 of the Act states the following:

- (1) A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or in connection with, performing its functions under this Act.
- (2) In performing its executive functions, a local government may provide services and facilities.

A local government can, therefore, administer local laws and provide services and facilities in order to provide for 'the good government of the district'.

A Local government must satisfy itself that the services and facilities it provides:

- integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body
- do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private
- are managed efficiently and effectively.

9.7 Business management

The management of corporate business within an organisation is important to the concept of governance. As part of the City's Integrated Planning Framework, the City has developed a Five Year Corporate Business Plan. The Five Year Corporate Business Plan guides internal operational activities and serves as the City's rolling five year service and project delivery program which is aligned to the strategic direction and priorities set within Joondalup 2022. It also reflects actions within other informing strategies and the City's Five Year Capital Works Program. Detail on specific projects and their milestones are then articulated in the City's Annual Plan.

Business Unit's are required to develop yearly Business Unit Plans that operationalise the specific projects and milestones in the City's Annual Plan as well as other plans and operational outcomes.

9.58 Financial management

9.5.48.1 Role of the CEO Administration

The CEO is accountable to Council for the financial performance of the City. ~~They~~ The CEO must ensure that certain fundamentals are in place including, but not limited to:

- ~~There must be~~ appropriate financial systems, plans, strategies and protocols
- ~~There must be~~ adequate resources to support the City's activities and financial monitoring and performance
- suitable internal review and audit mechanisms ~~must be in place~~
- ~~There must be~~ an organisational culture in which where responsibility and accountability are clearly delineated and understood
- adherence to and compliance with legislative provisions ~~Relevant external legislation must be adhered to and supported so that if whistle-blowing occurs or freedom of information is invoked, the organisation will not be adversely affected.~~

9.5.18.2 Financial management planning and principles

The Council is ultimately responsible for the financial management of the City of Joondalup. Good financial ~~governance~~ management requires both Council and the Administration organisation to play their role. ~~Council~~ The City is to has developed a long-term financial plan (its 20 Year Strategic Financial Plan) that is consistent with strategic initiatives within Joondalup 2022 the Strategic Plan. Community input is to be sought at the draft stage so that such input can help shape the plan.

Council is to ensure that it receives sufficient reports and other information to adequately monitor its performance, resource allocation, expenditure and activities, and the efficiency and effectiveness of its service delivery.

There should be robust and transparent financial management established and maintained to meet local government's accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future.

~~The Council is ultimately accountable for the financial management of the local government, and it is important to identify the roles different parts of the City of Joondalup have in achieving sound financial management.~~ There is an emphasis is on the role of the ~~Elected Members~~ Council in delivering their accountability for the financial state of the ~~local government~~ City, which is accomplished through the City's Strategic Financial Management Committee, the role of which is to as follows:

To:

1. Promote and advocate sound financial management within the City and provide advice to the Council on strategic financial management issues;
2. In particular advise Council on:
 - (a) How funding can be achieved for any major capital works project before the Council makes a commitment to a project;
 - (b) Levels of service delivery – determine:
 - which services to be provided;
 - standards of service. Such standard will be determined with reference to:
 - best industry practice standards where applicable;
 - internally agreed standards which will be determined with reference to local community expectations;
 - (c) Preparation of the Strategic Plan with high priority being given to ensure that the plan is achievable in the long term;

- (d) Consideration of public submissions to the Strategic Plan;
- (e) Final acceptance of the Strategic Plan;
- 3. Policy development and review of policies with financial implications for the City.

Council has also established an Audit Committee to oversee and advise the Council on matters of accountability and internal control as well as a Capital Works Committee to monitor the progress and delivery of the City's capital works program.

9.5.2 8.3 Annual Budget

One of the ~~primary~~ responsibilities of Council under the Act is to prepare, set and adopt the City's Annual Budget, ~~which under the Local Government Act 1995, Council is required to prepare and adopt.~~ The Annual Budget can be viewed as the annual articulation of the City's 20 Year Strategic Financial Plan and must also consider the priorities, projects and initiatives within Joondalup 2022 ~~longer term strategic financial planning framework.~~ Based on the leadership by ~~the~~ of Council, it ~~the determination of the Council's~~ City's priorities for each year and the allocation of resources to achieve those ~~these~~ priorities.

