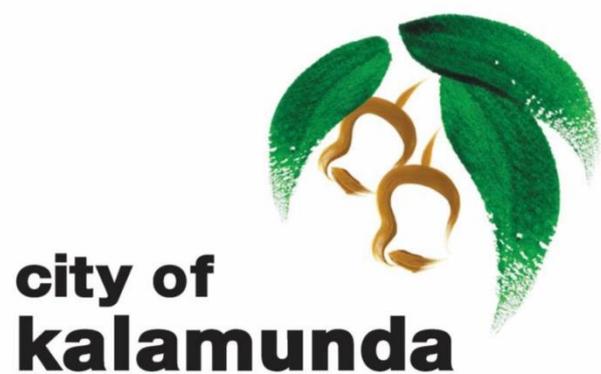
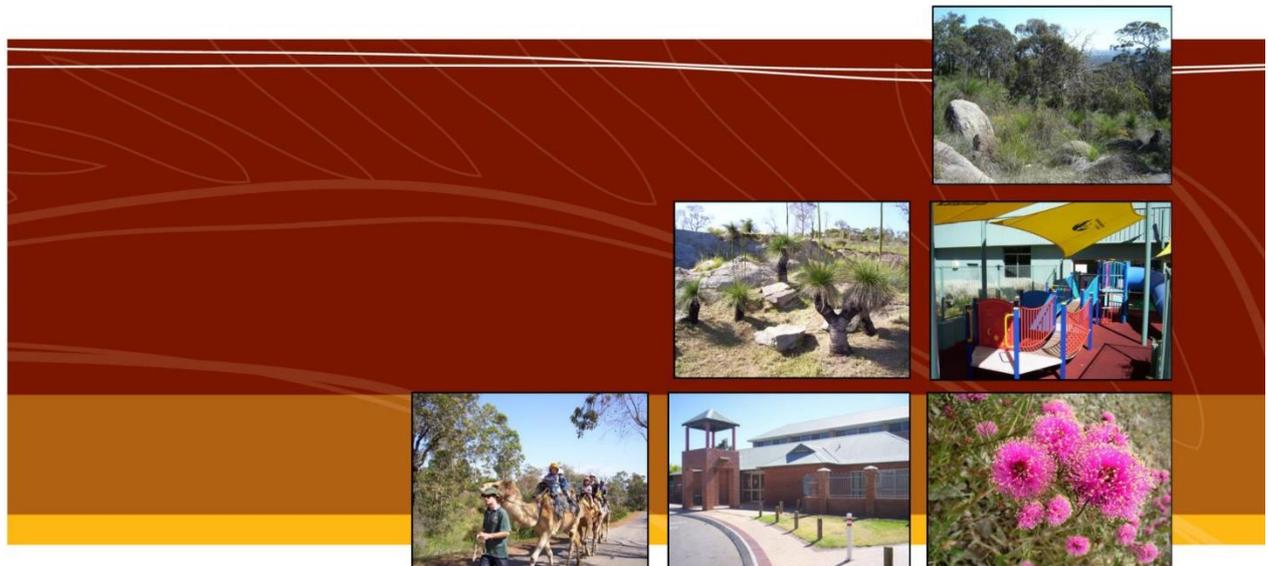


# City of Kalamunda Governance and Policy Framework



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## 1. Introduction

The City of Kalamunda (“the City”) governs its operations through legislation, local laws, standing orders, council resolutions, policies, procedures and guidelines.

The City requires a Governance and Policy Framework to be able to provide transparent decision making, high quality services and facilities to the broad range of people who have a stakeholder interest in the City. They include residents, commercial and retail business, workers, and local, national and international visitors. Effective service delivery can only be achieved through proper and democratic government.

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 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 and Policy Framework. These include:

- Providing clear guidelines for the roles of the Council and the CEO, ensuring that all responsibilities are properly allocated and performance expectations are well understood.
- Enshrining best practice in relation to board processes.
- Assisting the 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.
- Clear and transparent policy development process to guide the organisation.
- Acting as a point of reference for disputes.
- Assisting as an induction tool for new Elected Members.

The principles and practices of good governance guided by a good Governance and Policy Framework provide the context for establishing guiding documents that outline the specific processes of decision making 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 and Policy Framework has been produced to set out the roles of Elected Members and Administration, and their relationships, along with financial, legal and ethical considerations.

The Framework consists of five key principles required to achieve excellence in governance:

- Culture, Vision and Integrated Planning.
- Roles and Relationships.
- Decision-making and Management.
- Policy-making and Management.
- Accountability.

## 2. Glossary

Term	Meaning
Act	<i>Local Government Act 1995.</i>
Governance	The processes by which the City is controlled and held to account. It encompasses authority, stewardship. Leadership, direction and control exercised within the organisation.
Instrument of Governance	<p>Are the documents created to guide the actions of the organisation and they form a six tiered hierarchy:</p> <ol style="list-style-type: none"> <li>1. Local Government Act 1995</li> <li>2. Regulations</li> <li>3. Local Laws</li> <li>4. Resolutions of council</li> <li>5. Policies</li> <li>6. Procedures and Guidelines</li> </ol>
Local Government Act 1995	The <i>Local Government Act 1995</i> and amendments or regulations.
Regulation	Made under the <i>Local Government Act 1995</i> or other related Acts to regulate the interpretation and implementation of the Act.
Resolution of Council	A short statement or directive issued and approved by Council at an Ordinary or Special Council meeting.
Community	The entire population of the City of Kalamunda. It could be extended to those who work in, or visit the area for recreational or similar reasons.
Stakeholders	Individuals and organisations that have an impact on the strategic direction and decision-making processes of the City of Kalamunda.
Council	The Elected Members sitting formally as a Council under the <i>Local Government Act 1995.</i>
Elected Member	An elected representative of the local government.
Mayor	A person elected by the Council to hold the position as the elected leader of the local government for a term as specified by the <i>Local Government Act 1995.</i>
Councillor	Title given to an individual elected representative of a local government.

<b>Term</b>	<b>Meaning</b>
Committee of Council	A formal committee of the Council established under legislation.
Council Meeting	The Elected Members meeting formally in accordance with legislation.
Administration	Employees of the local government, headed by the Chief Executive Officer.
Chief Executive Officer ("CEO")	The most senior officer in the administration. He or she is directly accountable to the Council.
Directors and General Counsel	The senior positions in the organisation directly responsible to the CEO.
Employee	An employee of the Council including casual or contract employees.
Corporate Governance	The system by which a local government is directed and controlled. It refers to the suite of processes, systems, rules and relationships under which decisions are made and control is exercised.
Council Policy	A formal statement or directive, strategic in nature, that gives effect to the City's legislation and external regulatory requirements. Policies guide decision making and govern the City's activities.
Council Procedure	A directive that supports a Council Policy by outlining the specific tasks, processes and responsibilities required to effectively implement a Policy or regulation.
CEO Instruction	A formal statement of the CEO that provides for operational imperatives to be established that provide consistency and transparency
CEO Directive	A directive determined by the CEO detailing the specific tasks, processes and responsibilities required to effectively implement instructions or regulations.
Guideline	A Statement offering advice and guidance on the implementation of Policies.
Policy Domain	An area of the City's activity for which are otherwise linked by legal, conceptual or practical similarity or contingency. Domains are not aligned to organisational structure.

<b>Term</b>	<b>Meaning</b>
Integrated Planning and Reporting Framework	A framework for establishing community priorities and linking this information into different parts of a local Government's functions. Provides the basis for improving the practice of strategic planning in local government.
Strategic Community Plan	A long term strategic plan that clearly links the community's aspirations with the Council's vision and long term strategy.
Long Term Financial Plan	Long-term financial plan summarising the financial impacts of the objectives and strategies in the Strategic Plan.
Corporate Business Plan	A local government's internal business planning tool that translates Council priorities into operations within the resources available. In its entirety, it details the services, operations and projects a local government will deliver over a defined period, the processes for delivering these and the associated cost.
Annual Budget	A statutory requirement outlining the financial estimates to deliver the Corporate Business Plan.
Informing Strategies	Interconnected local government plans or strategies that support, and are driven by, the development of integrated planning elements. These may include resource specific plans such as asset management plans and workforce plans or may be issue specific such as community safety strategies or active aging strategies.
Community Engagement Strategy	A strategy to optimise community involvement and the quality of decision making. It may address different stakeholder groups and how they will be engaged, and make provision for public exhibition.
Asset Management Strategy and Plans	Asset Management Strategy and Asset Management Plans provides details for developing the Capital Works Schedule, asset condition assessments, whole of life asset costs and implications of addressing the renewal funding gap.
Strategic Workforce Plan	Provides detailed assessment of how the workforce will need to change over the long term.

