



SHIRE OF
HARVEY



2021

Information Statement

**Freedom of Information
Act 1992 (WA)**

Introduction

The *Freedom of Information Act 1992* (FOI Act) provides for public access to documents and for the public to ensure that personal information in documents is accurate, complete and not misleading.

Part 5 of the FOI Act requires the Shire of Harvey (the Shire) to prepare and publish an annual Information Statement. The Information Statement must:

- State the structure and functions of the Shire;
- Describe the ways in which functions of the Shire affect members of the public;
- Describe arrangements that exist to allow members of the public to participate in the formation of the Shire's policy and performance of the Shire's functions;
- Describe the type of documents usually held by the Shire;

- Describe the arrangements for giving members of the public access to documents; and
- Describe the arrangements for amending personal information.

This document has been created to comply with that requirement and is correct as at 1 July 2021.

The Shire's Information Statement is published on the Shire's website at <http://www.harvey.wa.gov.au>. The document can be provided in alternative formats upon request.

Further information can be provided between Mondays and Fridays by contacting the FOI Coordinator by email at shire@harvey.wa.gov.au or by phone on 08 9729 0300.

Acknowledgement of Country

The Shire of Harvey acknowledges the traditional custodians of the land and their continuing connection to land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures; and to Elders both past, present and emerging.

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Strategic focus

The Shire of Harvey's Strategic Community Plan 2021-2031 is the highest level strategic planning document that describes the community's vision and aspirational goals (shown below).

The Shire of Harvey's Corporate Business Plan is strategically aligned to the Strategic Community Plan by defining strategies and actions for the objectives in the Strategic Community Plan.

The combination of these constitute the Shire's plan for the future, and will guide Council decision making in the short to medium term.

The Information Statement (this document) is linked the Objective 5.4 of the Corporate Business Plan.

Diversified Economy

A diversified and thriving economy that offers a wide range of business and work opportunities as well as consumer choice.



Connected Communities

A safe, accessible and connected community where everyone has the opportunity to contribute and belong.



Protected Natural Environment

A natural environment that is highly valued, protected and enjoyed.



Sustainable Built Environment

A liveable, sustainable and well-designed built environment that is accessible to all.



Effective Civic Leadership

A representative leadership that is future thinking, transparent and accountable.

