

# AGENDA

# Compliance and Strategic Review Committee Meeting Thursday, 5 December 2019

I hereby give notice that a Compliance and Strategic Review Committee Meeting will be held on:

Date:	Thursday, 5 December 2019
Time:	5.00pm
Location:	Council Chambers Clarendon Street Derby
Amanda O'Halloran	Chief Executive Officer
-34 5 5	

## **Order Of Business**

1	Decla	Declaration of Opening, Announcement of Visitors5							
2	Atte	Attendance via Telephone/Instantaneous Communications							
3	Anno	Announcements by Presiding Person without Discussion5							
4	Discl	osure of Interests	.5						
	4.1	Declaration of Financial Interests	. 5						
	4.2	Declaration of Proximity Interests	. 5						
	4.3	Declaration of Impartiality Interests	. 5						
5	Conf	irmation of Minutes of Previous Meetings	.5						
6	Repo	orts	.6						
	6.1	Governance Program - 2019/20	.6						
	6.2	Delegations of Power - F1 Incurring Liabilities and Making Payments	23						
	6.3	Policy Review - AF1 Procurement of Goods and Services	30						
	6.4	Special Compliance and Strategic Review Meeting: Thursday 12 December 2019	17						
7	New	New Business of an Urgent Nature50							
8	Date	of Next Meeting	50						
9	Closu	ure of Meeting	50						

## **1 DECLARATION OF OPENING, ANNOUNCEMENT OF VISITORS**

## 2 ATTENDANCE VIA TELEPHONE/INSTANTANEOUS COMMUNICATIONS

In accordance with regulation 14A of the Local Government (Administration) Regulations 1996 Council must approve (by Absolute Majority) the attendance of a person, not physically present at a meeting of Council, by audio contact. The person must be in a 'suitable place' as approved (by absolute majority) by Council. A 'suitable place' means a place that is located in a townsite or other residential area and 150km or further from the place at which the meeting is to be held.

## **3** ANNOUNCEMENTS BY PRESIDING PERSON WITHOUT DISCUSSION

## 4 DISCLOSURE OF INTERESTS

Section 5.65 and 5.70 of the *Local Government Act 1995* requires an Elected Member or officer who has an interest in any matter to be discussed at a Committee/Council Meeting that will be attended by the Elected Member or officer must disclose the nature of the interest in a written notice given to the Chief Executive Officer before the meeting; or at the meeting before the matter is discussed.

An Elected Member who makes a disclosure under section 5.65 or 5.70 must not preside at the part of the meeting relating to the matter; or participate in; or be present during, any discussion or decision making procedure relating to the matter, unless allowed by the Committee/Council. If Committee/Council allow an Elected Member to speak, the extent of the interest must also be stated.

- 4.1 Declaration of Financial Interests
- 4.2 Declaration of Proximity Interests
- 4.3 Declaration of Impartiality Interests

## 5 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

## RECOMMENDATION

That the Minutes of the Compliance and Strategic Review Committee Meeting held at the Council Chambers, Clarendon Street, Derby, on 14 November 2019 be CONFIRMED.

## 6 REPORTS

6.1	GOVERNANC	OVERNANCE PROGRAM - 2019/20						
File Number:		4180						
Author:		Danielle Hurstfield, Manager Administration and Governance						
Responsible Officer:		Amanda O'Halloran, Chief Executive Officer						
Authori	ty/Discretion:	Administrative						

## SUMMARY

This item seeks approval to implement a compliance program to ensure the Shire's systems and procedures in relation to risk management, internal control and legislative compliance are identified and implemented.

## DISCLOSURE OF ANY INTEREST

Nil

## BACKGROUND

The Terms of Reference for the Compliance and Strategic Review Committee adopted 26 March 2015 detail the key role the Committee holds in assisting the Shire fulfil its corporate governance responsibilities in managing the affairs of the organisation. This includes financial reporting, risk management, compliance requirements and auditing.

The Committee will ensure compliance in the Shire's financial reporting and will liaise with the CEO to ensure the effective and efficient management of the Shire's financial accounting systems to meet statutory requirements.

Regulation 17 of the Local Government (Audit) Regulations 1996 provides that the CEO is to review the appropriateness and effectiveness of the local governments systems and procedures in relation to risk management, internal control and legislative compliance. The review presented by the CEO in November 2019 provided an opportunity to plan a structured approach for the next 12 months.

## STATUTORY ENVIRONMENT

## Local Government Act 1995

## Part 7, Division 1A — Audit committee

7.1A. Audit committee

- (1) A local government is to establish an audit committee of 3 or more persons to exercise the powers and discharge the duties conferred on it.
- (2) The members of the audit committee of a local government are to be appointed\* by the local government and at least 3 of the members, and the majority of the members, are to be council members.

\* Absolute majority required.

## Local Government (Audit) Regulations 1996

16. Functions of audit committee

An audit committee has the following functions —

- (a) to guide and assist the local government in carrying out
  - (i) its functions under Part 6 of the Act; and
  - (ii) its functions relating to other audits and other matters related to financial management;
- (b) to guide and assist the local government in carrying out the local government's functions in relation to audits conducted under Part 7 of the Act;
- (c) to review a report given to it by the CEO under regulation 17(3) (the CEO's report) and is to
  - (i) report to the council the results of that review; and
  - (ii) give a copy of the CEO's report to the council;
- (d) to monitor and advise the CEO when the CEO is carrying out functions in relation to a review under
  - (i) regulation 17(1); and
  - the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (e) to support the auditor of the local government to conduct an audit and carry out the auditor's other duties under the Act in respect of the local government;
- (f) to oversee the implementation of any action that the local government
  - (i) is required to take by section 7.12A(3); and
  - (ii) has stated it has taken or intends to take in a report prepared under section 7.12A(4)(a); and
  - (iii) has accepted should be taken following receipt of a report of a review conducted under regulation 17(1); and
  - (iv) has accepted should be taken following receipt of a report of a review conducted under the Local Government (Financial Management) Regulations 1996 regulation 5(2)(c);
- (g) to perform any other function conferred on the audit committee by these regulations or another written law.

[Regulation 16 inserted: Gazette 26 Jun 2018 p. 2386 7.]

## POLICY IMPLICATIONS

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY		
<b>4:</b> Good governance and effective organisation	<b>4.1:</b> Effective governance and leadership	<ul> <li>4.1.3: Strengthen the governance role of Councillors by informing, resourcing, skilling and supporting their role</li> <li>4.1.8: Develop and maintain risk management policies and procedures</li> </ul>		

## **RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Financial, Legal and Compliance, Organisational Operations and Reputation	Unlikely	Extreme	Extreme	Monthly reporting to the Compliance and Strategic Review Committee for awareness and direction where required.

### CONSULTATION

Consultation has been undertaken with Managers of relevant function areas.

## COMMENT

This program follows on from the Regulation 17 Review of Risk Management, Internal Controls and Legislative Compliance adopted by Council on 21 November 2019. Given the large workload that was identified during that review, the program identifies 2 areas under each of the 3 review areas for focus in the period to the end of this financial year.

Risk Management will review the areas of ICT (Information and Communication Technologies) and Emergency Management Arrangements. Internal Controls will focus on Recordkeeping and Customer Service and Legislative Compliance will review Cemeteries and ensure the Compliance Audit Return is completed.

This item formalises a body of work that has commenced in this regard and seeks to ensure outcomes are achieved through planning and reporting.

An update detailing progress will be provided to the March 2020 Compliance and Strategic Review Committee.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

1. 2019/20 Governance Program 😃 🛣

## RECOMMENDATION

That the Compliance and Strategic Review Committee:

- 1. Endorse the proposed Governance Program to be completed for the 2019/20 year.
- 2. Recommend that Council endorse the proposed Governance Program to be completed for the 2019/20 year.