Under Regulation 33A of the Local Government (Financial Management) Regulations 1996 the City is required to conduct a review of its Annual Budget after considering the changes in its operating environment since the beginning of the financial year with a view to forecasting the financial impacts likely to arise for the remainder of the year. The review is to be conducted before 31 March each year.

9.8.4 Strategic Financial Plan

The 20 Year Strategic Financial Plan is a high-level informing strategy that outlines the City's approach to delivering infrastructure and services to the community in a financially sustainable and affordable manner. It also demonstrates the City's commitment to managing its operations in a sustainable way that minimises the financial impact on the City's ratepayers.

The 20 Year Strategic Financial Plan represents the primary and key strategic financial planning document for the City and has a direct bearing on the ability to plan for the future financial sustainability of the City. It represents projections and estimates, based on many assumptions and is a primary planning tool for the development of future budgets for the City. In preparing the 20 Year Strategic Financial Plan, the Department of Local Government's Long Term Financial Planning Framework and Guidelines is used as the principal reference point in terms of form and content.

Among other things, the plan summarises the financial impacts of the priorities, projects and objectives identified in Joondalup 2022 and assists in setting the future financial direction and decisions of the City.

The 20 Year Strategic Financial Plan is underpinned by the following principles:

- consistency
- prudence
- transparency
- sustainability

- performance and accountability
- innovation (in accordance with Joondalup 2022).

Local governments are also required to prepare a 'Plan for the Future' of the district at least every second year that identifies the strategic direction of the district and indicates the resources required for the achievement of the strategies. The Local Government Act 1995 requires Councils to consider the 'Plan for the Future' in formulating the Annual Budget.

The Annual Budget is developed within an overall strategic planning framework which guides the Council in identifying community needs and aspirations over the long term through the development of the Strategic Plan and the Strategic Financial Plan over a 20 year time horizon.

The long term Strategic Financial Plan summarises the financial impacts of the goals and objectives identified in the Strategic Plan, determine their sustainability, and therefore sets the future financial direction of the Council.

In developing the high level Strategic Financial Plan the Council adheres to the following principles:

- Prudent management of financial risks relating to debt, assets and liabilities.
- Provision of reasonable stability in the level of rate burden.
- Consideration of the financial effects of Council decisions on future generations.
- Provision of accurate and timely disclosure of strategic financial information.
- New revenue sources to be identified where possible.

9.9 Asset management

An organisation practices good governance when it manages its assets in a financially viable, efficient and sustainable manner.

One major initiative to manage the City's large asset base, particularly community and road infrastructure, is the City's Five Year Capital Works Program which plans the installation of new infrastructure as well as the renewal and replacement of existing infrastructure in a planned and prioritised way.

The City also has an Asset Management Plan and other plans that provide strategic direction in the management of City assets as well as a Property Management Framework to guide the management of all property owned or managed by the City.

9.10 Human resource management

To enable the City to continue to provide high quality services to the community now and into the future it is critical that the City develops and maintains a skilled, flexible and sustainable workforce.

Due to skill shortages as a result of the current economic environment, and in line with the Department of Local Government's *Integrated Planning and Reporting Framework* the City has developed a *Workforce Plan* to provide a strategic framework for organisational workforce planning and management. This will enable the City to attract and retain a suitable, committed and professional labour force that

will ensure the City achieves its strategic priorities within *Joondalup 2022* and deliver quality services to the community.

Although Council determines the appropriate organisational structure, it is the CEO's responsibility to manage the employees of the City. The organisational structure needs to allow for flexibility to adapt to changing needs.

All employees are required under the Act to undertake a performance evaluation each year. These evaluations assess specific job performance, behavioural indicators, business planning outcomes as well as determining an employee's training and development needs.

10.69.11 Records management

The City's corporate records are to be managed in accordance with the City's Recordkeeping Plan and Records Management Policy.

All Elected Members, staff employees and contractors are responsible for maintaining complete, accurate and reliable evidence of all business transactions and ensuring all corporate documents are retained within the City's official recordkeeping system at the point of creation regardless of the format, being in accordance with:

- *State Records Act 2000*
- *Evidence Act 1906*
- ~~*Acts Amendment (Evidence) Act 2000*~~
- *Freedom of Information Act 1992*
- *Local Government Act 1995*
- *Local Government Accounting Directions 1994*
- *Privacy Act 1988 (Cth).*

9.612 Risk management

The City is responsible for providing a wide and diverse range of services to its community. All of these activities involve some form of risk, which must be managed to ensure that aims and objectives are achieved, services are delivered and that opportunities to deliver better and more cost effective services are realised. If the City is not aware of, or has not adequately assessed or managed some risks, it could result in financial loss, threats to public or employee safety or lead to substantial adverse publicity.