### **3. Local Government Defined**

Local government in Western Australia is established under the *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 'closest' to the population, local government activities relate to matters that are fundamental to people's lives and impact strongly on their quality of life.

Each local government is a corporate body. It is therefore a legal entity with all legal power to do things for the local community it services. It can sue and be sued. Local government includes a Council consisting of Elected Members, and the Administration that includes the CEO and employees.

The Mayor and Councillors form the Council, and the following principles apply:

- Elected Members are able to exercise authority as the Council after they are formally sworn in and when they meet formally as the Council.
- All lawful decisions are made at the Council meetings or through delegations (to CEO or the Council committees) that are formally made by the Council.

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

- Advising the Council.
- Implementing the Council's decisions.
- Managing the services that the local government provides for its community.
- Being responsible for the day to day operations of the local government.

#### **3.1 Role of Local Government**

In order to consider the issues of good governance in local government, it is also necessary to consider the role and functions of local government. 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. The Act requires Councils to implement the Integrated Planning Framework requiring the City to develop and adopt a "10-year strategic community plan" which sets overall directions for the CEO through long-term planning.



**Figure 1 – Integrated Planning Framework**

### **Lawmaking / Enforcement**

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 government are called local laws and cover such issues as the activities permitted on public land, animal management, and use of infrastructure.

Local government is also responsible for enforcing local laws and other laws over which it has authority.

### **Policy Development**

One of the most important roles of Elected Members is to participate in making 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 concerning a particular area of responsibility.

The City's Policy Framework is outlined in Section 10.

### **Representation**

Individual Elected Members or the Council when formally meeting represent their constituents on matters of concern. 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 (not just the people in the ward who elected them).

## **Advocacy**

Local government has a role advocating on behalf of its constituencies to other levels of government, statutory authorities and other relevant parties who have responsibility for the matter.

## **Service Delivery**

Council must ensure that services are delivered in the most efficient and effective manner. The Act provides autonomy to Councils to determine policies, with their communities, about the nature and level of services provided. The Council must ensure the delivery of quality services for which 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 the City of Kalamunda consists of a large number of communities, for example, the business community, the visitor community, the art 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 for example the Hills orchard 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 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' means the many groups, individuals and interests represented in the City of Kalamunda.

## **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.

It encompasses:

- Authority.
- Accountability.
- Stewardship.
- Leadership.

- Integrity.
- Ethics and Values.
- Culture.

Democratic governance exists when a government governs for and on behalf of its community. Good democratic governance occurs when governments govern as a result of being elected. 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:

- Clarity of roles and responsibilities.
- Robust 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 combines the characteristics of good governance and the definitions and roles of local government and:

- Councils being elected by, representative of, and accountable to the community.
- Elected Members making decisions in the best interests of the residents of the local government as a whole.
- Policies and programs reflecting the mandate Councils have been given by their electors.
- Policy enactment arising from the Strategic Community Plan with appropriate performance management to assess the Council's progress.
- Community engagement and participation in governance.
- Mayor and Councillors providing leadership to the community and reflecting the community's collective aspirations.
- A management structure which implements the Council's goals in accordance with Council'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.

## **Good Governance in Practice**

Good governance needs to be practiced both within local government, and between local government and the community. Key issues include:

### ***Internal Issues***

- Relationships are a key factor.
- Professional unbiased advice is crucial to good governance.
- Advice is provided through Council reports, Council Briefings and other means of communication.
- Good processes contribute to good decisions. Decisions also need to be accountable and transparent.
- Elected Members need information in order to perform their duties. Processes need to be developed to meet the legitimate information requirements of Elected Members.

### ***External Issues***

- To ensure that a Council and its community share a sense of direction and purpose, 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 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. This is fundamental to good governance.

## **5. Governance Principles and Charter**

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 Kalamunda. The Principles are the 'what'. The Charter is the 'how'.

### **5.1 Principle One: Vision, Integrated Planning and Culture**

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

The City has complied with its responsibility to ensure it has strategic appropriate plans in place as prescribed by the State's Integrated Planning and reporting Framework.

There is a positive culture that promotes openness and honesty, in which constructive and respectful questioning is encouraged and accountability is clear. The culture is enhanced and protected through appropriate policies such as the Code of Conduct.

### **5.2 Principle Two: Roles and Relationships**

There is clarity about the roles of 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, CEO and administration.

### **5.3 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 financial management established and maintained to meet the City's accountability to its stakeholders, particularly in terms of stewardship of community assets, both now and into the future.

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

Development and implementation of effective delegations is a key component in assisting effective decision making.

### **5.4 Principle Four: Policy-Making and Management**

The City has in place a Policy Framework to provide context for establishing Council, City and Planning Policies and clarifying the relationship between the different governance instruments. The Policy Framework governs the development, implementation and review of all Council, CEO Instructions and Planning Policies and supporting documents to ensure they are relevant, authoritative and consistent with internal and external legislation and regulations.

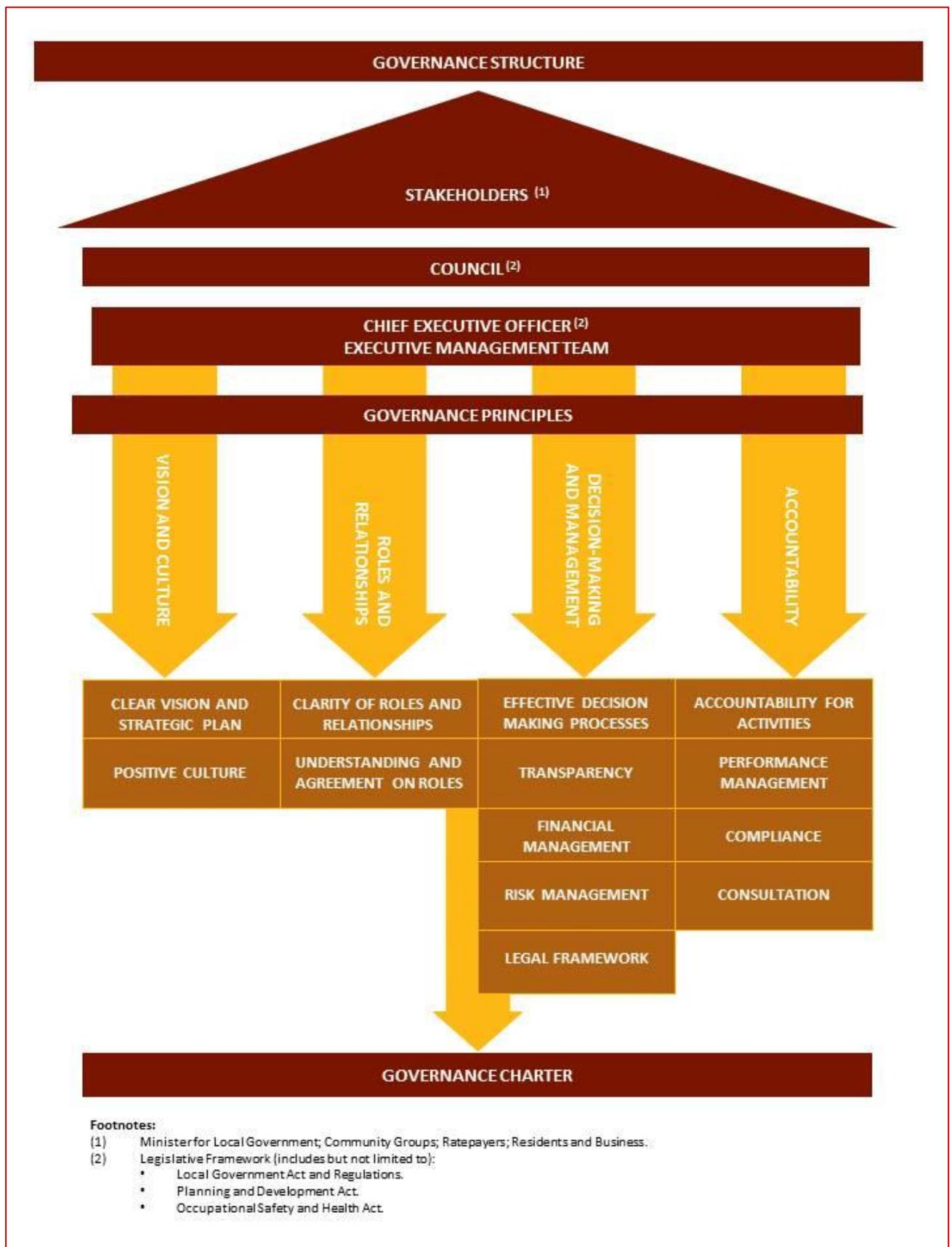
## **5.5 Principle Five: Accountability**