# Governance Program 2019/20

Priority Level
High
Medium
Low
Completed

### 1. Risk Management

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
1.1	ICT	Requirement to test services to the market to ensure value for money	<ul> <li>Develop tender specification and advertise to market</li> <li>Review and adopt by April OCM</li> </ul>		High		
1.2	Emergency Management Arrangements	Full review required every 5 years	Document to be reviewed		Medium		

### 2. Internal Controls

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
2.1	Recordkeeping	Implementation of Recordkeeping Plan adopted December 2018	<ul> <li>Prioritisation of plans to be developed</li> <li>Internal audit program to assess implementation of recordkeeping tools and training</li> </ul>		Medium		
2.2	Customer Service Charter	Implementation of Customer Service Request system with reporting regularly to CSRC.	<ul> <li>Review of existing system</li> <li>Assessment of usage and effectiveness</li> <li>Monthly reporting to CSRC</li> </ul>		Medium		
			•				

### 3. Legislative Compliance

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
3.1	Cemeteries	<ul> <li>Compliance with legislative requirements</li> <li>Review of management of Cemeteries</li> </ul>			High		
3.2	Compliance Audit Return	Complete and submit by 31 March 2020			High		

## Governance Betterment Program resulting from 2019 Regulation 17 Review of Risk Management, Internal Controls and Legislative Compliance



#### 1. Risk Management

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
1.1	Risk Management	A Risk Management Policy is in place and communicated to staff for their awareness and compliance. Staff are provided with formal risk training. Staff understand their risk management roles and responsibilities	The Risk Management Policy AF6 adopted by Council in February 2019 covers the commitment and rationale for risk management. This Policy does not clearly articulate the purpose and desired outcomes of an entity wide risk management strategy in line with the Standard for Risk Management, ISO 31000:2018	<ul> <li>Review and update the Risk Management</li> <li>Policy to help the Shire to:</li> <li>Align risk management with its objectives, strategy and culture</li> <li>Communicate the value of risk management to the organisation and stakeholders; and</li> <li>Pro mote systematic monitoring of risks</li> </ul>	High		
1.2	Risk Framework	The Shire's Risk and Opportunity Management Framework consists of formal procedures, work instructions and templates and provides guidance around key risk management processes.	Risk and Opportunity Management Framework was developed in conjunction with the adoption of AF6 however has not been implemented throughout the Shire.	Risk management training with staff is required to embed this framework into operational culture. Risk Framework and Risk Profile to be reviewed with LGIS and workshops presented to staff.	High		

### 4. Risk Management (Cont'd)

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
			A formal risk management process is yet to be fully implemented across the Shire. Currently, no process to formally communicate and manage entity wide risks is in place.	Following update of the Shire's Risk Management Policy and Risk and Opportunity Management Framework, the risk management process should be implemented throughout the Shire.	Medium		
1.3	Risk Management Process	A formal process for the identification, review, analysis and treatment of risks.	A risk register is reported to the Compliance and Strategic Review Committee, however only contains issues identified as non compliant at the Shire's Airport and Port. Risks which could significantly impact on the Shire's ability to deliver on its strategic objectives or essential services are not recorded in the register.	Staff training on principles of risk management should be provided to embed a risk awareness culture.	Medium		
1.4	Risk Monitoring	Risks are regularly monitored to ensure appropriate attention is given to risk mitigation activities.	There are currently no formal processes to formally review risks.	Routine monitoring of identified risks should be undertaken to ensure risks are reduced to an acceptable level.	Medium		

### 3.2 Risk Management (Cont'd)

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
1.5	Risk Reporting	Formal risk reports are presented to the Compliance and Strategic Review Committee.	A risk register of specific/identified risks are reported to Council's Compliance and Strategic Review Committee monthly, however only address areas of non compliance at airports/port.	Risks which could significantly impact on the Shire's ability to deliver on its strategic objectives or essential services are not recorded in the register. Risk reporting requirements to the Compliance and Strategic Review Committee should be included in the Risk Management Policy and Risk and Opportunity Management Framework.	Medium		
1.6	Council Policies	Council Policies exist and form the Shire's governance framework.	Comprehensive review of Policy Manual undertaken from September 2018 and completed March 2019 with review by the Compliance and Strategic Review Committee. There were over 15 polices that were not reviewed during this process.	To be included on governance calendar to ensure regular review through the Compliance and Strategic Review Committee.	Low		
1.7	Code of Conduct Training	Formal Code of Conduct training is required for all new staff. Refresher Code of Conduct training is provided to re-enforce the Shire's expectations of ethical conduct by its staff.	9 staff have been trained, approximately 45 still to complete.	Code of Conduct training is completed by outstanding staff members. Code of Conduct refresher training for all staff be conducted at least annually.	High		

### 3.2 Risk Management (Cont'd)

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	Action	Date
1.8	Disaster Recovery Plan	A current Disaster Recovery Plan is in place and tested as required.	A disaster recovery plan does not exist for Shire Operations.	Plan has been identified as needing development in approved Recordkeeping Plan. This plan will be included with risk management program with the assistance of LGIS.	Medium		
1.9	Business Continuity Plan	A Business Continuity Plan is in place and reviewed when significant changes to the systems and processes at the Shire occur.	An extensive amount of work has been undertaken in relation to IT systems, however there is no comprehensive business continuity plan that encompasses all areas of operations in place.	A Plan has been identified as needing development in approved Recordkeeping Plan. Business continuity plans to cover all areas of operations with a focus on Derby Port and airports to be supported by LGIS.	High		

#### 5. Internal Control Environment

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	
2.1	Internal Audit - Finance	An Internal Audit Plan is in place with audit recommendations tracked for corrective action.	Items raised in the auditors Management Report were presented to the Compliance and Strategic Review Committee on 16 May 2019 and endorsed by Council on 30 May 2019, authorising the CEO to prepare a report to the Minister within 3 months addressing any significant matters raised. The CEO provided a response to the Department on 28 June 2019. Currently there is no plan in place to manage corrective action.	To provide the CEO with assurance of the effectiveness of the Shire's internal control framework, consideration be given to conducting routine independent planned reviews over key financial and operational controls. The review program can be performed by internal staff where they are not responsible for the area under review. Implementation of plan with quarterly reporting to the Compliance and Strategic Review Committee	Medium	
2.2	Segregation of Duties – System Access	System user access privileges are reviewed to ensure access is authorised and granted on a 'needs basis'.	Currently no plan in place to manage corrective action.	User access privileges in the IT system be reviewed and access privileges be amended to align with job roles. For good practice, undertake review at least annually across the whole organisation.	High	

3.3 Internal Control Environment (Cont'd)						 
	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	
2.3	Work Procedures - Finance	Documented policies and procedures are available to guide staff and ensure internal controls are performed as required.	The Shire has procedures in place which support financial functions. Further development is required for documented procedures such as detailed checklists and work instructions to help staff perform their key financial/operational controls. There are deficiencies across all function areas across the organisation.	<ul> <li>Development of:</li> <li>Current position descriptions</li> <li>Job checklists</li> <li>Flow charts</li> <li>Documented procedures that show step by step with screenshots of how to perform critical functions.</li> <li>Opportunity to use framework such as Better Business to facilitate a coordinated approach.</li> </ul>	High	
2.4	Review of Financial Processes	Supervisory and management controls are part of the control environment to: • Ensure independent review of key financial processes; • Detect unusual, unauthorised and inappropriate transactions • Ensure key tasks are performed as required (eg. bank reconciliations, account reconciliations, rate reconciliations and pay run control checks).	Currently no plan in place to manage corrective action.	Development of process to address and implement. Consideration for independent health-checks on key financial and operational controls be carried out on a cyclical basis to provide the CEO with assurance of the effectiveness of the Shire's internal control framework.	High	

## 2. Internal Control Environment (Cont'd)

	Category	Objectives/Desired Outcomes	Assessment	Corrective Actions	Priority	
2.5	Credit Cards	Credit card expenses are approved and reconciled on a monthly basis. A listing of credit card expenditure is provided to Council for noting.	Adoption of Transaction Card policy on 28.02.2019. This policy covers the use of Corporate Credit Cards, Fuel Cards and Cabcharges. Further process is required in relation to use of credit cards. Fuel card use and supporting systems need to be implemented.	<ul> <li>Implementation of declarations on monthly credit card acquittal</li> <li>Strengthening of Corporate Credit Card User Agreement</li> <li>Process is developed for the use of fuel cards</li> </ul>	High	
2.6	Access to ABA Files	ABA files should be restricted on a 'need to know' basis to prevent unauthorised changes to banking instructions.	Currently no plan in place to manage corrective action.	<ul> <li>Review the current access privileges and grant access only to those requiring it for their role.</li> <li>Implement controls to ensure bank account details loaded to the bank agree to supplier or employee records.</li> </ul>	High	
2.7	Purchasing Controls	Purchase orders are approved prior to receipt and/or commitment to purchase goods and services. Contracts are in place for purchase of goods and/or services. Thresholds for purchasing outlined in the Purchasing Policy are complied with.	Currently no plan in place to manage corrective action.	<ul> <li>Review of purchasing delegations and limits to be undertaken</li> <li>Development of Procurement guideline and recording of quotes assessment</li> <li>Staff to be trained in purchasing roles and responsibilities.</li> </ul>	High	