CPA Australia defines risk management as follows:

'Risk management is referred to in AS/NZ 4360:1999 as a logical and systematic method of establishing the context, identifying, analysing, evaluating, treating, monitoring and communicating risks associated with any activity, function or process in a way that will enable organisations to minimise losses and maximise opportunities. It is also defined in the standard as the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects'.

~~Council~~ The City is to support and be committed to a risk management program at a policy and strategy level, and the CEO and senior management are to ensure processes are in place for identifying and managing risk and responding to and minimising such risks.

~~The City is responsible for providing a wide and diverse range of services to its community. All of these activities involve some form of risk, which must be managed to ensure that aims and objectives are achieved, services are delivered and that opportunities to deliver better and more cost effective services are not missed. If the City is not aware of, or has not adequately assessed or managed some risks, it could result in financial loss, threats to public or employee safety or lead to substantial adverse publicity.~~

The City has established a Risk Management Framework, which is aimed at contributing to the corporate governance arrangements within the City. The framework explains the City's approach to risk management and sets out the roles and responsibilities throughout the organisation. The document also outlines the key features of risk management and the potential benefits and its importance to the City.

10. PRINCIPLE FOUR: ACCOUNTABILITY

10.1 Principle of accountability

Excellence in governance is based on the principle that the people involved in providing governance, being the Elected Members and officers employees, are held to account for what they do and for the City's performance. ~~Accountability means holding the Elected Members and management of the City responsible for its performance. The public trust placed in the local Government City and in its Elected Members to act in the public interest can be justified in the manner in which their duties have been performed.~~

Accountability systems need to provide disclosure and for the review of decision-making and processes. These systems must record and support the ~~local government's~~ City's accountability to its stakeholders and its legal accountability to the State Government. ~~They are both internal and external.~~

Risk management systems aim to ensure that community assets are protected. An internal audit system, a comprehensive consultation and engagement policy and framework all supports good decision-making by ensuring that Elected Members are aware of the views of those who will be affected by any decision.

The fundamental importance of accountability ~~though~~ is that ~~local governments~~ the City exists s to govern for and on behalf of ~~their~~ its communityies. Systems and values must reflect this accountability.

Accountability systems that provide disclosure and review of decision-making and processes are integral to good governance and are reflected through:

- open and transparent government so that people can follow decision-making processes and outcomes
- consultation so that communities feel that they are being heard
- good information and communication processes so that communities are kept informed.

10.2 Performance management and reporting

The Council is accountable for monitoring performance in the achievement of ~~its~~ the City's strategic direction, goals and financial outcomes which are set through ~~the Strategic Plan~~ Joondalup 2022, the 20 Year Strategic Financial Plan, the Five Year Corporate Business Plan, the Annual Plan and the Annual Budget.

The management of the City's performance and the reporting of that performance to the community is achieved in several ways.

10.2.1 Quarterly progress reporting

The City has developed a reporting system to provide Council with the necessary information to enable it to assess performance against the various plans it has developed. The reporting system is a systematic and regular process that allows Council to take action to rectify any issues that arise and as such, be accountable to the community.

The Department of Local Government's Integrated Planning and Reporting Framework sets out the requirements for local governments to undertake planning and reporting on their activities. The process includes annual reporting to the community on achievements and outcomes. The City's Annual Plan, adopted by Council each year, is in line with this requirement and focuses on the City's actions and objectives within Joondalup 2022.

Quarterly progress reports against the City's Annual Plan provides Council and the community with a full assessment of the City's progress in relation to the achievement of pre-determined milestones for major projects and programs. Full progress reports against the City's Capital Works Program are also provided at the same time as the Annual Plan progress reports to Council.