The City must account for its activities and have systems that support accountability. The City should have an active performance management system in place that enables Elected Members and management 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 to meet 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. 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



## **7. Principle One: Vision, Integrated Planning and Culture**

### **7.1 Vision**

The City's Vision is for Connected Communities, Caring for Nature and Creating the Future together.

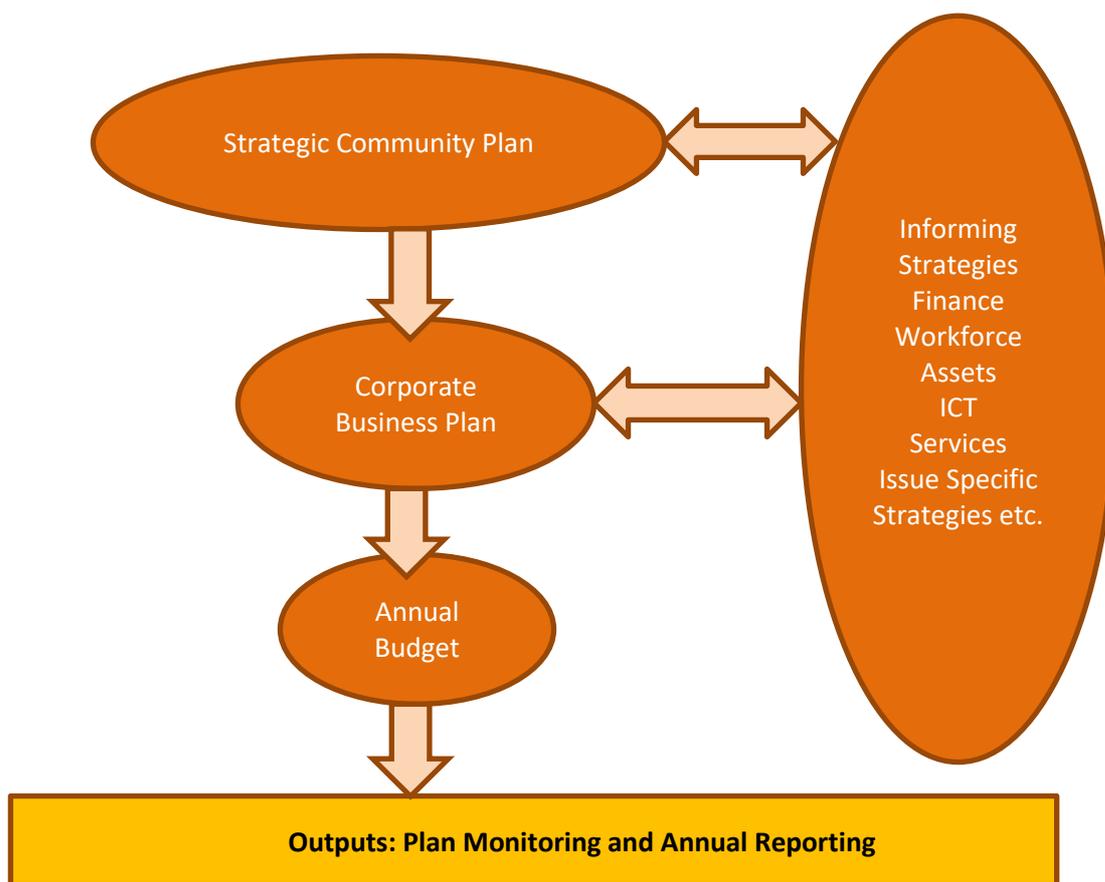
### **7.2 Integrated Planning**

All local governments are currently required to produce a plan for the future under S5.56 (1) of the Local Government Act 1995 (the Act). It is intended that regulations will be made under S5.56 (2) of the Act to briefly outline the minimum requirements to achieve this.

This Integrated Strategic Planning Framework provides the basis for improving the practice of strategic planning in local government. It addresses the minimum requirements to meet the intent of the Act and outlines processes and activities to achieve an integrated strategic plan at the individual local government level.

There are three major parties to the development of an integrated strategic plan:

- The community – participates in a community planning process to determine major vision or intended big picture directions and also participates in regular reviews of those directions.
- The Council – signs off the Strategic Community Plan resulting from the community planning process, the four year reviews updating that plan, and the annual budget.
- The local government administration – supports delivery of the Strategic Community Plan, the 4-yearly reviews, and annual budget through its corporate business planning.



**Figure 2 - Elements of the Integrated Planning framework**

**Strategic Community Plan**

The Strategic Community Plan is the highest level plan that a Council will prepare. The purpose of the Plan is to identify the community's main priorities and aspirations for the future and to plan strategies for achieving them. In doing this, the planning process will consider the issues and pressures that may affect the community and the level of resources that will realistically be available to achieve its aims and aspirations. While a Council has a custodial role in initiating, preparing and maintaining the Strategic Community Plan on behalf of the community, it is not wholly responsible for its implementation. Other partners, such as State agencies and community groups may also be engaged in delivering the long-term objectives of the plan. The 4 Priorities outlined in the Strategic Community Plan – Kalamunda Advancing to 2017 will guide the City through the next ten years will be:

Priority 1 - Kalamunda Cares and Interacts	Looking after our people and providing our people with social and cultural enjoyment
Priority 2 - Kalamunda Clean and Green	Delivering environmental sustainability and maintaining the integrity of the natural environment
Priority 3 - Kalamunda Develops	Supporting our local economy and using our land and assets diversely and effectively
Priority 4 - Kalamunda Leads	Providing good government and leadership

## **Corporate Business Plan**

The City's Corporate Business Plan – Kalamunda Achieving is responsible for driving operational activities, which are developed in line with the priorities set in the Strategic Plan.

Issue Specific Plans enable key focus areas in the Strategic Plan to be more comprehensively articulated. Actions in these Plans are transferred as actions in the Corporate Business Plan and are measured against key performance indicators, which enable the City and the community to gauge success in the implementation of strategic objectives.

The Corporate Business Plan comprises actions derived from other plans such as:

- The Workforce Plan
- The Long Term Financial Plan
- Asset Management Plans
- Community Development Plans
- Community Facilities Plans
- Environmental Plans
- Economic Development Plans
- Land Use development Plans
- Waste Management Plans
- ICT Plans
- Customer and Public Relations Plans

## **Annual Planning Process**

The City's Annual Business Plan focuses on the actions to be achieved within each of the Strategic Community Plan strategic priorities which have been articulated in the Corporate Business Plan. The Corporate Business Plan actions for each year are reviewed annually to ensure they are still relevant and align with Council priorities.

