



Freedom of Information Statement

2024



Forest to Wheatbelt

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Shire of West Arthur Strategic Community Plan

Our Vision

The Shire of West Arthur will be a sustainable local government supporting a vibrant community.

Mission for Council

Inspirational, dynamic, transparent.

Key Values

- Community connectedness and great lifestyle
- Friendly people
- Safety
- Relevant and well-maintained facilities
- Recognition of the need to care for the environment in a balanced approach
- Effective communication and cooperation

Legislative Framework

The operations of local government in Western Australia are governed by the *Local Government Act 1995*, the various Local Government Regulations, and any other legislation that provides local governments with powers and responsibilities.

Legislation

Principal legislation that the Shire operates under includes:

- Local Government Act 1995;
- Public Health Act 2016
- Health Act 1911;
- Planning & Development Act 2005
- Bushfires Act 1954
- Cat Act 2011
- Dog Act 1976
- Cemeteries Act 1986
- Work Health and Safety Act 2020
- Building Act 2011
- Conservation and Land Management Act 1984
- Environmental Protection Act 1986
- Fire and Emergency Services Act 1998
- Freedom of Information Act 1992
- Heritage of Western Australia Act 1990
- Income Tax Assessment Act 1936
- Library Board Act 1951
- Liquor Licensing Act 1988
- Litter Act 1979/1981
- Main Roads Act 1930
- Noise Abatement Act 1972
- Parliamentary Commissioner Act 1971
- Privacy Act 1998 (amendments 2000, 2005)
- Public Works Act 1902
- Rates and Charges (Rebates & Deferments) Act 1992
- Road Traffic Act 1974
- State Planning Commission Act 1985
- State Records Act 2000
- Strata Title Act 1985 (amendment Act 1995)

A wide range of other legislation provides powers and authorities that impose duties and obligations upon the Shire. Each Act of Parliament generally has one or more related Regulations which also impact on the Shire.

Confirmation of current Acts and Regulations can be found at the Government of Western Australia, Department of Justice, Parliamentary Counsel's Office website <https://www.legislation.wa.gov.au>

Local Laws

Many of the enabling and principal legislation for the Shire and its Council is the *Local Government Act 1995* (the Act).

As of June 2024, the Shire's local laws are:

- Activities on Thoroughfares and Trading in Thoroughfares and Public Open Places Local Law 2000
- Animals, Environment and Nuisance Local Law 2024
- Bush Fire Brigades Local Law 1988
- Dogs Amendment Local Law 2021
- Dogs Local Law 2000
- Fencing Local Law 2021
- Parking Local Law 1997
- Property Local Law 2000
- Standing Orders Local Law 2002

Organisational Structure

The Shire of West Arthur was created in 1961.

Council

The policy-making or legislative powers of the Shire of West Arthur rest with the elected members of the Council.

Ordinary local government elections are held on the third Saturday in October of odd-numbered years. Terms are for 4 years.

An extraordinary election may be necessary from time to time in accordance with processes prescribed by the *Local Government Act 1995*. Terms at an extraordinary election are for the balance of the vacancy being filled.

Council consists of seven (7) elected members:

- Shire President: Elected every two (2) years by other councillors and is the chairperson of council meetings.
- Six Councillors: with half elected every two (2) years on every odd year.

A current list of the elected members of the Council for the Shire is available on our [website](#).

The Council generally meets on the fourth Thursday of each month except January in order to:

- Determine matters of policy;
- Exercise its discretion in determining matters that cannot be determined by staff; and
- Receive information.

The Shire of West Arthur can only make binding decisions when the Council meets collectively. Individually, the elected members have no decision-making power.