9.5.3 10.2.2 Financial reporting

Financial reporting is a basis for accountable financial management and it is required by the Act. Financial reporting undertaken at the City is as follows:

- Monthly Financial Activity Statement - timely and accurate reports are essential to keep Council in an informed position to ensure the City meets its financial responsibilities. In accordance with the Act and the *Local Government (Financial Management) Regulations 1996*, Council is required to prepare a monthly statement of financial activity reporting on the source and application of funds as set out in the Annual Budget.
- List of Payments - Council has delegated to the CEO the exercise of its authority to make financial payments from the City's Municipal Fund and Trust Fund. Therefore in accordance with Regulation 13(1) of the *Local Government (Financial Management) Regulations 1996*, a list of accounts paid by the CEO is prepared each month for Council, showing each account paid since the last list was prepared.
- Annual Financial Report - in accordance with the Act, the City is required to prepare an Annual Financial Report each financial year which provides information about the City's financial activities, income and expenditure. The City's Annual Financial Report is to be audited by an external auditor and is to be considered by the City's Audit Committee before being submitted to Council for adoption. ~~provides information about the City's activities, income and expenditure. In accordance with the Act, the City is required to develop an Annual Report each financial year that is adopted by the Council.~~

An abridged version of the Annual Financial Report forms part of the City's Annual Report, which is received and discussed by the community at the Annual General Meeting of Electors.

~~The Annual Report is a key organisational document which details various information relating to the achievements of the City and the Council; financial information and statements; key projects commenced or achieved; and strategic performance indicators. The strategic performance indicators help to evaluate present programmes and make decisions on changes to them, or the need for additional services.~~

~~The Annual Report is received by the community at the Annual General Meeting of Electors.~~

- ~~• Quarterly Reports - for each quarter ended September, December, March and June a report is presented to Council. The report identifies any significant variations with the year-to-date performance and the year-to-date budget, any likely effect on the end-of-year results and any significant areas where the activities are not in accordance with budget estimates.~~
- ~~• Monthly Reports - timely and accurate reports are essential to keep the Council in an informed position to ensure it meets its financial responsibilities.~~

~~Each month the Council is required to prepare a financial report in such a form as it considers appropriate. A quarterly report can be prepared in lieu of monthly reports.~~

~~The monthly and quarterly reports are to be recorded in the minutes of the Council meeting.~~

10.2.3 Annual Report

In accordance with section 5.53 of the Act the City is to prepare an Annual Report each financial year. Other than just financial information the City's annual report includes, among other things, the auditor's report, internal information and an overview of the City's 'plan for the future' (being Joondalup 2022) including major initiatives that are proposed to commence or to continue.

The City's Annual Report is the City's key reporting document that satisfies the Annual Report requirements under the Act. It provides detailed information to all of the City's stakeholders about how the City intends to operate in a sustainable manner whilst addressing the many challenges it faces. The report reviews the progress made against the many initiatives outlined in Joondalup 2022.

The City also reports on an extensive range of sustainability indicators across social, environmental, economic and governance parameters to provide a balanced overview in line with the Global Reporting Initiative (GRI) guidelines. These indicators advise the community of the City's key achievements and areas of focus, and serve to further emphasise the complex task of managing for a sustainable future.

The Electors of the City's district are to receive the Annual Report at the Annual General Electors Meeting, held in either November or December each year. At this meeting, the community can ask questions of the City on various aspects of the Annual Report.

10.2.4 CEO performance review

The Council is accountable for managing the CEO's performance and is responsible for setting the CEO's performance plan and subsequently monitoring their performance. Council is to communicate its expectations to the CEO, and consider is required to seeking independent professional advice when undertaking the performance evaluation of the CEO.

The Council has established the Chief Executive Officer - Performance Review Committee to assist it with this task of reviewing the CEO's performance.

10.2.5 Employee performance review

In accordance with the Act the performance of all employees is to be reviewed at least once in relation to every year of their employment. The City's comprehensive Individual Development Achievement Program provides a mechanism for employee performance to be assessed as well as training and development opportunities to be identified.

10.3 Compliance Audit

It is a requirement of the ~~Local Government Act 1995 to~~ that the City conducts an annual audit of its compliance with statutory requirements and responsibilities placed on it under ~~of the Act.~~

The Compliance Audit Return is ~~to be~~ submitted to the Department of Local Government each year after its adoption by ~~the~~ Council. It provides prompts in relation to the local government's statutory obligations in a number of areas, such as local laws, tenders, meeting processes, disclosure of financial interests and financial management. It provides a useful tool for ~~a local government to utilise~~ the City to ensure compliance with legislation, ~~and in particular the Local Government Act 1995.~~

In addition to this requirement the City has established a number of internal compliance mechanisms to ensure its practices and procedures meet its obligations in relation to good corporate governance.