The City uses a Business Planning Software System to develop annual Business Plans for all service areas and the system enables monitoring of progress of all the actions on a monthly and quarterly basis throughout the year.

Quarterly progress reports against the Annual Plan and Corporate key [performance Indicators 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.

**Figure 3 - City's Integrated Planning Framework.**



### 7.3 Culture

A positive culture promotes openness and honesty, makes accountability and responsibility clear and encourages debate on important issues. An organisation seeking excellence in governance should have the following elements in its organisational culture:

- Support for Frankness, Honesty and Questioning.
- Encouraging Creativity and Innovation in all we do.
- A can do attitude to problem solving.

- Effective Management Structures and Practices to reinforce accountability and outcomes and incorporate the nurturing of people's capacities to do their jobs.
- Effective communications internally and externally, and be open to, and encourage, feedback from all stakeholders.
- Learning and Feedback whereby 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.
- Ethical Behaviour characterised by honesty and integrity. Elected Members and employees will behave in a way that generates community trust and confidence and enhances the image of both the Council and local government generally.

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 need to believe that governance is characterised by honesty and integrity and that those in government will behave accordingly.

### **Code of Conduct**

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

In 2007 the State Government introduced the Local Government (Rules of Conduct) Regulations 2007 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 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 Acts and Regulations.

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

- Standards of general behaviour.
- Use of information.
- Securing unauthorised advantages or disadvantages.
- Disclosing certain interests (not financial).
- Restricting receiving, and disclosure of, certain gifts.

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 (relating to meeting procedures and conduct) are enforceable and disciplinary action can be taken for any breach.

### **Confidentiality**

Local government business involves vast amounts of confidential information. This information could be about commercial matters, individual citizens and legal issues. The Act 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."*

### **Conflicts and Disclosure of Interests**

Council members, committee members and employees are to comply with the requirements for the disclosure of interest as described in the Local Government Act 1995.

Members and employees of the City should 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 those persons closely associated to them.

### **Induction Program**

The City's positive culture is communicated to Elected Members and employees through effective induction programs and in their letters of appointment.

Induction and training for Elected Members is provided to assist in understanding local government, governance in local government and how to operate effectively to produce good outcomes for their community.

The Induction Program focuses on:

- The differing but complementary roles of Elected Members and employees.
- Working relationships.
- Decision making processes.
- Responsibility, accountability and delegations.
- Code of Conduct.
- Organisational values and culture

### **Values**

The City will establish a culture that is values-driven and will include an inspiring vision with effective strategies, a well-defined set of values with observable behaviours being displayed for each value and organisational wide processes and routines that reinforce the values.

The key to achieving a values driven culture will be to involve everyone so they truly embrace the vision and live the values each day.

Focusing on values increases performance levels, improves service, reduces employee variability, and supports sustainability. A values-driven culture not only helps an organisations bottom line, but also sets groundwork for establishing a powerful legacy that can have a positive social impact for generations.

The City has both core and aspirational values:

### **Core Values**

<b>Service</b>	We deliver excellent service by actively engaging and listening to each other
<b>Respect</b>	We trust and respect each other by valuing our difference, communicating openly and showing integrity in all that we do
<b>Diversity</b>	We challenge ourselves by keeping our minds open and looking for all possibilities and opportunities
<b>Ethics</b>	We provide honest, open, equitable and responsive leadership by demonstrating high standards of ethical behaviour

### **Aspirational Values**

<b>Creativity</b>	We create and innovate to improve all that we do
<b>Courage</b>	We take risks that are calculated to lead us to a bold new future
<b>Prosperity</b>	We will ensure our City has a robust economy through a mixture of industrial and commercial development
<b>Harmony</b>	We will strive to retain our natural asset in balance with our built environment

## **8. Principle Two: Roles and Relationships**

### **8.1 Roles**

An understanding and acceptance of the different roles, and cooperation between all parties underpins good governance at the City. The relationships between Elected Members and the CEO respect 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. 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 Presiding Member of the Council to facilitate good decision-making.

The City recognises that 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 help Councillors to 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 and help to create an environment where good communication, systems and processes can thrive.

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

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

The Act sets out a framework for the way in which local governments in general are to operate. It specifies the roles and responsibilities that are to be undertaken within each local government. Specific roles are given to the Council, the Mayor, Councillors and the CEO.

### **The Role of Council**

Under the Local Government Act 1995 the City of Kalamunda is a body corporate, represented by an elected Council, and is charged with the following responsibilities:

- Governs the City of Kalamunda's affairs.
- Is responsible for the performance of the City of Kalamunda's functions.
- Oversees the allocation of the City of Kalamunda's finances and resources.
- Determines the City of Kalamunda's policies.

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

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

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

- **Is responsible for the performance of the City of Kalamunda'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 governance frameworks including delegations of authority, the determination of an appropriate organisational structure, the provision of services and facilities, and regular reporting against objectives.

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

The Council exercises this role by overseeing and adopting the City's Long Term Financial Plan and Annual Budget. Council is advised by employees of the City who are responsible for the professional development of appropriate financial controls and strategic documents.

- **Determines the City of Kalamunda'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 and work processes. The policies of the Council provide the direction for the ongoing management of Council 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 Kalamunda's powers.

### **Role and Responsibilities of the Mayor**

Whilst 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 is a key public official. 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, also has the following additional responsibilities, which are similar to Councillors and 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 of the Mayor can be categorised as:

- Governance.
- Presiding Member of Council.
- External relations.
- Media management.
- 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 modelling good behaviour and ethics in fulfilling the 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 individual views and clearly outline the views of the Council decision in an all-inclusive way.

Where the Mayor desires to speak contrary to the position of the Council they should preface the comments that they are expressing as an individual opinion.

## **Role and Responsibilities of the Deputy Mayor**

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*)

## **Roles and Responsibilities of the Elected Members**

At the outset 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 individual Elected Member, unless delegated, as a part of a Committee arrangement, has no authority to participate in the day-to-day management or operations of the Council, including making any form of representation on behalf of the Council.

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 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.

## **Role and Responsibilities of the 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 range of defined functions of the CEO is:

- "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 objectives and strategies that have previously been approved by the Council. The most important role 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 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 administration and its key management have critical responsibilities for managing the organisation soundly from a financial perspective and reporting the results to the Council.

Under the Act both the Council and the CEO are given certain functions and duties to be discharged. Council may delegate in writing authority to perform some of its functions and duties to the CEO, 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, 5.99 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. Carrying out any power or duty that requires the approval of the Minister or the Governor. a. The power under Section 9.49A (4) to authorise a person to sign documents on behalf of the Council.*
- i. 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.

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 is in accord with the 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 Strategic plan.
- Managing relationships between the various elements in the local government.
- Ensuring that the organisation is staffed by suitably qualified and motivated employees and policies are in place that promotes this.
- Ensuring that employees are aware that the administration is working for a democratically elected Council and that Council decisions form the basis for the administration's activities.

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

<b>Council</b>	<b>CEO</b>
Sets direction	Provides professional and technical advice to the Council
Responsible for the performance of the City of Kalamunda's functions	Implements the decisions of Council
Decide on matters of policy	Liaises with the Mayor
Ensure that services and facilities are integrated with and do not unnecessarily duplicate other public services	Manages the day-to-day operations
Oversee the allocation of the City of Kalamunda's finances and resources	Responsible for the employment and management of employees
Monitor performance through the CEO to ensure efficiency and effectiveness in service provision	
Mayor to liaise with the CEO and preside at Council Meetings	

## 8.2 Working Relationships

Elected Members are members of a team, elected by their communities to work collectively in the interest of the whole community. The achievement of good outcomes 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 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. 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.

### **Working Relationship between Mayor and Councillors**

The relationship between a Mayor and Councillors is critical to good governance. An effective relationship between the Mayor and Councillors will help to promote the successful delivery of the Strategic Plan and the credibility of the City.

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

- 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, 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 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 is especially true for newly elected Councillors. Amongst other things, local government involves the need to bring 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 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.