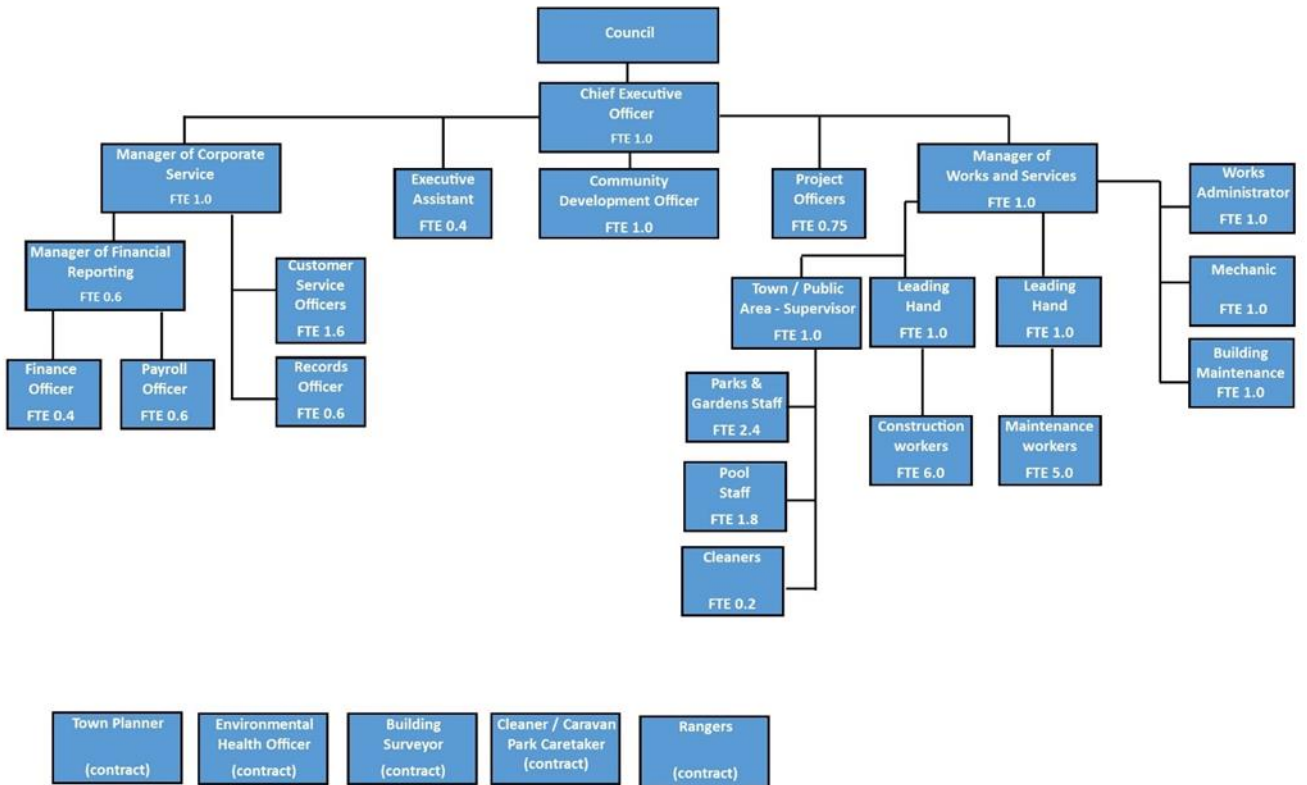
Management

The operations of the Shire are managed by the Chief Executive Officer, who is supported by a Management Team.

The CEO's role is to act as a conduit between the Council and the Shire's administration and to carry ultimate responsibility for efficiently and effectively using the Shire's resources. The CEO and staff report to the Council at monthly meetings with recommendations that the Council can accept, reject, or substitute with an amended resolution.

The Management Team consists of Managers who assist the CEO in managing the Shire's divisions.

A visual overview of the management structure of the Shire follows:



Decision-Making Functions

The Council of the Shire of West Arthur is responsible for overseeing the development and progression of the local community.

Matters requiring decisions that are brought before Council have an associated recommendation, which has been prepared by the responsible staff member who is employed by the Shire of West Arthur. The recommendations are generally based on:

- Legislation;
- Legal responsibilities;
- Adopted documents outlining strategic direction, policy, etc.; and
- Professional opinions.

Council may modify, reject or adopt new resolutions after considering the particular officer's recommendations.

The Shire has developed a range of policies that guide and direct its actions now and into the future.

Council has delegated decision-making authority to the CEO for many operational and day-to-day matters. These delegations are reviewed and approved by Council on a regular basis. The CEO may further delegate certain decision-making duties to Shire officers in accordance with the *Local Government Act 1995*.