10.4 Internal Audit Committee

The audit function of the City is achieved by two means – the establishment of an Audit Committee and the appointment of an Internal Auditor.

The Act requires Council to establish an Audit Committee to oversee and advise the Council on matters of internal or external audit, risk management and compliance functions of the City. Such matters include developing and monitoring the City's internal audit activities.

~~The Council has established an Audit Committee in accordance with Division 1A of the Local Government Act 1995, to oversee and advise the Council on matters of internal and external audit and risk management and compliance functions of the City.~~

10.5 Community consultation and engagement

~~Council~~ The City recognises that consultation is a two way interactive process that provides opportunities for the ~~Council~~ City and the community to clarify information, raise issues and discuss ideas and options. Consultation is an important dimension that informs and enhances ~~Council's~~ the City's decision-making processeses.

As a community leader, Council should define the City's directions and priorities for a sustainable future by:

- promoting discussion and debate within the community and with other stakeholders about the priorities and needs of the City
- using research to develop and inform Council policies and decision-making
- actively canvassing, and faithfully considering, the needs and opinions of the community when making decisions
- translating the community's aspirations for a sustainable future through appropriate partnerships, initiatives, programs and services.

The Council has an adopted ~~Public Participation~~ Community Consultation and Engagement Policy, the objective of which is to outline the City's commitment to actively involving the community in Council's the City's planning, development and service delivery activities.

The City's ~~Public Participation Policy~~ Community Consultation and Engagement Policy and ~~Strategy~~ associated protocols provides a clear articulation of the City's commitment to strong stakeholder and community relationships. The goal of the ~~Strategy~~ policy and protocol is to provide a process and choices for involving citizens in decision-making and to enhance current opportunities and processes for that to happen. It addresses the following requirements from the ~~Public Participation~~ Policy:

- Identification of issues requiring public participation.
- Inclusion of funding for public participation activities in the annual budget process.
- Increasing staff awareness and skills in public participation techniques.
- Information on how all sectors and groups within the community can have the opportunity to participate in the City's activities.
- A community education program relating to public participation in the City's affairs.

The City will also use social media platforms such as Facebook, Twitter and YouTube as a way of promoting corporate messages and public notices; interacting and engaging with the community; and sourcing valuable feedback on issues and events that are relevant to the community. Other electronic information and feedback systems and consultation mechanisms are also used from time to time.

10.6 Customer Service Charter

The City has adopted a Customer Service Charter which outlines the City's customer service standards the community can expect from the City. The charter demonstrates the City's commitment to customer service excellence and the levels of customer service performance. The charter provides a mechanism of accountability for the City's community. Customer service standards and performance is measured to ensure that the City is delivering on its commitments.

10.7 Access to information 9.8.8—Freedom of Information

Under section 5.94 of the Act any member of the public can access certain information held by the City. There are some documents not accessible to the public

or available for viewing; however, being a 'public body', the provisions of the Freedom of Information Act 1992 apply.

All Elected Members and staff should be aware of freedom of information implications when creating documents, whether it is internal or external. As a general rule any written material generated by employees or Elected Members may become public knowledge and subject to a freedom of information request and investigation. Freedom of information gives individuals a ~~legally and enforceable~~ right to access certain records held by both state and local government agencies.

The City each year publishes a *Freedom of Information Guide* to assist the community on the functions and services of the City and how information of the City can be accessed.

11. COUNCIL AND ELECTED MEMBER SELF-ASSESSMENT

11.1 Council self-assessment and evaluation

In order to assess whether the governance principles ~~and Charter~~ are being enacted a self-assessment tool has been included in the *Governance Framework*. The questionnaire was originally developed by WALGA for use by the WALGA Council. Permission has been granted for the City to use the self-assessment tool to assess the Council's and individual Elected Member's performance against the governance principles ~~and Charter~~. It is intended that the results be used to develop action plans to improve governance performance.