### **Working Relationship between 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 relationship with the Mayor:

- a. Liaise with the Mayor or President on the local government's affairs and the performance of the local government's functions.
- b. 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 the Mayor and the CEO have a role to liaise with each other on the local government's affairs and the performance of the local government's functions. They also have a crossover of responsibilities in relationship to speaking on behalf of the City. Whilst this right rests with the Mayor there are occasions when it is considered prudent for this function to be undertaken by the CEO.

Both of these matters involve the development of a clear relationship and an understanding of the limits of each other's authority.

The Act does not detail how the liaison is to occur and as such the Mayor and the CEO of the day of the City of Kalamunda are to adopt an approach that suits their circumstances. 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 in delivering good governance to the people of the City of Kalamunda.

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

### ***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. Deciding on what information is important and what should be passed on to each other must be negotiated and understood.
- Regular meetings – over and 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 leader of the local government, this position generally 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 representatives and the administration. It does not seek to concentrate power in the relationship.
- Consistent communication and regular fixed meetings.

### **Working Relationship amongst Elected Members**

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 structures, 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 and often

abuse. In contrast, the 'small group' nature of the Council ideally features an environment where good relationships, respect and an appreciation of constructive diversity lead to good decision making and an opportunity for each Elected Member to deliver on their individual platforms.

A Council is best off when seeing themselves as team and working together as a team.

At times, the very nature of local government 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, 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.

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:

- 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 public.
- Elected Members must have effective working relationships in order to succeed individually and collectively.

### **Working Relationship between Elected Members, the 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 appreciate that their demands cannot always be met. Advice and support on consultation and engagement, good systems that refer complaints and queries to the relevant area for addressing, and responsive services and processes all assist in furthering good governance.

A clear understanding is needed by the Elected Members that the role of the CEO and employees is to implement Council's objectives, strategies and services and to 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 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 delegations.

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 for the legitimate interest the Elected Members have in the role in the CEO and the employees, and the legitimate interest of the CEO and employees in the role of the Elected Members

### **Relationship and Contact between Elected Members and Employees**

The City of Kalamunda, like most other Councils, grapples with the issue of direct contact between individual Elected Members and employees versus contact through the CEO and Directors.

Individual Elected Members should 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. This includes unauthorised access to the Council administration area.

Some issues to consider are:

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

It is important to note Regulation 10 of the Local Government (Rules of Conduct) Regulations 2007, which deals with 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.(2) Sub regulation (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) Sub regulation (3)(a) does not apply to conduct that is unlawful under The Criminal Code Chapter XXXV."*

(Regulation 10 Local Government (Rules of Conduct) Regulations 2007

### **Elected Members Access to Staff**

Elected Members should be cognisant that staff may not always be available at short notice and prior contact to arrange an appointment with the relevant staff member/s will assist in ensuring positive working relationships. Should it be difficult to arrange a suitable appointment, assistance should be sought through the CEO or the relevant Directors.

The City has established a Council Policy - **Elected Member Communication and Contact with Staff Policy**. This Policy provides detailed guidance to Elected Members on how and who they can contact.

The purpose of the Policy is to ensure that appropriate protocols and guidelines are in place to:

- Provide clearly defined communications and contact channels between Elected Members and shire staff.
- Ensure that duplication and loss of productive time is minimised.
- Facilitate Elected Members performing their role effectively.

### **Elected Member Access to Information**

One of the areas that cause many issues is the access by Elected Members to information that enables them to undertake their role as an Elected Member.

Elected members and members of Council Committees have information access rights that are additional to those given to the general public. These rights are to ensure that members are properly informed on matters that are relevant to their functions. Section 5.92 of the Act provides that Members can access the following additional information held by a local government:

- All written contracts of the local government.
- All documents relating to written contracts which the local government proposes to enter into.
- Any information that is relevant to their functions.

The functions of members are not defined, but are likely to include:

- Any function that a member is appointed or authorised to carry out by the Council [e.g. attend a meeting or conference];
- Preparation for an upcoming meeting; or
- Anything the member is doing in carrying out his or her role as president or elected member.

The access provisions do not give members unlimited licence to seek information held by a local government. Members may only seek access to information that is relevant to the performance of a particular function.

Access arrangements should be made through the CEO, Directors or General Counsel.

### **Effective Relationships – Summary**

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

The fundamental role differences between the Council and the CEO and employees underpin the relationship. The focus of the Council and Elected Members should be on strategy, policy and outcomes. That is, who is to benefit from the local government'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 other's' roles.
- A preparedness to identify, discuss and resolve issues and problems if they arise.
- On the part of the 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**

Decision-making is the most important activity undertaken by Council. Effective decision making processes increases the likelihood that the decisions themselves will be in the best interests of the entire community.

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

A responsibility of the CEO is to ensure that Council receives quality and timely reports with all the necessary information, options and clear recommendations, including financial impacts and any associated risks.

## **9.1 Decision Making Forums**

### **Council 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 monthly meeting cycle, (except in January when Council is in recess) as follows:

- Week 1 – Audit Committee and Strategy Sessions (if required).
- Week 2 –Public Briefing Session.
- Week 3 –Strategy Session (if required).
- Week 4 –Ordinary Council Meetings.

### **Council Meetings**

Council meetings are formal meetings of the Elected Members as a body defined under the Act and are required to be open to the public although under certain conditions; Council meetings can be closed under provisions of the Act. In order to promote transparency and accountability required for good governance these provisions 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 they are fully informed and, where appropriate, involved in the decisions and affairs of the Council.

### **Briefing Sessions**

Are open to the Public and provide an opportunity for the Community and Councillors to receive details on the reports that will be presented to the OCM for decision by the Administration. A briefing session is an opportunity for Councillors and community members to ask questions of the officers about reports to be presented to Council for decisions. Members of the Community can also make deputations.

No decisions or debating will occur and standing orders will still apply for ensuring an orderly standard of conduct is upheld.

## **Strategy Sessions**

Are closed to the Public and are used by the Administration to provide Councillors with information about issues that may need development or require a level of formulation or feedback before a decision can be made. Strategy Sessions provide an opportunity for strategies and policies to be discussed and considered before they are finally developed and adopted. They also provide an opportunity for external parties who wish to make proposal or share information with the Council to discuss their proposals in a confidential environment.

All information provided at Strategy session is confidential and Elected Members must not share any such information with external parties without prior approval of the CEO.

## **Standing Committees of Council**

The work of a Standing Committee is significant in local government due to the wide range of activities and functions of the Council. Standing Committees report to the Council and are subject to the requirements of the Act.

When a Council establishes a Standing Committee comprising Elected Members, it must determine the reporting and other accountability requirements that are to apply in relation to that Committee.

The role and tasks of Standing Committees are varied. Councils establish Standing Committees to:

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

The list below details the current Standing Committees of Council:

- Audit and Risk Committee.
- Chief Executive Officer - Performance Review Committee.

## **Advisory/Management Committees**

Council has established Advisory and Management 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.

The role of Management Committees is to enable Elected Members and representatives of user groups to oversee the day to day management of a range of the City's community and recreation facilities and have input into the long term development of the facilities.

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

These 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.

### **Apologies and Leave of Absence**

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

Leave 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 (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 (Section 2.25 (3) Local Government Act 1995).

## **9.2 Agendas and Minutes**

Agendas are made available to Elected Members and the public before the Briefing Sessions and Council meetings. In most circumstances, agendas of the various Committees of Council are also available.

Agendas are comprised of reports prepared by employees. 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 employees and contain recommendations from the CEO. The decision to adopt, amend or reject a recommendation rests with the Council.

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.

## 9.3 Declarations of Interest

### Financial Interests

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

Elected Members' attention is drawn to Division 6 - Disclosure of Financial Interests, 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.

*"An Elected 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 must disclose the nature of the interest:(a) in a written notice given to the Chief Executive Officer before the meeting; or(b) at the meeting immediately before the matter is discussed."*

(Section 5.65 (1) Local Government Act 1995)

*"An Elected 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 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 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.

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.