## 6. Legislative Compliance

	Category	Objectives/Desired Outcomes	Assessment	Assessment Corrective Action		
3.1	Framework	Systems and processes in place to help ensure compliance to legislative requirements. Notification of changes is from reliable sources and timely. Dissemination of information to staff is a formalised process.	<ul> <li>Varying levels of systems and processes are in place across the organisation.</li> <li>A governance program was endorsed in October 2018 that gave some framework to policy and strategic document review.</li> <li>Dissemination of information is at best ad hoc.</li> </ul>	The governance program needs to be further developed to ensure compliance decisions are documented and staff trained in their use especially Policy adoption and any amendment to procedures as a result.	Medium	
3.2	Maintenance of Registers	System and processes in place to help ensure staff and elected members report: • Receipt of gifts / travel; and • Related party disclosures. The Shire maintains Registers required under the Act.	The Shire uses the ATTAIN electronic system for reporting use of returns, related party interests, delegations, gifts and travel declarations. Information has generally been captured and complies however further development of process is required to ensure information is made available as appropriate eg gifts declaration on website. There has been a failure in the management of Leases, Agreements and Grants registers due to staff turnover.	<ul> <li>Develop process to ensure data is entered into and extracted out of systems.</li> <li>Purchase of Synergy Compliance calendar that will enable oversight by governance and notifications to responsible officer and their supervisor of due dates/milestones. This will prevent system failure due to staff turnover.</li> <li>Leases, Grants and Agreements – collation and review current terms and conditions. This data will enable use of central system enabling reporting and oversight. Ensuring actions are undertaken when required.</li> </ul>	High	

## 3. Legislative Compliance (Cont'd)

	Category	Objectives/Desired Outcomes	Assessment	Corrective Action	Priority	
3.3	Review and Submission of Reports	The Shire reviews and submits the required informing plans and budgets to the Department of Local Government, Sport and Cultural Industries by the required deadlines.	Governance staff work with the WALGA compliance calendar. Reporting structures are not evident.	Quarterly reporting to be presented to the Compliance and Strategic Review Committee to demonstrate compliance is achieved.	High	
3.4	Operational Compliance	Systems and procedures are in place to comply with legislative requirements for a number of areas of operations covered by legislation other than the Local Government Act 1995.	<ul> <li>Record Keeping Act</li> <li>Record Keeping Plan has been reviewed and adopted by State Records Commission in December 2018. Plans identified and required to ensure all areas of the Act are being achieved operationally, and demonstrate compliance have not commenced.</li> <li>Recordkeeping requirements included in revised Code of Conduct demonstrating the importance of recordkeeping and providing mechanism for managing non compliance.</li> </ul>	<ul> <li>Induction process to include recordkeeping responsibilities training same as undertaken with staff</li> <li>Annual training with all staff</li> <li>Training to be developed and undertaken with Elected Members</li> </ul>	Medium	

3. Leg	slative Com					
	Category	Objectives/Desired Outcomes	Assessment	Corrective Action	Priority	
3.5	Integrated Planning and reporting	Plans are developed and reviewed	<ul> <li>Plans have not been reviewed at the time of reporting.</li> <li>Community Strategic Plan – 2012</li> <li>Corporate Business Plan – 2013</li> <li>Long Term Financial Plan – 2013</li> <li>Workforce Management Plan – 2013</li> <li>Asset Management Plan - 2013</li> </ul>	<ul> <li>Community Strategic Plan - will be reviewed over the next 12 months in conjunction with Elected Members and the Community.</li> <li>Corporate Business Plan - is currently being reviewed with the support of Moore Stephens prior to the adoption of the Annual Budget to ensure ongoing compliance</li> <li>Long Term Financial Plan and Asset Management Plan - Moore Stephens was engaged in February 2019 to undertake these reviews, they have been delayed to date due to resourcing issues and issues finalising the 2018/19 year end etc. Elected Member workshops and Management Review have been booked to occur in Derby during July, to have these reports finalised to influence the budget, long term Strategic planning and investment strategies.</li> </ul>	High	
3.6	Cemeteries	Compliance with legislative requirements	Review of management     of Cemeteries		Low	
3.7	ICT	Tendering of ICT services	<ul> <li>Requirement to test services to the market to ensure value for money</li> </ul>	<ul> <li>ICT services tender specification to be advertised January 2020</li> <li>Tender outcome to March/April 2020 OCM to inform budget outcomes</li> </ul>	High	

## 6.2 DELEGATIONS OF POWER - F1 INCURRING LIABILITIES AND MAKING PAYMENTS

File Number:	4120
Author:	Danielle Hurstfield, Manager Administration and Governance
Responsible Officer:	Amanda O'Halloran, Chief Executive Officer
Authority/Discretion:	Legislative

## SUMMARY

A recent review of Council's Procurement process has identified a need to provide clear delegation of specified powers and duties to the Chief Executive Officer and other employees in accordance with the provisions of the Local Government Act 1995 (the Act). This authority is currently provided under F1 Payments from Municipal Funds – Incurring Liabilities and Making Payments.

### DISCLOSURE OF ANY INTEREST

The Chief Executive Officer holds this delegation.

The Manager of Administration and Governance is an existing subdelegate.

## BACKGROUND

In accordance with Section 5.42 of the Act, a local government can delegate certain functions to a committee of Council, or to the Chief Executive Officer. A variety of other legislation also permits the delegations of functions to the Chief Executive Officer, as well as other officers. The Chief Executive Officer's statutory powers and duties under the Act and any powers or duties delegated by the Council can be further delegated by the Chief Executive Officer to other officers of Council. Delegation details must be recorded in a register, which is available for inspection by the public.

A register of delegations of authority is essential in order to inform the public of the activities, functions, powers and duties of the local government as well as meeting the requirements of section 5.46 of the Local Government Act 1995.

Local governments utilise levels of delegated authority to undertake day-to-day statutory functions, thereby allowing Council to focus on policy development, representation, strategic planning and community leadership, with the organisation focussing on the day-to-day operations of the Shire. The use of delegated authority means the large volume of routine work of a local government can be effectively managed and acted on promptly, which in turn facilitates efficient service delivery to the community.

## STATUTORY ENVIRONMENT

## Local Government Act 1995

## 5.42. Delegation of some powers and duties to CEO

- (1) A local government may delegate\* to the CEO the exercise of any of its powers or the discharge of any of its duties under
  - (a) this Act other than those referred to in section 5.43.
  - (b) the Planning and Development Act2005 section 214(2), (3) or (5)

\* Absolute majority required.

(2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.

## 5.43. Limits on delegations to CEO

A local government cannot delegate to a CEO any of the following powers or duties -

- (a) any power or duty that requires a decision of an absolute majority or a 75% majority of the local government;
- (b) accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;
- (c) appointing an auditor;
- (d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;
- (e) any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;
- (f) borrowing money on behalf of the local government;
- (g) hearing or determining an objection of a kind referred to in section 9.5;
- (ha) the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;
- (*h*) any power or duty that requires the approval of the Minister or the Governor;
- (i) such other powers or duties as may be prescribed.

## 5.44. CEO may delegate powers and duties to other employees

- (1) A CEO may delegate to any employee of the local government the exercise of any of the CEO's powers or the discharge of any of the CEO's duties under this Act other than this power of delegation.
- (2) A delegation under this section is to be in writing and may be general or as otherwise provided in the instrument of delegation.
- (3) This section extends to a power or duty the exercise or discharge of which has been delegated by a local government to the CEO under section 5.42, but in the case of such a power or duty
  - (a) The CEO's power under this section to delegate the exercise of that power or the discharge of that duty; and
  - (b) the exercise of that power or the discharge of that duty by the CEO's delegate,

are subject to any conditions imposed by the local government on its delegation to the CEO.

- (4) Subsection (3) (b) does not limit the CEO's power to impose conditions or further conditions on a delegation under this section.
- (5) In subsections (3) and (4) —

conditions includes qualifications, limitations or exceptions.

## 5.45. Other matters relevant to delegations under this Division

- (1) Without limiting the application of sections 58 and 59 of the Interpretation Act 1984
  - (a) A delegation made under this Division has effect for the period of time specified in the delegation or where no period has been specified, indefinitely; and
  - (b) Any decision to amend or revoke a delegation by a local government under this Division is to be by an absolute majority.
- (2) Nothing in this Division is to be read as preventing
  - (a) A local government from performing any of its functions by acting through a person other than the CEO; or
  - (b) A CEO from performing any of his or her functions by acting through another person.

## 5.46. Register of, and records relevant to, delegations to CEO and employees

- (1) The CEO is to keep a register of the delegations made under this Division to the CEO and to employees.
- (2) At least once every financial year, delegations made under this Division are to be reviewed by the delegator.
- (3) A person to whom a power or duty is delegated under this Act is to keep records in accordance with regulations in relation to the exercise of the power or the discharge of the duty.