In performing their roles as decision-makers, elected members, the CEO, and Shire Officers are required to make decisions that impact the community's daily lives. These decisions might include things like the provision of footpaths, control of animals, refuse collection, cultural events, planning matters, recreation facilities, and control of environmental health issues. The Shire strives to achieve a balanced and fair approach to decision-making to protect and develop the amenities of the Shire, preserve heritage, encourage economic growth, and provide clarity to residents and businesses in the Shire.

Role of the Councillor

Councillors do not have any authority to act or make decisions as individuals. They are members of a corporate body working for the community. Decisions must be consensus decisions of the corporation.

Nevertheless, Councillors play a major role in the policymaking of a Council and thus have responsibility for:

- The ultimate direction and control of the affairs of the municipality
- The making of key decisions on project priorities in the municipality and the plans to attain them
- The periodical review of the Council's programmes and performance.

Councillors have a major role in communicating information between electors and the Council. They have a duty to present the electors' views to the Council but must also be willing to take an overall and sometimes opposing approach to issues where necessary for the good of the community as a whole.

The role of a Councillor involves:

- Initiating new policies and activities
- Evaluating Council attitudes
- Controlling Council finances
- Keeping in touch with electors
- Attending meetings – Council and committee
- Deciding upon issues
- Approving programme of works and service

Public Participation

The Shire of West Arthur recognises that the community is an important resource when informing decision-making and that community input is essential to assist the Shire in choosing a path that caters for the current and future needs and expectations of the community.

Council Meetings

The participation of the public in Council meetings is achieved through three avenues:

a) Meetings Open to the Public

The *Local Government Act 1995* provides that all Council meetings are to be open to the public. The only exception to this rule is when the Council decides that certain parts of the meeting should be closed to the public (e.g. when the meeting deals with the personal affairs of any person). The grounds on which a meeting can be closed to the public are limited by law and are specifically set out in the Act.

b) Public Question Time

The *Local Government Act 1995* and the associated Local Government (Administration) Regulations 1996 provide a minimum period of fifteen minutes to be set aside at the commencement of any Council meeting to allow the public to ask questions and receive responses. Specific details on meeting procedures can be found within the Public Question Time, Presentations, Deputations and Petitions Policy.

c) Deputations and Petitions

Public participation in Council meetings can be achieved in a more formal process involving the Shire receiving petitions and/or deputations. The specific details of how these are presented can be found within the Public Question Time, Presentations, Deputations, and Petitions Policy.

Committees

Committee members, delegates, the President and the Deputy President are elected at the first meeting following the Local Government Elections.

Public participation in Council affairs is obtained by creating committees that may (or may not) meet regularly. These committees generally make recommendations to the Council via a responsible officer's report.

Standing and Occasional Committees

The powers and duties of committees are determined by delegation from the Council, except for the power to borrow money and impose rates, which cannot be delegated.

Standing Committees are permanent Council committees, and Occasional Committees are appointed to deal with specific matters and cease to operate once they have been resolved.

The number of members a Council may appoint to a Standing Committee must be less than one-half of the total members of Council.

List of Committees

Standing Committees of the Shire of West Arthur are:

- Audit and Risk Committee
- Bush Fire Advisory Committee
- Local Emergency Management Committee

Occasional Committees of the Shire of West Arthur are:

- Behaviour Complaints Committee
- CEO Recruitment and Selection Panel

Other Committees where Council is represented by a Delegate are:

- 4WDL VROC
- Central Country Zone of WALGA
- Darkan Swimming Pool Committee
- Development Assessment Panel
- Lake Towerrinning Strategic Plan Reference Group
- Museum Reference Group
- Narrogin Subgroup of the Regional Road Group
- West Arthur-Collie Senior School Bus Working group
- West Arthur Community Resource Centre Committee
- West Arthur Cottage Homes Inc
- West Care Committee

Public participation in occasional committees can be achieved through a number of processes, including advertising in the local newspaper or by invitation. Council may offer a particular community group or organisation a specific seat on a committee or reference group.

Reference Groups include:

- Australia Day Selection Panel

Annual and Special Elector's Meetings

The *Local Government Act 1995* obligates the Shire to hold an annual meeting of electors within 56 days of the Shire of West Arthur's acceptance of the annual report for the previous financial year.

The Annual Electors' Meeting, which tends to be held in February, allows electors to discuss the contents of the annual report and any other general business.