### Interest That May Affect Impartiality

Elected Members are required to disclose any interest, 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 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 Members' attention is drawn to Regulation 11 of the Local Government (Rules of Conduct) Regulations 2007 which deals with disclosure of interests that may affect impartiality.

*"11. Disclosure of interest(1) In this regulation —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. (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 — (a) in a written notice given to the CEO before the meeting; or (b) at the meeting immediately before the matter is discussed.(3) Sub regulation (2) does not apply to an interest referred to in section 5.60 of the Act.(4) Sub regulation (2) does not apply if — (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 (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 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 sub regulation (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 sub regulation (2)(b) or (4)(b) a person's interest in a matter is disclosed at a meeting; or (b) under sub regulation (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."*

(Regulation 11 Local Government (Rules of Conduct) Regulations 2007

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 Qualified Privilege**

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 said statement is:

- Irrelevant to the issue being debated or discussed.
- Said in the knowledge that it is untrue.
- 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.

## 9.5 Financial Management

### Financial Management Planning and Principles

The Council is ultimately responsible for the financial management of the City of Kalamunda. Good financial governance requires both Council and the administration to play their roles.

Council is to develop a long-term financial plan (Strategic Financial Plan) that is consistent with the Strategic Community Plan. Community input is to be sought at the draft stage so that such input can help to 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 Kalamunda have in achieving sound financial management. There is an emphasis on the role of the Elected Members in delivering their accountability for the financial state of the local government, which is accomplished through the City's Audit Committee, the role of which is to:

#### External Audit

- Develop and recommend to Council:-1) A list of those matters to be audited; and 2) the scope of the audit to be undertaken;  
*Note: Provision should be made to review the scope of the audit on a regular basis.*
- Develop and recommend to Council an appropriate process for the selection and appointment of the person as the City's auditor;  
*Note: A person is to be appointed the auditor not a firm.*

- Develop and recommend to Council a written agreement (contract) for the appointment of an auditor. The agreement to include:
  - i. The objectives of the audit.
  - ii. The scope of the audit.
  - iii. A plan of the audit.
  - iv. Details of remuneration and expenses to be paid to the auditor.
  - v. The method to be used by the City to communicate and supply information to the auditor.
  - vi. An evaluation program in relation to the adequacy of the financial control systems in operation at the City.
- Meet with the auditor at least once every year and report to Council on the matters discussed and the outcome of discussions.
- Examine the reports of the Auditor – together with accompanying reports of the Chief Executive Officer or Chief Financial Officer – to ensure that adequate measures have been taken in respect of any matters of concern raised.
- Review the draft annual report focusing upon:
  - i. Accounting policies and practices.
  - ii. Any changes to the accounting policies and practices.
  - iii. The processes used in making significant accounting estimates.
  - iv. Significant adjustments to the financial report (if any) arising from the audit process.
  - v. Compliance with accounting standards and other reporting requirements.
  - vi. Significant variances from prior years.

### **Internal Audit**

- To ensure adequate control processes are in place;
  - a. Receive regular reports from the Chief Executive Officer and/or the Internal Auditor on the relevance, appropriateness and adequacy of the internal audit processes being utilised at the City;
  - b. Review and make recommendations to Council on the completed Compliance Audit Return after receiving a report detailing:-1) staff explanation regarding non-compliance (if any) or where full compliance has not been received; 2) remedial action implemented to ensure future compliance.

Note: the report presented to the Audit Committee should specifically highlight those cases of non-compliance which have occurred.

- Review and ensure appropriate action is being taken in respect to:
  - Monthly bank reconciliations are up to date.
  - The ratio of collections in respect of sundry debtors is reasonable.
  - The ratio of rate collections is reasonable.

- Inventory (stock takes) are regularly undertaken and reconciliations effected.
  - Waste Management (both household rubbish and recycling) accounts are reconciled.
  - Accounts are expeditiously rendered to debtors.
  - Funds are being appropriately invested.
  - Review Council and internal policies.
  - Taxation issues (eg GST) are being appropriately dealt with.
  - Other matters deemed appropriate.
- Receive and make recommendations to Council in respect of reports from the Chief Executive Officer or the Internal Auditor which deal with such matters as those listed above.
  - Review the completed Compliance Audit return and consider the following:
    - Staff explanations regarding cases of non-compliance (if any) or where full compliance has not been achieved.
    - Remedial action that has been taken or will be taken to ensure future compliance.
  - The Audit Committee will not have delegated authority to decide matters on behalf of Council.
  - An assessment of risk management practices, policies and procedures used as part of operational planning processes and procedures.

### **The Annual Budget**

One of the primary responsibilities of Council is to set the Annual Budget, which, under the Local Government Act 1995, Council is required to prepare and adopt. The budget can be viewed as the annual articulation of the longer term strategic financial planning framework, based on leadership by the Council, the determination of Council priorities, and the allocation of resources to these priorities.

Local governments are also required to prepare a Corporate Business Plan and a Long Term Financial Plan indicating the resources required for the achievement of the City's strategies. Each year of these Plans are used as the starting point for development and finalisation of the annual budget.

The City has adopted a practice to regularly review its annual budget and this is undertaken on a quarterly basis and reported to Council.

### **Long Term Financial Plan**

In developing the long term financial plan (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.

### **Financial Reporting**

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

Annual Report – 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.

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.

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

## **9.6 Role of the Administration**

The CEO is accountable to the Council for the financial performance of the City. They 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 these.
- Suitable internal review mechanisms must be in place.
- There must be an organisational culture in which responsibility and accountability are clearly delineated and understood.
- 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.

## 9.7 Risk Management

AS/NZS ISO 31000:2009 defines risk management as the application of coordinated activities to direct and control an organisation with regard to risk.

Council 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 residents and visitors. 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 some risks, it could result in financial loss, threats to public or staff safety or lead to substantial adverse publicity.

The City has adopted a Risk Management Plan 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. The document also outlines the key features of risk management and the potential benefits and its importance to the City.

## 9.8 Planning and Development Functions

### Quasi-Judicial Role

The Council of a local government has particular responsibilities under the Planning Legislation and the *Planning and Development Act*. Under the Planning and Development Act the Minister for Planning has delegated responsibility for deciding on development applications in certain instances. . This delegation should be treated respectfully and should reflect the decisions the Minister for Planning would make themselves.

The Quasi-Judicial Role requires the decision-maker to determine the relevant facts, to identify any applicable legal or other relevant principles including any relevant statutory regime, and to apply those principles and laws to the relevant facts to arrive at a decision. Simply put a Council must act judge like when dealing with planning matters.

The controls and procedures for assessment of development applications are set in place by a statutory framework and local governments are responsible for undertaking this role in accordance with the Planning Legislation and relevant Regulations.

Councils are 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 Councils, they must exercise their discretion over planning matters in a way that is mindful of this quasi-judicial role.

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

There may be some occasions when Elected Members feel that they do not have enough information to make a decision. The best time to get information is prior to the meeting by contacting the CEO. Council, in deciding on planning matters must take care to ensure that the following principles are adhered to:

- a. Elected Members must read the Officer's report on the matter before voting at a Council meeting. An Elected Member who has not read the Officer's 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 Officer's report. Where Council conducts a debate on a matter that is based on irrelevant considerations, or fails to take into account relevant considerations, this may jeopardise the decision making process.
- c. Council must be careful when making a resolution that is different to the Officer's recommendation. In resolving differently from the recommendation the 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, Council has a duty to ensure that consultation occurs in relation to that development. The report of the employee is to include details of any neighbour notification or consultation that has occurred. Council 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 should not take into account irrelevant considerations.

## **Consequences of Breakdown in the Quasi-Judicial Role**

The following are some of the consequences of a breakdown in the quasi-judicial role.