Regulation 19 of the Local Government (Administration) Regulations relates to records to be kept of delegations exercised.

## 19. Delegates to keep certain records (Act s. 5.46(3))

Where a power or duty has been delegated under the Act to the CEO or to any other local government employee, the person to whom the power or duty has been delegated is to keep a written record of -

- (a) how the person exercised the power or discharged the duty; and
- (b) when the person exercised the power or discharged the duty; and

(c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.

## POLICY IMPLICATIONS

Amended purchasing delegations and identified limits are set out in AF1 – Procurement of Goods and Services

## FINANCIAL IMPLICATIONS

Expenditure by Officers in accordance with adopted budget and set limits.

## STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good governance and an effective organisation Leadership that provides strategic direction for the community, supported by efficient and effective service delivery	<b>4.1:</b> Effective governance and leadership	<b>4.1.4:</b> Ensure governance policies and procedures are in accordance with legislative requirements

## **RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: A properly constructed delegations register reduces risk as it ensures a clear understanding of authority to make decisions as approved by Council	Unlikely	Moderate	Medium	Accept officer recommendation to amend subdelegates

## CONSULTATION

Chief Executive Officer, Senior Management Group.

## COMMENT

Under section 5.45 of the Act, a delegation made under the Act will be effective for the period of time specified in the delegation or otherwise indefinitely. Any amendment or repeal of a delegation by a local government is to be by an absolute majority. It should be noted that whether a function or duty has been sub-delegated is determined by the Chief Executive Officer unless the Council has made it a condition that the original delegation may not be sub-delegated.

## Amendments

This delegation has been amended to list the names of Officers as subdelegates who require this delegation to undertake duties in accordance with internal processes that control the purchasing and payment functions of Council. The positions that are proposed to hold the delegation and the limits are summarised below:

LIMIT	OFFICER
\$150,000	Chief Executive Officer
\$100,000	Director Technical and Development Services
\$50,000	Manager Finance
\$50,000	Manager Operations
\$50,000	Asset Management Coordinator
\$20,000	Manager Development Services
\$20,000	Fitzroy Crossing Area Manager
\$20,000	Manager Administration & Governance
\$20,000	Manager Community Services

These amendments are recommended to clearly define purchasing authority within the organisation and will be included in Council's policy AF1 – Procurement of Goods and Services and internal procedures.

## VOTING REQUIREMENT

Absolute majority

## ATTACHMENTS

1. AMENDED - F1 Payments from Municipal Funds - Incurring Liabilities and Making Payments **U** 

## RECOMMENDATION

- 1. That the Compliance and Strategic Review Committee
  - (a) ENDORSE the amendments to delegation F1 Payments from Municipal Funds Incurring Liabilities and Making Payments.
  - (b) Recommend that Council, by AN ABSOLUTE MAJORITY amend delegation F1 Payments from Municipal Funds Incurring Liabilities and Making Payments as attached, in accordance with Section 5.42 of the Local Government Act 1995.

Shire of Derby-West Kimberley

Delegation	F1 PAYMENTS FROM MUNICIPAL FUNDS – INCURRING LIABILITIES AND MAKING PAYMENTS (DRAFT)
Category	Finance
Delegator	Council
Express power or duty delegated	The Chief Executive Officer is delegated authority to incur liabilities and make payments from the Municipal Fund and Reserve Fund for purposes duly authorised by the <i>Local Government Act 1995</i> and for which provision has been made in the Council budget.
Delegates	CEO
Conditions	<ol> <li>Subject to:</li> <li>1. Authority subject to funds being provided in the Annual Budget.</li> <li>2. Incurring liabilities and making payments to be undertaken in accordance with the Shire's procedures and systems for incurring liabilities and making payments.</li> <li>3. Authority which may be Delegated by the Chief Executive Officer to employees is subject to the maximum individual amount limits on payments defined below:</li> <li>LIMIT OFFICER</li> </ol>
	<ul> <li>\$150,000 Chief Executive Officer</li> <li>\$100,000 Director Technical and Development Services</li> <li>\$50,000 Manager Finance</li> <li>\$50,000 Manager Operations</li> <li>\$50,000 Asset Management Coordinator</li> <li>\$20,000 Manager Development Services</li> <li>\$20,000 Fitzroy Crossing Area Manager</li> <li>\$20,000 Manager Administration &amp; Governance</li> <li>\$20,000 Manager Community Services</li> </ul>
	<b>Conditions on the original delegation also apply to the sub-delegations</b> The Chief Executive Officer is delegated authority to:
	<ol> <li>Develop procedures for the authorisation of and the payment of accounts to ensure that there is effective security for and properly authorised use of Cheques, credit cards, computer encryption devices and passwords, purchasing cards and any other devices o methods by which goods, services, money or other benefits may be obtained and Petty cash systems</li> <li>Develop procedures for the approval of accounts to ensure that before payment of an account a determination is made that the relevant debt was incurred by a person who was properly authorised to do so the goods or services to which each account relates were provided in a satisfactory condition or to a satisfactory standard, as the case requires.</li> </ol>
	<ul> <li>5.71. Employees to disclose interests relating to delegated functions</li> <li>If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and — <ul> <li>(a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and</li> <li>(b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.</li> </ul> </li> </ul>
	5.75. Primary returns

Page 48 of 100

#### Shire of Derby-West Kimberley

	A relevant person other than the CEO must lodge with the CEO a primary return in the prescribed form within 3 months of the start day. A CEO must lodge with the mayor or president a primary return in the prescribed form within 3 months of the start day. (3) This section does not apply to a person who — (a) has lodged a return within the previous year; or (b) has, within 3 months of the start day, ceased to be a relevant person. Penalty: \$10,000 or imprisonment for 2 years. 5.76. <b>5.76 Annual returns</b> (1) Each year, a relevant person other than the CEO must lodge with the CEO an annual return in the prescribed form by 31 August of that year. (2) Each year, a CEO must lodge with the mayor or president an annual return in the prescribed form by 31 August of that year. Penalty applicable to subsections (1) and (2): \$10,000 or imprisonment for 2 years.
Subdelegates	Asset Coordinator Director of Technical and Development Services Manager Administration and Governance Manager Community Services Manager Development Services Manager Finance Manager Fitzroy Crossing Manager Operations
Statutory framework	Local Government Act 1995 Section 5.42 Delegation of some powers or duties to the Chief Executive Officer Section 5.43 Limitations on delegations to the Chief Executive Officer Section 5.44 Chief Executive Officer may delegate some powers and duties to other employees Section 6.7 Municipal fund Section 6.8 Expenditure from municipal fund not included in annual budget Section 6.10 Financial management regulations Local Government (Financial Management)Regulations 1996 Regulation 5 Chief Executive Officer's duties as to financial management Regulation 11 Payments, procedures for making etc Regulation 12 Payments from municipal fund or trust fund, restrictions on making Regulation 13 Payment from municipal fund or trust fund by Chief Executive Officer, Chief Executive Officer's duties as to etc
Policy	AF1 – Procurement of Goods and Services
Record keeping	<ul> <li>The list referred to above is to be presented to the Council at the next Ordinary Meeting of the Council following the preparation of the list and is to be recorded in the Minutes of the meeting at which it is presented.</li> <li>Retain cheque vouchers, including transfer records as evidence of decisions to make payments.</li> <li>Retain computer encryption devices and other controls for effective scrutiny of account payments.</li> </ul>

Page 49 of 100

## 6.3 POLICY REVIEW - AF1 PROCUREMENT OF GOODS AND SERVICES

File Number:	4160
Author:	Danielle Hurstfield, Manager Administration and Governance
Responsible Officer:	Amanda O'Halloran, Chief Executive Officer
Authority/Discretion:	Administrative

## SUMMARY

This report recommends that Council adopt the revised Procurement of Goods and Services Policy in order to meet legislative requirements. This policy assists with establishing a strong governance framework with respect to the procurement of goods, services and works for the Shire of Derby/West Kimberley.

### DISCLOSURE OF ANY INTEREST

The Chief Executive Officer and Manager Administration & Governance both hold purchasing delegations.

### BACKGROUND

Amendments to the Local Government (Functions and General) Regulations 1996 were included in the previous management guideline used by Officers. The amendments were a result of recommendations made by the Local Government Steering Committee and the Corruption and Crime Commission (CCC), with the aim of improving the purchase and tendering practices of local government.