The self-assessment aims to:

- assess what level of performance has been achieved in the period under review
- assist in the development of a better understanding of individual Elected Member performance and the Council's objectives
- focus on strategic goals
- assist in the developing of a better understanding of performance orientated relationships
- develop an action plan for improvement
- encourage a program of ongoing personal and professional development for Elected Members.

The self-assessment tool has two components, being:

- (1) the Council Self-Assessment
- (2) Elected Member Self-Assessment.

Council as a group should complete the Council Self-Assessment and the results used to assess the Council's performance as a whole against the governance principles ~~and charter~~. This should assist the Council in developing an action plan to improve performance (Including the ongoing training and development program for Council).

The Elected Member Self-Assessment should be completed by individual Elected Members to provide an assessment of that individual's contribution to good governance, and assist in the development of an individualised training and development program.

11.2 Council Performance Assessment Questionnaire

Please provide your responses as per the following scale:						
1. Strongly Disagree 2. Disagree 3. Unsure 4. Agree 5. Strongly Agree						
Question		Rating				
1	The Council has been effective in setting the overall direction of the City to achieve the objects and purpose of the City	1	2	3	4	5
2	The Council is effective in considering and determining all major policy issues	1	2	3	4	5
3	The Council monitors appropriate financial and non-financial performance indicators	1	2	3	4	5
4	The Council has a clear understanding of business risk	1	2	3	4	5
5	The Council does not become excessively drawn into operational management matters	1	2	3	4	5
6	Roles of the Mayor, Councillors and the CEO are clearly defined and understood	1	2	3	4	5
7	The Council understands the City's vision, mission, values, philosophy and plans	1	2	3	4	5
8	The Council regularly inputs into strategy development and review	1	2	3	4	5
9	The CEO and employees have commitment, capacity and enthusiasm	1	2	3	4	5
10	The City has relevant and reliable internal reporting and compliance systems	1	2	3	4	5
11	Elected Members are aware of the City's responsibilities to regulators and external stakeholders	1	2	3	4	5
12	The Council communicates effectively with its community	1	2	3	4	5
13	Elected Members bring valuable experience and skills to the Council	1	2	3	4	5
14	The Council has legitimacy and retains confidence in the eyes of the community	1	2	3	4	5
15	The Mayor ensures that meetings are chaired and matters are discussed / debated in a structured and effective way	1	2	3	4	5
16	The Mayor makes sure that the Council addresses all of the appropriate strategic issues	1	2	3	4	5
17	The Mayor makes sure there is sufficient time to discuss the important issues on the agenda	1	2	3	4	5
18	The Mayor encourages contributions by Elected Members to get the best out of them	1	2	3	4	5

Thank you for completing this questionnaire.

The information will be collated and provided to you in a combined document that will not identify your individual response. The information will be used to assist Council to develop an action plan for improvement and to identify the priorities for training and ongoing development.

Individual questionnaires will be treated in the strictest of confidence and will be destroyed once the information has been aggregated.

11.3 Elected Member Performance Assessment Questionnaire

Please provide your responses as per the following scale:						
1. Strongly Disagree 2. Disagree 3. Unsure 4. Agree 5. Strongly Agree						
Question		Rating				
1	I understand my roles, duties and responsibilities as an Elected Member of the City of Joondalup	1	2	3	4	5
2	I come to the Council meetings fully prepared	1	2	3	4	5
3	I understand the mission, vision, values, philosophy and strategy of the City	1	2	3	4	5
4	I participate in and enhance discussion and debate at the Council meetings	1	2	3	4	5
5	I have made a significant personal contribution to the Council achieving the objects for the City	1	2	3	4	5
6	I encourage openness and candour and ensure that others have a reasonable opportunity to put forward their views	1	2	3	4	5
7	I challenge those who sidetrack discussions or dwell on minutiae	1	2	3	4	5
8	I am a team player	1	2	3	4	5
9	I listen to and consider other people's views on issues	1	2	3	4	5
10	I am open and willing to change my views	1	2	3	4	5
11	I accept challenge from others without being defensive	1	2	3	4	5
12	I have the courage to say what is on my mind	1	2	3	4	5
13	I keep myself free from conflicts of interest <u>and understand when a conflict may arise</u>	1	2	3	4	5
14	I exercise independent judgement when considering or voting on any matter	1	2	3	4	5
15	I understand the difference between direction and managing and consistently practice the NIFO principle in discharging my role as an Elected Member (i.e. "nose in, fingers out")	1	2	3	4	5
16	I am responsive to requests from the Presiding Member that aim to ensure the orderly and good-spirited conduct of meetings	1	2	3	4	5
17	I understand and focus on the key issues of the City's business	1	2	3	4	5
18	I consider the viewpoints of all stakeholders in forming a position on an issue	1	2	3	4	5
19	I carry a fair workload when compared with my fellow Elected Members	1	2	3	4	5
20	I regularly liaise with the Mayor and other Elected Members of the Council outside of Council meetings	1	2	3	4	5
21	I regularly liaise with the CEO and senior employees outside Council meetings	1	2	3	4	5