In accordance with Section 5.28 of the *Local Government Act 1995*, a special meeting of electors may be held following a request made to the Shire President for such a meeting by either:

- Not less than one hundred electors or 5% of the number of electors, whichever is the lesser; or
- One-third of the number of council members.

Any request of this nature is to specify the matters to be discussed at the meeting, and the form or content of the request is to be in accordance with the requirements of the *Local Government (Administration) Regulations 1996*.

Notice of impending Annual and Special Electors meetings are advertised in the local newspaper and the Shire's website.

Other Avenues for Public Participation

There are a number of other ways to contribute, including:

a) Community Consultation

The community may be asked to comment and have their say on particular issues. Some of these are statutory consultation requirements, such as local law reviews, strategic community plan consultation, development approvals, etc. But there are many occasions where community consultation is not required but sought in order to obtain a wide consensus of opinion and could include matters such as recreation facilities, and future planning.

b) Petitions

A petition is a formal written request signed by members of the community appealing to the Council regarding a particular issue. The subject of the petition must be something that the Council has the

authority to deal with or on which the Council has a decision-making role.

c) Written Requests

A member of the public can write to the Shire about any policy, activity, or service of the Shire. The Shire will respond in accordance with the Shire Customer Service Charter.

Access of Information – Freedom of Information Act

The *Freedom of Information Act 1992* came into operation in November 1993 and applies to State and Local Governments.

Documents available to the Public Outside of the Freedom of Information Act

There are two types of documents held by the Shire of West Arthur. These can be broadly categorised as:

- Those available for inspection or purchase; and
- Those which must be held confidentially due to their content, with access considered only through the provisions of the *Freedom of Information Act*.

Any person can attend the office of the Shire of West Arthur during normal office hours and free of charge inspect, subject to section 5.95 of the *Local Government Act 1995*, any of the following in relation to the Shire of West Arthur, whether or not current at the time of inspection, and in the form or medium in which it may at the time be held by the Shire:

- Code of Conduct;
- Register of Financial Interest;
- Annual Report
- Annual Budget
- Schedule of Fees and Charges
- Plan of Principal Activities (Strategic Community Plan/Corporate Business Plan);
- Proposed Local Law of which the Shire has given State-wide Public Notice under Sec.3.12 of the *Local Government Act 1995*;
- Local Laws made by the Shire in accordance with Sec.3.12 of the *Local Government Act 1995*;
- Regulations made by the Governor under Sec.9.60 of the *Local Government Act 1995* that operates as if they were Local Laws of the Shire;
- Text that –
 - Is adopted (whether directly or indirectly) by a Local Law of the Shire or by a regulation that is to operate as if it were a Local Law of the Shire; or
 - Would be adopted by a proposed Local Law of which the Shire has given State-wide public notice under Sec.3.12(3):
- Subsidy legislation made or adopted by the Shire under any written law other than the *Local Government Act 1995*;
- Any written law having a provision in respect of which the Shire has a power or duty to enforce;
- Rate record;
- Confirmed minutes of Council or Committee Meetings;
- Minutes of Electors Meetings;
- Notice papers and agenda relating to any Council or Committee Meeting and reports and other documents that have been –
 - Tabled at a Council or Committee Meeting; or
 - Produced by the Shire of West Arthur or a Committee for presentation at a Council or Committee Meeting and which have been presented at a meeting;
- Report of a review of a Local Law prepared under Sec.3.16(3) of the *Local Government Act 1995*;

- Business plan prepared under Sec.3.59 of the *Local Government Act 1995*;
- Register of Owners and Occupiers under Sec.4.32(6) of the *Local Government Act 1995* and Electoral Roll;
- Contract under Sec.5.39 of the *Local Government Act 1995* and variation of such contract;
- Such other information relating to the Shire –
 - Required by a provision of the *Local Government Act 1995* to be available for public inspection; or
 - As may be prescribed.

It should be noted that the *Local Government Act 1995* specifies several limitations on the rights of those wanting to inspect the Shire’s information. Despite these limitations, nothing in the *Local Government Act 1995* affects the operation of the Freedom of Information Act 1992.

Specific finance, accounting rating and valuation records are kept for varying lengths of time in accordance with the *General Retention and Disposal Schedule for Local Government* as prepared by the Records Management Office of State Archives of Western Australia.