The key amendments are provided below:

- Tender Threshold
- Anti-Avoidance Provisions
- Receiving and Opening Tenders
- Varying a Contract
- Panels of Pre-Qualified Suppliers

#### STATUTORY ENVIRONMENT

#### Local Government Act 1995

3.57. Tenders for providing goods or services

- (1) A local government is required to invite tenders before it enters into a contract of a prescribed kind under which another person is to supply goods or services.
- (2) Regulations may make provision about tenders.

#### Local Government (Functions and General) Regulations 1996

Part 4 — Provision of goods and services

Division 1 — Purchasing policies

11A. Purchasing policies for local governments

- (1) A local government is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$150 000 or less or worth \$150 000 or less.
- (2) A purchasing policy is to make provision for and in respect of the policy to be followed by the local government for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of -
  - (a) the form of quotations acceptable; and
  - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
  - (b) the recording and retention of written information, or documents, in respect of
    - (i) all quotations received; and
    - (ii) all purchases made.

## POLICY IMPLICATIONS

Amendment to this Policy

## FINANCIAL IMPLICATIONS

Amendments to this policy will provide tighter controls around purchasing by reducing the number of Officers authorised.

## STRATEGIC IMPLICATIONS

GOAL	OUTCOME	STRATEGY
4: Good governance and an effective organisation – Leadership that provides strategic direction for the community, supported by efficient and effective service delivery	<b>4.1:</b> Effective governance and leadership	<b>4.1.4:</b> Ensure governance policies and procedures are in accordance with legislative requirements

## **RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: Procurement is not undertaken in accordance with legislative requirements	Possible	Moderate	Low	Adoption of revised policy and implementation of procedures

## CONSULTATION

Senior Management Group

## COMMENT

This policy was last reviewed and adopted on 28 February 2019 (MINUTE NO. 012/2019). Since this time there have been a number of Local governments reviewed with deficiencies found in both procurement policy and practices. The Shire has also received feedback from Auditors that procurement is an area that requires further improvement. To provide an assurance of transparency the attached AF1 Procurement of Goods and Services has used the WALGA model which provides industry best practice as a result of investigations and consideration of WA Auditor General guidelines. This policy is central to good governance and is referenced in the Code of Conduct, Statement of Business Ethics and Transaction Card Policy.

Further detail has been provided to include framework for purchasing in the spend area of \$0 - \$500. In the 2018/19 68% of all transactions below \$5,000 were identified in this spend area. This amendment seeks to find a balance between demonstrating value for money and the cost of doing so. All purchases will require documenting of the decision and approval by an authorising officer. The number of authorised officers has been reduced to 9 with purchasing limits set out below:

LIMIT	OFFICER
\$150,000	Chief Executive Officer
\$100,000	Director Technical and Development Services
\$50,000	Manager Finance
\$50,000	Manager Operations
\$50,000	Asset Management Coordinator
\$20,000	Manager Development Services
\$20,000	Fitzroy Crossing Area Manager
\$20,000	Manager Administration & Governance
\$20,000	Manager Community Services

Once adopted, all staff will be trained in the procedure and responsibilities.

## **VOTING REQUIREMENT**

Simple majority

## ATTACHMENTS

1. AMENDED AF1 - Procurement of Goods and Services 🗓 🛣

## RECOMMENDATION

- 1. That the Compliance and Strategic Review Committee:
  - a. ENDORSE the revised policy AF1 Procurement of Goods and Services, as attached to comply with the Local Government (Functions and General) Regulations 1996.
  - b. RECOMMEND Council adopt the revised policy AF1 Procurement of Goods and Services, as attached to comply with the Local Government (Functions and General) Regulations 1996.



## AF1 – PROCUREMENT OF GOODS AND SERVICES

#### 1. PURCHASING

The Shire of Derby/West Kimberley (the **Shire**") is committed to delivering the objectives, principles and practices outlined in this Policy, when purchasing goods, services or works to achieve the Shire's strategic and operational objectives.

This policy complies with the Local Government (Functions and General) Regulations 1996 (The Regulations).

#### 1.1 OBJECTIVES

The Shire's purchasing activities will achieve:

- The attainment of best value for money;
- Sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- · Consistent, efficient and accountable processes and decision-making;
- Fair and equitable competitive processes that engage potential suppliers impartially, honestly and consistently;
- · Probity and integrity, including the avoidance of bias and of perceived and actual conflicts of interest;
- Compliance with the Local Government Act 1995, Local Government (Functions and General) Regulations 1996, as well as any relevant legislation, Codes of Practice, Standards and the Shire's Policies and procedures;
- · Risks identified and managed within the Shire's Risk Management framework;
- Records created and maintained to evidence purchasing activities in accordance with the State Records Act and the Shire's Record Keeping Plan;
- Confidentiality protocols that protect commercial-in-confidence information and only release information where appropriately approved.

#### 1.2 ETHICS & INTEGRITY

The Shire's Code of Conduct applies when undertaking purchasing activities and decision making. Elected Members and employees must observe the highest standards of ethics and integrity and act in an honest and professional manner at all times.

#### 1.3 VALUE FOR MONEY

Value for money is achieved through the critical assessment of price, risk, timeliness, environmental, social, economic and qualitative factors to determine the most advantageous supply outcome that contributes to the Shire achieving its strategic and operational objectives.

The Shire will apply value for money principles when assessing purchasing decisions and acknowledges that the lowest price may not always be the most advantageous.

#### 1.3.1 Assessing Value for Money

Assessment of value for money will consider:





- All relevant Total Costs of Ownership (TCO) and benefits including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, training, maintenance and disposal;
- The technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality. This includes but is not limited to an assessment of compliances, tenderers resources available, capacity and capability, value-adds offered, warranties, guarantees, repair and replacement policies, ease of inspection, ease of after sales service, ease of communications etc.
- Financial viability and capacity to supply without the risk of default (competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- A strong element of competition by obtaining a sufficient number of competitive quotations wherever
  practicable and consistent with this Policy;
- The safety requirements and standards associated with both the product design and the specification offered by suppliers and the evaluation of risk arising from the supply, operation and maintenance;
- The environmental, economic and social benefits arising from the goods, services or works required, including consideration of these benefits in regard to the supplier's operations, in accordance with this Policy and any other relevant Shire Policy; and
- Providing opportunities for businesses within the Shire's boundaries to quote wherever possible.

#### 1.4 PURCHASING THRESHOLDS AND PRACTICES

The Shire must comply with all requirements, including purchasing thresholds and processes, as prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the Shire.

#### 1.4.1. Policy Purchasing Value Definition

Purchasing value for a specified category of goods, services or works is to be determined upon the following considerations:

- Exclusive of Goods and Services Tax (GST); and
- Where a contract is in place, the actual or expected value of expenditure over the full contract period, including all options to extend specific to a particular category of goods, services or works. OR
- Where there is no existing contract arrangement, the Purchasing Value will be the estimated total expenditure for a category of goods, services or works over a minimum three year period. This period may be extended to a maximum of 3 years only where the supply category has a high risk of change i.e. to technology, specification, availability or the Shire's requirements (Regulation 12).

The calculated estimated Purchasing Value will be used to determine the applicable threshold and purchasing practice to be undertaken.

#### 1.4.2. Purchasing from Existing Contracts

The Shire will ensure that any goods, services or works required that are within the scope of an existing contract will be purchased under that contract.

#### 1.4.3. Table of Purchasing Thresholds and Practices

This table prescribes Purchasing Value Thresholds and the applicable purchasing practices which apply to the Shire's purchasing activities:





Purchase Value Threshold (exc GST)	Purchasing Practice Required
Up to \$500	Purchase directly from a supplier using a Purchasing Order or Corporate Credit Card issued by the Shire:
	Seek at least one (1) verbal quotation from a suitable supplier and document on Record and Evaluation of Quotes form.
\$501 to \$5,000	Purchase directly from a supplier using a Purchasing Order or Corporate Credit Card issued by the Shire:
	Seek at least one (1) written quotation from a suitable supplier.
	Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, the quote must be sought from the Panel suppliers only in accordance with the procedures prescribed in Section 3.
	If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then a quote must be sought from either:
	<ul> <li>a supplier included in the relevant WALGA Preferred Supplier Arrangement; or</li> <li>other suppliers that are accessible under another tender exempt arrangement; or</li> </ul>
	<ul> <li>the open market.</li> <li>If quotes are not being sought from a WALGA Preferred Supplier Arrangement, at least one (1) quotation is to be sought, where a suitable supplier is available, from either:</li> </ul>
	<ul> <li>a Local Supplier; and/or</li> <li>a WA Disability Enterprise; and/or</li> </ul>
	<ul> <li>an Aboriginal Owned Business.</li> <li>The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.</li> </ul>
	Where it can be demonstrated a service is not available locally and an Officer is unable to provide the required number of quotes in accordance with this policy, the Officer will detail on the Record and Evaluation of Quotes form why they are unable to meet the requirements of the policy. Approval must be given by a member of the Executive Management Team to accept the lessor number of quotes and proceed to purchasing.
\$5,001 to \$20,000	Seek at least two (2) written quotations from suitable suppliers.
	Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, the quotations must be sought from the Panel suppliers only in accordance with the procedures prescribed in Section 3