- A breakdown in the quasi-judicial role will most frequently be perceived or interpreted as bias.
- A perception of bias can lead to the following consequences:
  - (a) An allegation of improper conduct, which falls within the definition of 'corruption' under the Corruption and Crime Commission Act 2003.
  - (b) Bias by the Council, or even one member of the Council, could result in Council decisions being invalidated.
  - (c) An Elected Member acting when biased and without disclosing an interest affecting impartiality, may be in breach of reg. 11 Local Government (Rules of Conduct) Regulations 2007 and therefore committing a minor breach leading to public censure, the requirement of a public apology, and or re-education and to more severe penalties including disqualification for a third or subsequent breach

## **Planning Schemes**

Local government is required under the Planning and Development Act 2005 to have in place a Planning Scheme for the district. A Local Government Planning Scheme is required to be consistent with the Metropolitan Region Scheme, which is administered by the State Government. The Local Government Planning Scheme 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, local government and the community. The State Government, through the Minister for Planning provides final approval to the contents of a Planning Scheme and once gazetted a Scheme comes

into operation and has the force of law. The authority to operate its Planning Scheme is delegated to the City of Kalamunda by the State Government.

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

At the present time the City operates under 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 a Scheme Amendment.

Local planning policies are also used to support and guide the implementation of the Scheme. These planning policies include the City's Home Business and Child Care policies. 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 a 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 a customer).
- 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 will provide Elected Members with detailed information relating to the particular planning issue requiring Council consideration. In certain circumstances applicants have rights of appeal to challenge a planning related decision of the Council. It is therefore important for 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 government regarding a range of matters including town and regional planning. Landowners

and/or applicants can apply to the SAT to make decisions, settle disputes and review decisions under a range of enabling laws.

The District Planning Scheme 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. The Notice of Delegation can be reviewed earlier as 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 Development & Infrastructure.
- Manager Planning and Environmental Services.
- Coordinator Planning Approvals.
- Senior Planning Officers.

The delegation is necessary in order to permit:

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

## **9.9 Legal Framework**

### **Local Government Act 1995**

The City of Kalamunda is constituted as a district under the Local Government Act 1995. The general function of a local government is to provide for the good government of people living and working within its district and includes legislative and executive powers and responsibilities given 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 through delegations, policies and local laws.

### **Delegations**

Delegations are a part of the City's decision-making approach. They represent the policy of the Council to entrust certain types of decisions to the CEO 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 desired 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.

### **Executive Functions**

The Council is responsible for overseeing the executive functions of the City. The executive functions of the local government are to provide services and facilities. Section 3.18 of the Act states:

- “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.”*

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:

1. Integrate and coordinate, so far as practicable, with any provided by the Commonwealth, the State or any public body.
2. 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.
3. Are managed efficiently and effectively.

### **Local Laws**

Council is responsible for adopting a set of local laws 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 local laws provides the community with a six-week advertising period to allow for the opportunity to 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 and considered 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:

- Animal 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 Laws 1999.
- Standing Orders Local Law 2005.
- Parking Local Law 1998.
- Private Property Local Law 1998.
- Signs Local Law 1999.
- Trading in Public Local Law 1999.

### **Standing Orders Local Law 2005**

The Standing Orders Local Law 2005 provides a set of enforceable procedures to assist in the good conduct of meetings to achieve better decision making and a greater community understanding of the business of the Council.

It is recommended that Elected Members 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.

### **Gifts**

The Code of Conduct adopted by the City of Kalamunda contains a provision that 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 Kalamunda.

The City of Perth Bill 2015 has amended the Local Government Act 1995 (the Act) to provide that a relevant person who accepts a gift which is worth greater than \$200 must disclose acceptance of the gift within ten days of receipt to the Chief Executive Officer, rather than in an annual return. All contributions to travel over \$200 must also be disclosed.

The disclosure for gifts will be required to include:

- Name of relevant person making disclosure;

- A description of the gift;
- The name and address of the person who made the gift;
- The date on which the gift was received;
- The estimated value of the gift at the time it was made; and
- The nature of the relationship between the relevant person and the person who made the gift.

The disclosure of a contribution to travel must include:

- Name of relevant person making the disclosure;
- A description of the contribution to travel;
- The name and address of the person who made the contribution to travel;
- The date on which the contribution to travel was received;
- The estimated value of the contribution to travel at the time it was made;
- The nature of the relationship between the relevant person and the person who made the contribution;
- A description of the travel undertaken; and
- Date of travel undertaken.

If any gift, reward or benefit is offered (other than gifts of a token kind, or moderate acts of hospitality), disclosure must be made within 10 working days, submitted to the CEO in writing in the appropriate form and lodged on to the public register.

The CEO is required to keep a record of the disclosures by way of a register. This is to be published on the local government's official website as well as made available for public inspection at the council offices.

As soon as is practicable after a person ceases to be a relevant person, the CEO must remove all records relating to that person from the register. However, a CEO must ensure that these disclosures are kept for a period of at least 5 years, and made available for public inspection if requested.

### **What is a gift? [section 5.82]**

The *first question* will be whether there was a gift as defined.

Under the Act, a gift is defined as any disposition of property, or the conferral of any other financial benefit, made by one person in favour of another otherwise than by will (whether with or without an instrument in writing), without consideration in money or money's worth passing from the person in whose favour it is made to the other, or with such consideration so passing if the consideration is not fully adequate, but does not include any financial or other contribution to travel.

A contribution to travel is not a gift (such contributions are dealt with in s5.83). When considering what constitutes a gift, the key question to consider is that posed by the definition: i.e. whether there has been a conferral of property or financial benefit where full consideration has not been given in return. The particular context in which the gift was given – whether it be as part of a person's role as an elected official or staff member, or in a private capacity – is not, for that purpose a relevant consideration.

### **What is a contribution to travel? [section 5.83]**

The *first question* will be whether there was a contribution to travel as defined.

Under the Act, a contribution to travel is each financial or other contribution that has been made to any travel undertaken by a relevant person at any time during a year.

In this context, travel is a journey or journeys away from where a person lives. It does not matter what the distance, duration or mode of transport is. A contribution to travel will be something that facilitates such a journey(s). For example, necessary costs such as an airline ticket price and visa fees will be within the relevant category of contributions. Also included will be costs which might not be necessary, but can still be regarded as assisting in meeting the journey(s) costs. For example, optional travel insurance would be included.

### **Freedom of Information**

All Elected Members and staff should be aware of Freedom of Information (FOI) implications when writing correspondence, both electronically or manually, whether it is internal or external. As a general rule any written material generated by staff or Elected Members may become public knowledge and subject to a Freedom of Information investigation. FOI gives individuals a legally enforceable right to access records held by both state and local government agencies.

## **10. Principle Four: Policy-Making and Management**

### **10.1 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 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:

1. 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 mission, vision and strategic direction of the City.

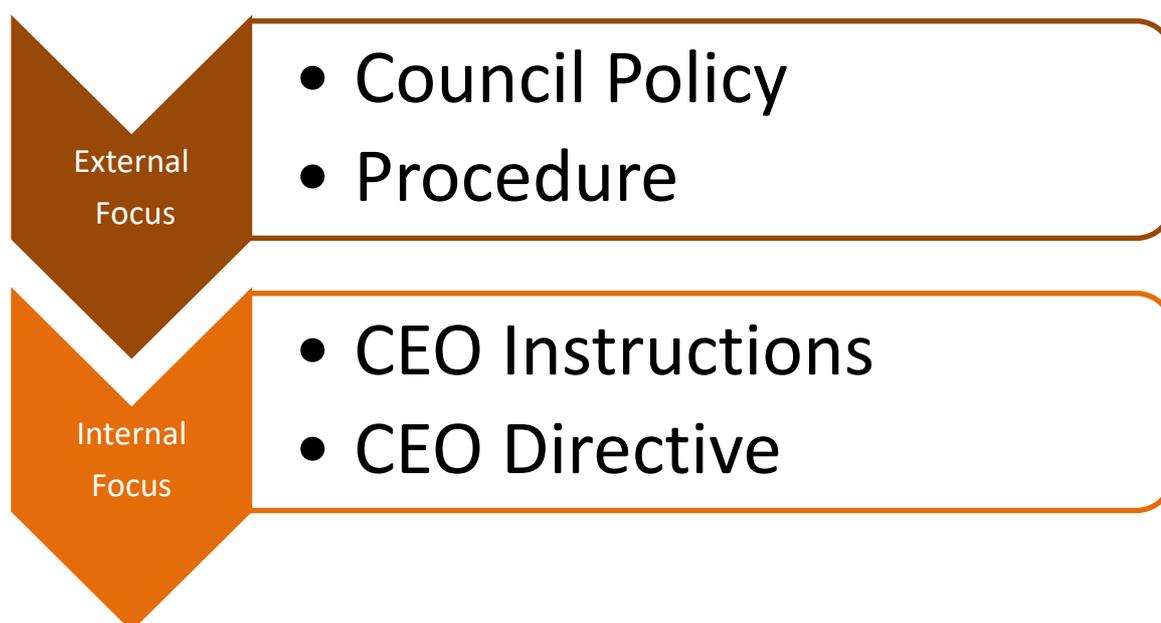
2. CEO Instructions

These Instructions are developed for administrative and operational requirements. They have an internal focus.