The following documents are also available for inspection free of charge at the administration office of the Council during office hours. The list is not exhaustive.

- Policy Manual
- Delegations Register
- Corporate Business Plan
- Workforce Plan
- Strategic Resource Plan
- Burial Register
- Cemetery Plan
- Town Planning Scheme No 2

Photocopies of the above documents are available at a cost included in the adopted fees and charges.

Alternatively, a copy of most of the documents listed above can be obtained from the Shire’s website.

Details of Other Documents which may be available under FOI provisions

The *Freedom of Information Act 1992* give the public a right to access documents held by the Shire of West Arthur subject to the limitations listed below.

The access provisions of the FOI Act do not apply to documents that:

- Are available for purchase by the public or free distribution to the public;
- Are available of inspection under Part 5 of the FOI Act (i.e. Information statements and internal manuals) or under another enactment.
- Can be inspected in the State archives.
- Are publicly available library material held by agencies for reference purposes.
- Are made or acquired by an art gallery, museum or library and preserved for public reference or exhibition purposes.

When a FOI application is made for documents that relate to another government agency, the FOI application may be transferred to that agency.

Documents accessible under the FOI Act include paper records, plans and drawings, photographs, tape recordings, films videotapes or information stored in a computerised form.

The Shire holds its general documents in both hard and electronic formats. However, nearly all current accounting records, excluding creditor invoices, are held on computer and are backed up on tape and hard drives on a daily basis.

Reasons for Refusal of Access

The most frequent reasons for refusal to provide access to information are:

a) Personal Information

Information that would reveal personal information about an individual (e.g. their name, contact details, signature etc.) may be exempt under Schedule 1 Clause 3 of the *Freedom of Information Act 1992*.

The Glossary, Schedule 2 of the FOI Act states that:

personal information means information or an opinion, whether true or not, and whether recorded on a material form or not, about an individual, whether living or dead:

- whose identity is apparent or can reasonably be ascertained from the information or opinion; or
- who can be identified by reference to an identification number or other identifying particular such as a fingerprint, retina print or body sample.

b) Commercial Information

Information that would reveal trade secrets, information of a commercial value (e.g. documents containing technical designs that, if released, would harm the company), or the financial affairs of a person (e.g. debts owed to the Shire) may be exempt under Schedule 1 Clause 4 of the *Freedom of Information Act 1992*.

c) Deliberative Process

Information that would reveal a decision made during a deliberative process closed to the public (e.g. confidential Council meeting) may be exempt under Schedule 1 Clause 6 of the *Freedom of Information Act 1992*.

d) Legal Professional Privilege

Information that would reveal legal advice may be exempt under Schedule 1 Clause 7 of the *Freedom of Information Act 1992*.

Freedom of Information Processes

Application, Assessment, Notice of Decision and Appeal

It is the aim of the Shire to make information available promptly and at the least possible cost, and whenever possible, documents will be provided outside the FOI process.

If information is not routinely available, the Freedom of Information Act 1992 provides the right to apply for documents held by the Shire of West Arthur and to enable the public to ensure that personal information in documents is accurate, complete, up to date and not misleading.

Application for Access to Document(s)

Access applications must:

- Be in writing;
- Give sufficient information to identify the required documents;
- Provide an Australian address for correspondence;
- Be accompanied by the appropriate fee; and
- Be lodged at the main office.

Application and enquiries should be addressed to:

Freedom of Information Officer
Mr Rajinder S Sunner
Manager of Corporate Services
31 Burrowes Street
DARKAN WA 6392
Tel: (08) 9736 2222
Fax: (08) 9736 2212
e-mail: mcs@westarthur.wa.gov.au

Forms of Access

Access to documents can be granted by way of inspection, a copy of a document, a copy of an audio or video tape, a computer disk, a transcript of a recorded, shorthand, or encoded document from which words can be reproduced.

Notice of Decision

As soon as possible, but in any case, within 45 days, you will be provided with a notice of decision, which will include details such as:

- The date the decision was made;
- The name and the designation of the officer who made the decision;
- If the document is an exempt document, the reasons for classifying the matter exempt or the fact that access is given to an edited document and
- Information on the right to review and the procedures to be followed to exercise those rights.