Purchase Value Threshold (exc GST)	Purchasing Practice Required
	If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then quotations must be sought from either:
	<ul> <li>a supplier included in the relevant WALGA Preferred Supplier Arrangement; or</li> <li>other suppliers that are accessible under another tender exempt arrangement; or</li> <li>the open market.</li> </ul>
	If quotes are not being sought from a WALGA Preferred Supplier Arrangement, at least one (1) quotation is to be sought, where a suitable supplier is available, from:
	<ul> <li>a Local Supplier; and / or</li> <li>a WA Disability Enterprise; and/or</li> <li>an Aboriginal Owned Business.</li> </ul>
	For the purchasing of WALGA Services, a minimum of one (1) written quotation is to be sought and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.
	The purchasing decision is to be based upon assessment of the suppliers response to:
	<ul> <li>a brief outline of the specified requirement for the goods; services or works required; and</li> <li>value for money criteria, not necessarily the lowest price.</li> </ul>
	Where it can be demonstrated a service is not available locally and an Officer is unable to provide the required number of quotes in accordance with this policy, the Officer will detail on the Record and Evaluation of Quotes form why they are unable to meet the requirements of the policy. Approval must be given by a member of the Executive Management Team to accept the lessor number of quotes and proceed to purchasing.
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.
\$20,001 to \$50,000	Seek at least three (3) written quotations from suitable suppliers.
	Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, quotations must be sought from the Panel suppliers only in accordance with the procedures prescribed in Section 3.
	If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then the quotations must be sought from:
	a supplier included in the relevant WALGA Preferred Supplier Arrangement; or





Purchase Value Threshold (exc GST)	Purchasing Practice Required							
	<ul> <li>other suppliers that are accessible under another tender exempt arrangement; or</li> <li>the open market.</li> </ul>							
	If quotes are not being sought from a WALGA Preferred Supplier Arrangement, at least one (1) quotation of the three (3) quotations is to be sought, where a suitable supplier is available, from either:							
	<ul> <li>a Local Supplier; and/or</li> <li>a WA Disability Enterprise; and/or</li> <li>an Aboriginal Owned Business.</li> </ul>							
	For the purchasing of WALGA Services, a minimum of one (1) written quotation is to be sought and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.							
	The purchasing decision is to be based upon assessment of the suppliers response to:							
	<ul> <li>a brief outline of the specified requirement for the goods; services or works required; and</li> <li>value for money criteria, not necessarily the lowest quote.</li> </ul>							
	Where it can be demonstrated a service is not available locally and an Officer is unable to provide the required number of quotes in accordance with this policy, the Officer will detail on the Record and Evaluation of Quotes form why they are unable to meet the requirements of the policy. Approval must be given by a member of the Executive Management Team to accept the lessor number of quotes and proceed to purchasing.							
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.							
\$50,001 to \$150,000	Seek at least three (3) written quotations from suppliers by invitation under a formal Request for Quotation.							
	Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, quotations must be obtained from the Panel suppliers only in accordance with the procedures prescribed in Section 3.							
	If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then three (3) written quotations must be sought from:							
	<ul> <li>a supplier included in the relevant WALGA Preferred Supplier Arrangement; or</li> <li>other suppliers that are accessible under another tender exempt arrangement; or</li> <li>the open market.</li> </ul>							





Purchase Value Threshold (exc GST)	Purchasing Practice Required				
	If quotes are not being sought from a WALGA Preferred Supplier Arrangement, at least one (1) quotation of the three (3) quotations is to be sought, where a suitable supplier is available, from either:				
	<ul> <li>a Local Supplier; and/or</li> <li>a WA Disability Enterprise; and/or</li> <li>an Aboriginal Owned Business.</li> </ul>				
	The purchasing decision is to be based upon assessment of the suppliers response to:				
	<ul> <li>a detailed written specification for the goods, services or works required and</li> <li>pre-determined evaluation criteria that assesses all best and sustainable value considerations.</li> </ul>				
	Where it can be demonstrated a service is not available locally and an Officer is unable to provide the required number of quotes in accordance with this policy, the Officer will detail on the Record and Evaluation of Quotes form why they are unable to meet the requirements of the policy. Approval must be given by a member of the Executive Management Team to accept the lessor number of quotes and proceed to purchasing.				
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.				
Over \$150,000	Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, quotations must be sought from those suppliers only in accordance with the procedures prescribed Section 3.				
	If no Panel of Pre-Qualified Suppliers exists for the required purchasing category, then either:				
	<ul> <li>Seek at least three (3) written quotations from suppliers included in the relevant WALGA Preferred Supplier Arrangement and/or another tender exempt arrangement; OR</li> <li>Conduct a Public Request for Tender process in accordance with the Local Government Act 1995 and relevant Shire Policy requirements.</li> </ul>				
	The purchasing decision is to be based upon the suppliers response to:				
	<ul> <li>a specification of the goods, services or works (for a tender exempt process including the WALGA Preferred Supplier Arrangement); or a detailed specification for the open tender process; and</li> <li>pre-determined evaluation criteria that assesses all best and sustainable value considerations.</li> </ul>				





Purchase Value Threshold (exc GST)	Purchasing Practice Required				
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.				
Emergency Purchases (Within Budget)	Must be approved by the Shire President or by the Chief Executive Officer under delegation and reported to the next available Council Meeting.				
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.				
Emergency Purchases (Not Included in Budget)	Only applicable where, authorised in advance by the Mayor / President in accordance with s.6.8 of the <i>Local Government Act 1995</i> and reported to the next available Council Meeting.				
	Where the Shire has an established Panel of Pre-Qualified Suppliers relevant to the required purchasing category, the emergency supply must be obtained from the Panel suppliers.				
	If however, no member of the Panel of Pre-qualified Suppliers or a suitable supplier from WALGA Preferred Supplier Arrangement is available, then the supply may be obtained from any supplier capable of providing the emergency purchasing requirement, and to the extent that it is reasonable in context of the emergency requirements, with due consideration of best and sustainable consideration.				
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.				
WALGA Services (excluding Preferred Supplier Program)	For the purchasing of WALGA Services, a minimum of one (1) written quotation is to be sought and appropriately recorded. Recording is to be in accordance with the threshold levels outlined above. Confirmed via Purchase Order or Contract/Agreement.				
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.				
LGIS Services	For the purchasing of LGIS Services, a minimum of one (1) written quotation is to be sought and appropriately recorded. Confirmed via Purchase Order or Contract/Agreement.				
	The rationale for the procurement decision should be documented and recorded in accordance with the Shire Operational Procedure – Procurement of Goods and Services.				





#### 1.4.4. Exemptions

An exemption from the requirement to publically invite tenders may apply when the purchase is:

- obtained from a pre-qualified supplier under the WALGA Preferred Supplier Arrangement or other suppliers that are accessible under another tender exempt arrangement .
- from a pre-qualified supplier under a Panel established by the Shire;
- from a Regional Local Government or another Local Government;
- acquired from a person/organisation registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less (exc GST) and represents value for money;
- acquired from an Australian Disability Enterprise and represents value for money;
- the purchase is authorised under action by Council under delegated authority;
- within 6 months of no tender being accepted;
- · where the contract is for petrol, oil, or other liquid or gas used for internal combustion engines; or
- the purchase is covered by any of the other exclusions under Regulation 11 of the Regulations.

#### 1.4.5. Inviting Tenders Under the Tender Threshold

The Shire may determine to invite Public Tenders, despite the estimated Purchase Value being less than the \$150,000 threshold.

This decision will be made after considering:

- Whether the purchasing requirement can be met through the WALGA Preferred Supplier Program or any other tender exemption arrangement; and
- Any value for money benefits, timeliness, risks; and
- Compliance requirements.

A decision to invite Tenders, though not required to do so, may occur where an assessment has been undertaken and it is considered that there is benefit from conducting a publicly accountable and more rigorous process. In such cases, the Shire's tendering procedures must be followed in full.

#### 1.4.6. Other Procurement Processes

#### 1.4.6.1 Expressions of Interest

Expressions of Interest (EOI) are typically considered in situations where the project is of a significant value, or contains significant complexity of project delivery that may solicit responses from a considerable range of industry providers.