22	I have adhered to all of the behavioural and ethical requirements of the Council Code of Conduct	1	2	3	4	5
23	Outside the Council meeting and when acting in my capacity as an Elected Member, I support the letter and spirit of all Council decisions <u>that have been made</u>	1	2	3	4	5

Are you satisfied with the level of support you are provided in undertaking your role as an Elected Member of the City of Joondalup? Are there any areas that can be improved?

Are there any specific areas in which you would like professional development to enhance your effectiveness as an Elected Member of the City of Joondalup?

Are you satisfied with the process of evaluating performance as an Elected Member of the City of Joondalup? Are there improvements you consider could be made?

Thank you for completing this questionnaire.

The information will be collated and provided to you in a combined document that will not identify your individual response. The information will be used to assist Council to develop an action plan for improvement.

Your individual responses can also be used to assist in the development of a customised training and development program to suit your specific needs and priorities.

Individual questionnaires will be treated in the strictest of confidence and will be destroyed once the information has been aggregated.

REFERENCES

The following documents have been used in the development of the Governance Framework for the City of Joondalup:

- AS8000 Good Governance Principles.
- ASX Corporate Governance Council – Principles of Good Corporate Governance and Best Practice Recommendations.
- City of Wollongong Governance Manual 2004.
- City of Joondalup Governance Review Report May 2004.
- Conflict of Interests Guidelines – office of the Public Sector Standards Commissioner.
- Corporate Governance Charter - WA Local Government Association December 2004.
- Department of Local Government – Local Government Operational Guideline No 3 – Managing Public Question Time.
- Department of Local Government – Local Government Operational Guideline No 4 – Elected Member Induction.
- Department of Local Government – Local Government Operational Guideline No 5 – Council Forums.
- Department of Local Government – Local Government Operational Guideline No 7 – Clarity in Council Motions.
- Department of Local Government – Local Government Operational Guideline No 9 – Audit Committees in Local Government.
- Department of Local Government– Local Government Operational Guideline No 17 – Delegations.
- Department of Local Government– Local Government Operational Guideline No 20 – Disclosure of Financial Interests at Meetings.
- Department of local Government – Standing for Council – Information for candidates.
- Elected Members Welcome Pack - City of Joondalup - 2011.
- Enterprise-wide Risk Management – Better Practice Guide for the Public Sector – CPA Australia 2002.
- Excellence in Governance for Local Government – CPA Australia.
- Governance Framework and Statement – City of South Perth.
- Good Governance Guide 2004 – The Principles of Good Governance within Local Government - Municipal Association of Victoria.
- Lessons for Local Government - City of Belmont published by the Department of Local Government and Regional Development April 2003.
- Lessons for Local Government - City of South Perth published by the Department of Local Government and Regional Development.
- Local Government Act 1995.
- Local Government (Administration) Regulations 1996.
- Local Government (Financial Management) Regulations 1996.
- Local Government (Rules of Conduct) Regulations 2007.
- Murdoch University Senate, Statement of Governance Principles.
- OECD Principles of Corporate Governance.
- On Board Leadership – John Carver.
- Public Sector Governance (Vol. 1) – Better Practice Guide – Australian National Audit Office.
- Reinventing Your Board, A Step by Step Guide to Implementing Policy Governance – John Carver and Miriam Mayhew Carver.
- Sustainability Reporting Guidelines – Global Reporting Initiative.
- The Business of Local Government (a training course for Elected Members) - a joint WALGA and Australian Institute of Company Directors Course.
- WALGA Training and Development Program for Elected Members.
- WALGA State Council performance assessment questionnaire.