Costs

Applications for documents that are non-personal in nature require a \$30 application fee to be paid when the application is lodged. There may be other charges imposed to cover the administrative costs associated with locating documents within the scope of your request.

When lodging an application, you can ask the Shire for an estimate of charges. If the charges are likely to exceed the application fee, we must give you an estimate and ask whether you want to proceed with the application. You must notify the Shire within 30 days of your intention to proceed with the application. In some instances, the Shire may request an advance deposit. The fees, charges, and possible reductions are set by the FOI Act, and Regulations are as follows:

Application Fees Non-Personal	Per Enquiry	\$30.00
Application Fees Personal	Per Enquiry	\$30.00
Charge for Time Dealing with the Application	Per Hour	\$30.00
Access Time Supervised by Staff	Per Hour	\$30.00
Photocopying Staff Time	Per Hour	\$30.00
Per Photocopy – A4	Per Copy	\$00.20
Transcribing from Tape, Film, or Computer	Per Hour	\$30.00
Duplicating a Tape, Film, or Computer Information	Actual Cost	At Cost
Delivery, Packaging and Postage	Actual Cost	At Cost

Financial Hardship

The Regulations of the FOI Act provide that the applicable charge will be reduced by 25% for an applicant who is:

- Impecunious [financially disadvantaged], in the option of the Shire there is a financial hardship; or
- The holder of a currently valid pensioner concession card issued on behalf of the Commonwealth to that person, or any other card which may be prescribed as being a pensioner concession card under the Rates and Charges (*Rebates and Deferrals Act*) 1992.

For impecunious (financial hardship)	25% reduction
For those with prescribed pensioner concession cards	25% reduction

Advance Deposits

Under section 18 of the FOI Act, the Shire may require an advance deposit. If so, the deposit will be 25% of the estimated charges, which is payable in excess of the application fee.

The Shire may also seek further advance deposits, up to 75% of the total charges payable in excess of the application fee.

Cost Estimates

If an agency estimates that the cost of dealing with an access application may exceed \$30, section 17 of the FOI Act requires agencies to issue the applicant with a cost estimate outlining the basis on which the estimate has been made. This must be done before the agency finishes dealing with the application.

Review and Appeal Process (under the Freedom of Information Act 1992)

Applicants who are dissatisfied with a decision of the Shire FOI Officer are entitled to ask for an internal review by the Shire of West Arthur. Application should be made in writing within 30 days of receiving the notice of decision. You should be notified of the outcome of the review within 15 days.

Internal Review (S. 39 – 40 and 54)

If you are dissatisfied or aggrieved by certain decisions of an agency regarding access to documents or amendments of personal information, you can apply to the agency concerned for an internal review of its decision.

To apply for an internal review, you must write a letter or fill out an internal review application form and send the letter to or lodge the form with the agency that made the decision within 30 days of being given notice of the decision.

The application must give details of the decision you wish to have reviewed and give an address in Australia to which notices can be sent.

There is no right to an internal review of a decision made by a Minister or the principal officer of an agency.

External Review by the Information Commissioner (S. 65 – 66)

If you are still dissatisfied with the agency's decision after an internal review has been completed, you can make a complaint to the Information Commissioner. The Information Commissioner may allow a complaint to be made even though an internal review has not been sought or has not been completed if you can show that there are good reasons why you should not apply for an internal review or why an internal review should not be completed.

An application for external review to the Information Commissioner must:

- be in writing and include an Australian address;
- give particulars of the decision to be reviewed, including details of the part(s) of the decision the applicants want the Commissioner to review; and
- include a copy of the internal review notice of the decision sent to the applicant by the agency.

An application for internal review form is available from the website of the Office of the Information Commissioner at <http://foi.wa.gov.au/en-us/AppforExtRev>

If you are seeking access to documents or amendment of personal information, your complaint must be lodged within 60 days of receiving written notice of the decision.

If you are a third party to an application for access to personal, commercial, or business information concerning yourself, your complaint must be lodged within 30 days of being given written notice of the decision.

Appeals to the Supreme Court (S. 85)

Any party to a complaint may appeal to the Supreme Court on any question of law arising out of a decision of the Information Commissioner, except for a decision as to the deferral of access to a document, the charges to be imposed for dealing with an access application and the payment of a deposit on account of charges.

The procedures relating to appeals to the Supreme Court are established by the Court.