In these cases, the Shire may consider conducting an EOI process, preliminary to any Request for Tender process, where the purchasing requirement is:

- Unable to be sufficiently scoped or specified;
- Open to multiple options for how the purchasing requirement may be obtained, specified, created or delivered;
- Subject to a creative element; or





• To establish a procurement methodology that allows for an assessment of a significant number of tenderers leading to a shortlisting process based on non-price assessment.

All EOI processes are conducted as a public process and similar rules to a Request for Tender apply. However, the EOI should not seek price information from respondents, seeking qualitative and other non-price information only. All EOI processes should be subsequently followed by a Request for Tender through an invited process of those shortlisted under the EOI.

#### 1.4.6.2 Request for Proposal

As an alternative to a Request for Tender, the Shire may consider conducting a Request for Proposal where the requirements are less known, or less prescriptive and detailed. In this situation, the Request For Proposal would still be conducted under the same rules as for a Request For Tender but would seek responses from the market that are outcomes based or that outline solutions to meet the requirements of the Shire.

#### 1.4.7. Emergency Purchases

An emergency purchase is defined as an unanticipated purchase which is required in response to an emergency situation as provided for in the Act. In such instances, quotes and tenders are not required to be obtained prior to the purchase being undertaken.

Time constraints are not a justification for an emergency purchase. Every effort must be made to anticipate purchases in advance and to allow sufficient time to obtain quotes and tenders, whichever may apply.

#### 1.4.8. Sole Source of Supply

A sole source of supply arrangement may only be approved where the:

- Purchasing value is estimated to be over \$5,000; and
- purchasing requirement has been documented in a detailed specification; and
- specification has been extensively market tested and only one potential supplier has been identified as being capable of meeting the specified purchase requirement; and
- market testing process and outcomes of supplier assessments have been documented, inclusive of a rationale for why the supply is determined as unique and cannot be sourced through more than one supplier.

A sole source of supply arrangement will only be approved for a period not exceeding three (3) years. For any continuing purchasing requirement, the approval must be re-assessed before expiry to evidence that a Sole Source of Supply still genuinely exists.

#### 1.4.9. Anti-Avoidance

The Shire will not conduct multiple purchasing activities with the intent (inadvertent or otherwise) of "splitting" the purchase value or the contract value, avoiding a particular purchasing threshold or the need to call a Public Tender. This includes the creation of two or more contracts or creating multiple purchase order transactions of a similar nature.





Utilising rolling contract extensions at the end of a contract term without properly testing the market or using a Tender exempt arrangement, will not be adopted as this would place this Local Government in breach of the Regulations (Regulation 12).

The Shire will conduct regular periodic analysis of purchasing activities within supply categories and aggregating expenditure values in order to identify purchasing activities which can be more appropriately undertaken within the Purchasing Threshold practices detailed in clause 1.4.3 above.

## 2. SUSTAINABLE PROCUREMENT

The Shire is committed to implementing sustainable procurement by providing a preference to suppliers that *demonstrate* sustainable business practices (social advancement, environmental protection and local economic benefits).

The Shire will embrace Sustainable Procurement by applying the value for money assessment to ensure that wherever possible our suppliers demonstrate outcomes which contribute to improved environmental, social and local economic outcomes. Sustainable Procurement can be demonstrated as being internally focussed (i.e. operational environmental efficiencies or employment opportunities and benefits relating to special needs), or externally focussed (i.e. initiatives such as corporate philanthropy).

Requests for Quotation and Tenders will include a request for information from Suppliers regarding their sustainable practices and/or demonstrate that their product or service offers enhanced sustainable benefits.

#### 2.1. LOCAL ECONOMIC BENEFIT

The Shire encourages the development of competitive local businesses within its boundary first, and second within its broader region. As much as practicable, the Shire will:

- where appropriate, consider buying practices, procedures and specifications that do not unfairly disadvantage local businesses;
- consider indirect benefits that have flow on benefits for local suppliers (i.e. servicing and support);
- ensure that procurement plans address local business capability and local content;
- explore the capability of local businesses to meet requirements and ensure that Requests for Quotation and Tenders are designed to accommodate the capabilities of local businesses;
- avoid bias in the design and specifications for Requests for Quotation and Tenders all Requests
  must be structured to encourage local businesses to bid; and
- provide adequate and consistent information to local suppliers.

To this extent, a qualitative weighting will be included in the evaluation criteria for quotes and Tenders where suppliers are located within the boundaries of the Shire, or substantially demonstrate a benefit or contribution to the local economy. This criteria will relate to local economic benefits that result from Tender processes.

The Shire has adopted a Regional Price Preference Policy, which will be applied when undertaking purchasing activities.

#### 2.2. PURCHASING FROM DISABILITY ENTERPRISES

An Australian Disability Enterprise may be contracted directly without the need to comply with the Threshold and Purchasing Practices requirements of this Policy, where a value for money assessment demonstrates benefits for the Shire's achievement of its strategic and operational objectives.





A qualitative weighting will be used in the evaluation of quotes and Tenders to provide advantages to Australian Disability Enterprises, in instances where not directly contracted.

#### 2.3. PURCHASING FROM ABORIGINAL BUSINESSES

A business registered in the current Aboriginal Business Directory WA (produced by the Small Business Development Corporation) may be contracted directly without the need to comply with the Threshold and Purchasing Practices requirements of this Policy, only where:

- the contract value is or is worth \$250,000 or less, and
- a best and sustainable value assessment demonstrates benefits for the Shire's achievement of its strategic and operational objectives.

A qualitative weighting will be used in the evaluation of quotes and tenders to provide advantages to businesses registered in the current Aboriginal Business Directory WA, in instances where not directly contracted.

#### 2.4. PURCHASING FROM ENVIRONMENTALLY SUSTAINABLE BUSINESSES

The Shire will support the purchasing of recycled and environmentally sustainable products whenever a value for money assessment demonstrates benefits for the Shire's achievement of its strategic and operational objectives.

A qualitative weighting will be used in the evaluation of quotes and tenders to provide advantages to suppliers which:

- demonstrate policies and practices that have been implemented by the business as part of its operations;
- generate less waste material by reviewing how supplies, materials and equipment are manufactured, purchased, packaged, delivered, used, and disposed; and
- encourage waste prevention, recycling, market development and use of recycled/recyclable materials.

## 3. PANELS OF PRE-QUALIFIED SUPPLIERS

#### 3.1. OBJECTIVES

The Shire will consider creating a Panel of Pre-qualified Suppliers ("Panel") when a range of similar goods and services are required to be purchased on a continuing and regular basis.

Part of the consideration of establishing a panel includes:

- there are numerous potential suppliers in the local and regional procurement related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of a low to medium risk;
- the Panel will streamline and will improve procurement processes; and
- the Shire has the capability to establish a Panel, and manage the risks and achieve the benefits expected of the proposed Panel through a Contract Management Plan.





#### 3.2. ESTABLISHING AND MANAGING A PANEL

If the Shire decides that a Panel is to be created, it will establish the panel in accordance with the Regulations.

Panels will be established for one supply requirement, or a number of similar supply requirements under defined categories. This will be undertaken through an invitation procurement process advertised via a state-wide notice.

Panels may be established for a maximum of three (3) years. The length of time of a Local Panel is decided with the approval of the CEO/ Executive Director.

Evaluation criteria will be determined and communicated in the application process by which applications will be assessed and accepted.

In each invitation to apply to become a pre-qualified supplier, the Shire will state the expected number of suppliers it intends to put on the panel.

If a Panel member leaves the Panel, the Shire will consider replacing that organisation with the next ranked supplier that meets/exceeds the requirements in the value for money assessment – subject to that supplier agreeing. The Shire will disclose this approach in the detailed information when establishing the Panel.

A Panel contract arrangement needs to be managed to ensure that the performance of the Panel Contract and the Panel members under the contract are monitored and managed. This will ensure that risks are managed and expected benefits are achieved. A Contract Management Plan should be established that outlines the requirements for the Panel Contract and how it will be managed.

#### 3.3. DISTRIBUTING WORK AMONGST PANEL MEMBERS

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel of pre-qualified suppliers, the detailed information associated with each invitation to apply to join the Panel will prescribe one of the following as to whether the Shire intends to:

- obtain quotations from each pre-qualified supplier on the Panel with respect to all discreet purchases; or
- purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- develop a ranking system for selection to the Panel, with work awarded in accordance with the Regulations.