3. Procedures and CEO Directive

Council Policies and CEO Instructions may be supported by a Procedure or CEO Directive that outlines how the Council Policy or CEO Instruction will be implemented.

**Figure 4 Policy Framework**



## **11. Principle Five: Accountability**

### **11.1 Principle of Accountability**

Excellence in governance is based on the principle that the people involved in governance, the Elected Members and Officers, are held to account for what they do. Accountability means holding the Elected Members and management of the City responsible for its performance. The public trust placed in the local government 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 review of decision-making and processes. These systems must record and support the local government'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 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 exist to govern for and on behalf of their communities. 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.

## **11.2 Performance Management**

The Council is accountable for monitoring performance in the achievement of its strategic direction, goals and financial outcomes which are set through the Strategic Plan, Strategic Financial Plan, Annual Plan and Annual Budget.

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

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 seeking independent professional advice when undertaking the performance evaluation of the CEO.

## **11.3 Compliance**

It is a requirement of the Local Government Act 1995 to conduct an annual audit of compliance with statutory requirements of the Act.

The 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 process, disclosure of financial interests and financial management. It provides a useful tool for a local government to utilise 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.

## **11.4 Audit Committee**

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.

## **11.5 Consultation**

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

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 Community Engagement Policy and Strategy Policy, the objective of which is to outline the City's commitment to actively involving the community in Council's planning, development and service delivery activities.

The City's Community Engagement Strategy provides a clear articulation of the City's commitment to strong stakeholder and community relationships. The goal of the Strategy 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 Community Engagement Policy:

- Identification of issues requiring Community Engagement.
- Inclusion of funding for Community Engagement activities in the annual budget process.
- Increasing staff awareness and skills in Community Engagement 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 Community Engagement in the City's affairs.

## **11.6 Records Management**

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

All Elected Members, staff 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

## **12. Council and Elected Member Self-Assessment**

### **12.1 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:

#### **The Council 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 programme for Council).

#### **Elected Member Self-Assessment**

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.

Note - Refer to Appendixes for self-assessment forms

## 13. References

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

- AS8000 Good Governance Principles.
- Murdoch University Senate, Statement of Governance Principles.
- Governance Framework and Statement – City of South Perth.
- On Board Leadership – John Carver.
- Reinventing Your Board, A Step by Step Guide to Implementing Policy Governance – John Carver and Miriam Mayhew Carver.
- Good Governance Guide 2004 – The Principles of Good Governance within Local Government - Municipal Association of Victoria.
- Excellence in Governance for Local Government – CPA Australia.
- WALGA – Training and Development Program for Elected Members.
- Corporate Governance Charter - WA Local Government Association December 2004.
- 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.
- Elected Members Welcome Pack - City of Kalamunda - May 2003.
- Elected Member Induction - Local Government Operational Guidelines Number 4 published by the Department of Local Government and Regional Development - Updated March 2005.
- City of Wollongong Governance Manual 2004.
- Council Forums - Local Government Operational Guidelines Number 5 published by the Department of Local Government and Regional Development - January 2005.
- Managing Public Question Time - Local Government Operational Guidelines Number 3 published by the Department of Local Government and Regional Development - August 2002.
- The Business of Local Government (a training course for Elected Members)- a joint WALGA and Australian Institute of Company Directors Course.
- WALGA State Council performance assessment questionnaire.
- Local Government Act 1995.
- City of Kalamunda Governance Review Report May 2004.
- Sustainability Reporting Guidelines – Global Reporting Initiative.
- ASX Corporate Governance Council – Principles of Good Corporate Governance and Best Practice Recommendations.
- Local Government (Rules of Conduct) Regulations 2007.
- Enterprise-wide Risk Management – Better Practice Guide for the Public Sector – CPA Australia

## 14. APPENDIX 1 – COUNCIL SELF ASSESSMENT

Please CIRCLE your responses as per the following scale:

1. Strongly Disagree 2. Disagree 3. Unsure 4. Agree 5. Strongly Agree

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 does not become drawn into operational management matters Council has a clear understanding of business risk	1	2	3	4	5
5	Roles of the Mayor, Councillors and the CEO are clearly defined and understood	1	2	3	4	5
6	The Council understands the City's vision, mission, values, philosophy and plans	1	2	3	4	5
7	The Council regularly inputs into strategy development and review	1	2	3	4	5
8	The CEO and employees have commitment, capacity and enthusiasm	1	2	3	4	5
9	The City has relevant and reliable internal reporting and compliance systems	1	2	3	4	5
10	Elected Members are aware of the City's responsibilities to regulators and external stakeholders	1	2	3	4	5
11	The Council communicates effectively with its community	1	2	3	4	5
12	Elected Members bring valuable experience and skills to the Council	1	2	3	4	5
13	The Council has legitimacy and retains confidence in the eyes of the community	1	2	3	4	5
14	The Mayor ensures that meetings are chaired and matters are discussed / debated in a structured and effective way	1	2	3	4	5
15	The Mayor makes sure that the Council addresses all of the appropriate strategic issues	1	2	3	4	5
16	The Mayor makes sure there is sufficient time to discuss the important issues on the agenda	1	2	3	4	5
17	The Mayor encourages contributions by Elected Members to get the best out of them	1	2	3	4	5
18	The Mayor liaises effectively with the CEO	1	2	3	4	5
19	The CEO is receptive to the Council's input	1	2	3	4	5
20	The CEO assists Elected Members in meeting their governance obligations	1	2	3	4	5
21	The Council is effective in monitoring and evaluating the performance of the CEO	1	2	3	4	5
22	The Council papers, including agenda, minutes and briefing notes are timely, accurate and informative	1	2	3	4	5
23	The Council meetings address the key issues facing the community	1	2	3	4	5
24	The duration of meetings of the Council are appropriate	1	2	3	4	5
25	Elected Members come to meetings well prepared and participate effectively in debate and discussions	1	2	3	4	5
27	The Council adheres to effective governance practices	1	2	3	4	5
28	Appropriate records from Council meetings are documented in Minutes	1	2	3	4	5
29	The relationship between the Mayor and Elected Members is effective in enabling the Council to fulfil its duties and responsibilities	1	2	3	4	5
30	The relationship between the Council and the CEO is effective in enabling Council to fulfil its duties and responsibilities	1	2	3	4	5
Additional comments on the performance of the Council?						

## 15. APPENDIX 2 – COUNCILLOR ASSESSMENT

1	I understand my roles, duties and responsibilities as an Elected Member of the City of Kalamunda	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 and understand when a conflict may arise	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 <i>Code of Conduct</i>	1	2	3	4	5
23	Outside the Council meeting and when acting in my capacity as an Elected Member, I support Council decisions that have been made	1	2	3	4	5
<p>Are you satisfied with the level of support you are provided in undertaking your role as an Elected Member of the City of Kalamunda? Are there any areas that can be improved?</p>						
<p>Are there any specific areas in which you would like professional development to enhance your effectiveness as an Elected Member of the City of Kalamunda?</p>						
<p>Are you satisfied with the process of evaluating performance as an Elected Member of the City of Kalamunda? Are there improvements you consider could be made?</p>						

*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.*