In considering the distribution of work among Panel members, the detailed information will also prescribe whether:

- each Panel member will have the opportunity to bid for each item of work under the Panel, with predetermined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the pre-qualified panel will be awarded on the basis of value for money in every instance; or
- work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) when establishing the Panel. The Shire will invite the highest ranked





Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a Panel member accepts a Contract. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the Shire may then invite suppliers that are not pre-qualified under the Panel, in accordance with the Purchasing Thresholds stated in section 1.4.3 of this Policy. When a ranking system is established, the Panel will not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

#### 3.4. PURCHASING FROM THE PANEL

The invitation to apply to be considered to join a panel of pre-qualified suppliers must state whether quotations are either to be invited to every Panel member (within each category, if applicable) of the Panel for each purchasing requirement, whether a ranking system is to be established, or otherwise.

Each quotation process, including the invitation to quote, communications with Panel members, quotations received, evaluation of quotes and notification of award communications must all be made through eQuotes (or other nominated electronic quotation facility).

Each quotation process, including the invitation to quote, communications with Panel members, quotations received, evaluation of quotes and notification of award communications must all be captured on the Shire's electronic records system. A separate file is to be maintained for each quotation process made under each Panel that captures all communications between the Shire and Panel members.

#### 4. PURCHASING POLICY NON-COMPLIANCE

Purchasing Activities are subject to financial and performance audits, which review compliance with legislative requirements and also compliance with the Shire's policies and procedures.

A failure to comply with the requirements of this policy will be subject to investigation, with findings to be considered in context of the responsible person's training, experience, seniority and reasonable expectations for performance of their role.

Where a breach is substantiated it may be treated as:

- an opportunity for additional training to be provided;
- a disciplinary matter, which may or may not be subject to reporting requirements under the Public Sector Management Act 1994;
- misconduct in accordance with the Corruption Crime and Misconduct Act 2003.





## 5. AUTHORISED OFFICERS

The following employees are authorised to sign official purchase orders and requisition goods and services on behalf of Council:

LIMIT	OFFICER				
\$150,000	Chief Executive Officer				
\$100,000	Director Technical and Development Services				
\$50,000	Manager Finance				
\$50,000	Manager Operations				
\$50,000	Asset Management Coordinator				
\$20,000	Manager Development Services				
\$20,000	Fitzroy Crossing Area Manager				
\$20,000	Manager Administration & Governance				
\$20,000	Manager Community Services				

## 6. RECORD KEEPING

All purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the State Records Act 2000 and the Shire's Record Keeping Plan. This includes those with organisations involved in a tender or quotation process, including suppliers.

## 7. ADOPTION OF THIS POLICY

Document Re	spons	ibilities:							
Owner:	Chief	f Executive Officer			Owner Busine	ess Unit:	Manager Finance		
Reviewer:	Mana	ager Administration	& Governar	nce	Decision Mak	er:	Council		
Compliance Requirements:									
Legislation:		s.3.57 of the Local Government Act 1995 Part 4 of the Local Government (Functions and General) Regulations 1996							
Industry:		Department of Lo	cal Governm	nent, Sporting	g and Cultural In	dustries Guid	eline No.1	1 – Use of Corpor	rate Credit Cards
Organisation	al:	Delegation AF1 – Payments from Municipal Funds – Incurring Liabilities and Making Payments Council Policy No. AF33 Regional Price Preference Council Policy No. AF 45 Transaction Cards Code of Conduct Operational Procedure – Procurement of Goods and Services							
Document Ma	nager	nent:							
Risk Rating: Low Review Fr			equency:	Annual	Next Due:	2021	Records Ref:		
Version #	on # Decision Reference:			Synopsis:					
1.	1. 28/02/2019			Ordinary Council Meeting					
2.									



# 6.4 SPECIAL COMPLIANCE AND STRATEGIC REVIEW MEETING: THURSDAY 12 DECEMBER 2019

File Number: 4150

Author: Amanda O'Halloran, Chief Executive Officer

Responsible Officer: Amanda O'Halloran, Chief Executive Officer

**Authority/Discretion: Executive** 

## SUMMARY

The purpose of this report is to schedule a Special Compliance and Strategic Review Committee Meeting on Thursday 12 December in order to hold the Exit Meeting with the Office of the Auditor General, accept the 2018-19 Annual Financial Report, Auditors Report and Annual Report and if accepted, recommend adoption by Council.

## DISCLOSURE OF ANY INTEREST

Nil

## BACKGROUND

Under the *Local Government Act 1995*, the Audit and Annual Report needs to be presented to Council for adoption no later than 31 December 2019.

It was intended the present the finalised annual financial statement and Audit Report to the Committee on the 5 December, but unfortunately the auditors were not able to present the reports in that timeframe.

It is therefore required, in order to meet statutory requirements, that a Special Compliance and Strategic Review Committee be held on Thursday 12 December 2019 before the Ordinary Council Meeting.

## STATUTORY ENVIRONMENT

Clause 12(3) of the Local Government (Administration) Regulations 1996

## Local Government Act (1995

Section 6.4 of the *Local Government Act (1995)* requires all local governments to prepare an annual financial report for the preceding financial year.

The annual report is to contain a report from the Shire President, a report from the CEO, a report on the principal activities commenced or continued during the financial year and assessment of performance in relation to these activities, an overview of the principal activities proposed to commence or continue in the next financial year, and include the annual financial report or other matters of statutory compliance.

The annual financial report is required to be drawn up in accordance with the Act, *Local Government (Financial Management) Regulations*, the Australian Accounting Standards (including the Australian Accounting Interpretations) and International Financial Reporting Standards. The annual financial report is to be audited by the local government's auditors in accordance with the *Local Government (Audit) Regulations*.

Section 5.54 of the *Local Government Act 1995* required the annual report for a financial year to be accepted by the local government no later than 31 December after that financial year by absolute majority.

Section 5.27 of the *Local Government Act 1995* required that a local government is to hold a General Meeting of the Electors of its district once every financial year, but not more than 56 days after the Council accepts its financial statements for the previous financial year.

The *Local Government (Administration) Regulations* require that the annual financial report be the first item of business on the agenda at the annual meeting of electors, followed by general business.

At least 14 days' notice of the meeting is required to be given.

## POLICY IMPLICATIONS

Nil

## **FINANCIAL IMPLICATIONS**

Nil

## STRATEGIC IMPLICATIONS

GOAL	Ουτςομε	STRATEGY		
Goal 4: Good Governance and an effective organisation	Outcome 4.1 Effective governance and leadership	Strategy: 4.1.3: Strengthen the role of Councillors by informing, resourcing, skilling and supporting their role.		
		Strategy 4.1.4: Ensure governance policies and procedures are in accordance with legislative requirements		

## **RISK MANAGEMENT CONSIDERATIONS**

RISK	LIKELIHOOD	CONSEQUENCE	RISK ANALYSIS	MITIGATION
Legal & Compliance: It is a statutory requirement under Section 6.4 of the Local Government Act (1995) that all local governments to prepare an annual financial report for the preceding financial year. Section 5.54 of the Local Government Act 1995 required the annual report for a financial year to be	Unlikely	Major	Low	Approval of this Meeting ensures that all statutory requirements are met and reduces the risk of noncompliance accordingly.

accepted by the local government no later than 31 December after that financial year by absolute majority.		
If the Committee meeting is not held the Council will breach its statutory obligations.		

## CONSULTATION

RSM (Auditors), Manager of Finance, Moore Stephens, Elected Members

## COMMENT

In accordance with the Clause 12(3) of the *Local Government (Administration) Regulations 1996,* notice is hereby given of a Special Compliance and Strategic Review Committee Meeting to be held as follows:

Date: Thursday, 12 December 2019

Time: 4.30pm

Venue: Council Chambers, 30 Clarendon Street, Derby

The purpose of this meeting will be as follows;

- 1. Exit Meeting with the Office of the Auditor General;
- 2. Acceptance of the 2018-19 Annual Financial Report;
- 3. Acceptance of the 2018-19 Auditors Report;
- 4. Acceptance of the 2018-19 Annual Report; and
- 5. If accepted, recommend that the above Reports go to Council for adoption.

## VOTING REQUIREMENT

Simple majority

## ATTACHMENTS

Nil

## RECOMMENDATION

That Council approve the intention to hold a Special Compliance and Strategic Review Committee meeting on, 12 December 2019 at 4.30pm at 30 Clarendon Street Derby for the purpose holding the Exit Meeting with the Office of the Auditor General, acceptance of the 2018-19 Annual Financial Report, Auditors Report and Annual Report.

# 7 NEW BUSINESS OF AN URGENT NATURE

## 8 DATE OF NEXT MEETING

The next meeting of Compliance and Strategic Review Committee will be held Thursday, 12 December 2019 in the Council Chambers, Clarendon Street, Derby.

# 9 CLOSURE OF MEETING