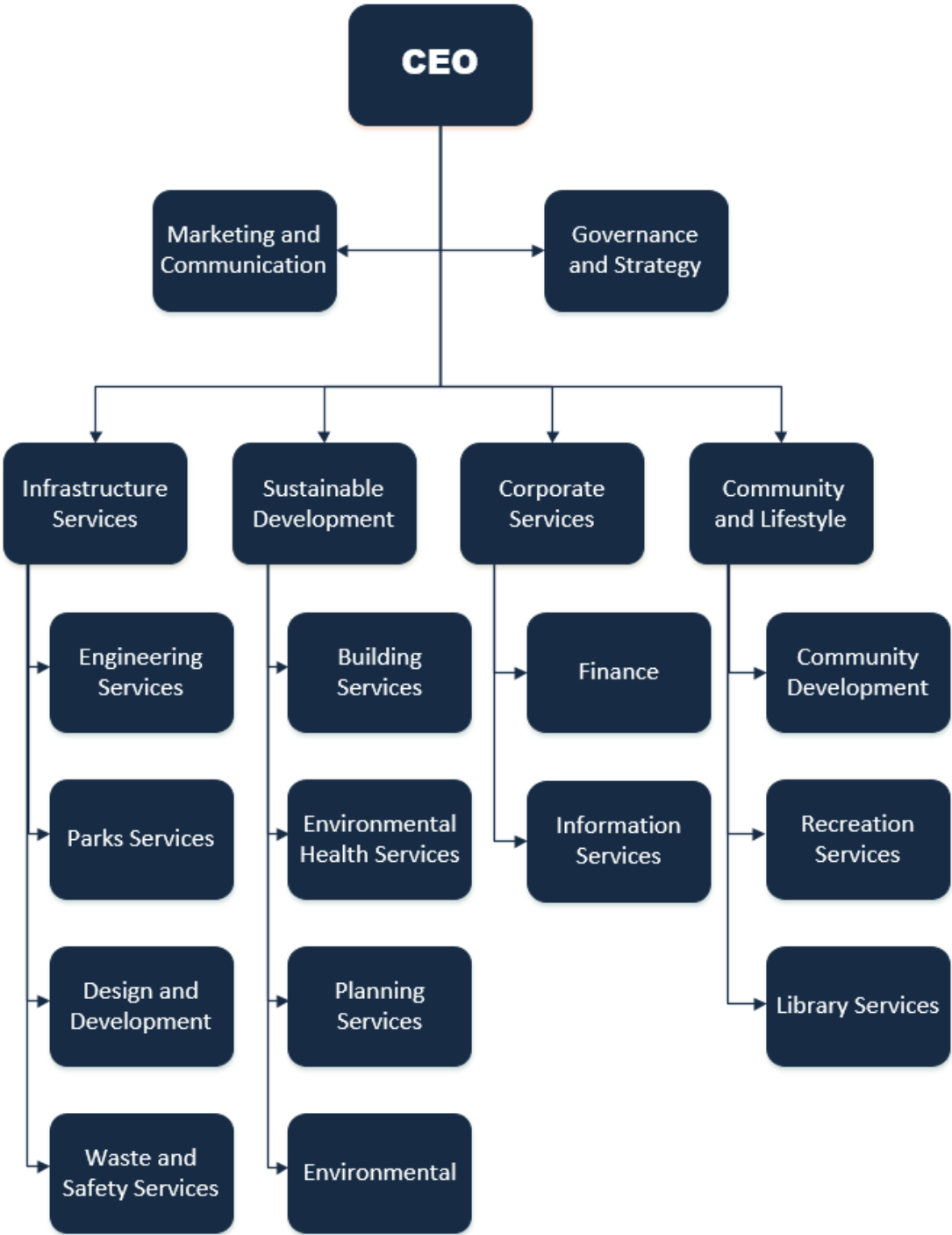


5.4 Sound governance, including financial, risk and asset management

Putting in place structures and processes to ensure accountability, transparency, responsiveness, equity and the most efficient use of available resources to meet the needs of the community and to comply with the rule of law.

Structure

The day to day running of the Shire is the responsibility of the Chief Executive Officer who, along with the Executive and staff, act on the Council’s decisions by developing and putting into practice council policies and resolutions.



Services

Office of the Chief Executive Officer

Service Area	Description
Chief Executive Officer	Appointed by Council, the CEO is responsible for managing the organisational structure, ensuring that Council decisions are implemented, the day to day management of Shire operations, advocacy and providing advice to Council.
Corporate Governance	Manages the Shire's statutory governance obligations relating to Council and Committee meetings, elections and delegations of authority. Provide support to Council's decision-making process. Complaint handling and insurance claims.
Integrated Planning and Reporting	Development and review of strategic and corporate plans and corporate reporting to drive corporate, financial, infrastructure, land-use, community services and human resource functions and operations.
Executive Services	Effective and compliant administrative support to the Chief Executive Officer, Executive Leadership Team and Elected Members.
Workforce Planning	Ensuring that the Shire has the human resources to deliver the operations outlined in the Corporate Business Plan, which in turn strives to meet the goals and objectives of the Strategic Community Plan.
Human Resources	Adherence to recruitment practices that enable the Shire to attract highly skilled employees. Provision of learning and development programs to staff as part of a strategy to align individual employee skills and goals with the needs of the Shire. Responsibility for payroll functions and Occupational Safety and Health compliance.
Procurement and Leases	Procure goods, services and works and manage subsequent contracts and leases in compliance with legislation, policies and procedures.

Service Area	Description
Risk Management	Risk management is an essential element of corporate governance and gives the Shire the confidence to pursue opportunities while identifying and managing risks in a balanced way.
Marketing and Communications	Responsibility for managing the Shire's brand and all corporate communications to ensure the community is kept informed about Shire projects and activities.
Strategic Projects	Undertake the planning and implementation of major infrastructure projects that require significant capital investment from the Shire and its partners.
Civic Ceremonies	Host Citizenship Ceremonies throughout the year in compliance with the Immigration Act.



Corporate Services

Service Area	Description
Rates	Rates management services to administer Council's rating strategy and subsequent recovery of rates in compliance with legislative requirements.
Information Management	Records management that includes access, storage, processing, development, retrieval and disposal of electronic and paper-based information. Respond to Freedom of Information requests.
Information and Communication Technology (ICT)	Responsibility for ICT applications and infrastructure to support the way the community interacts with the Shire and the manner in which staff access and process information.
Accounts payable and receivable	Preparing and processing payments the Shire owes to suppliers and collects and records payments to the Shire.
Financial Services	Responsibility for preparing the Annual Budget, financial reporting to Council, the Long Term Financial Plan and other statutory financial functions.
Asset Accounting	Maintain accounting records and financial reports that accurately reflect the Shire's asset base, its condition and the long term asset management planning.
Customer Service	Provide the community with a welcoming experience as the first point of contact. A communication and information service between the community and Shire staff.
Licensing Services	Administer the licensing functions on behalf of the Department of Transport
Dog and Cat Registrations	Administer the registration process for dogs and cats.

Community and Lifestyle

Service Area	Description
Youth Services	Working in partnership with local youth and community youth services to activate youth spaces and implement the Shire's Voices of Youth Strategy.
Volunteers	To support, recognise and build the capacity of volunteers.
Age Friendly Services	To support and facilitate services and activities for older people aimed at improving their quality of life and enabling them to live in their local communities for as long as they want.
Access and Inclusion	Work with key stakeholders to provide inclusive and accessible services, facilities and information within the Shire. Implementation of the Shire's Access and Inclusion Plan.
Art and Culture	Engage and encourage residents and visitors to participate in and benefit from art, culture and heritage.
Grants	Administer a range of grants to community groups to assist with the services that support, engage and improve the quality of life for all sections of the community.
Community Safety and Crime Prevention	Lead an inter-agency approach to community safety, including crime reduction planning and programs. Work in partnership to implement the Community Safety and Crime Prevention Plan.
Library Services	Provide a library and information service which connects the community to information, entertainment and lifelong learning opportunities.

Service Area	Description
Leisure and Recreation	Provide and facilitate a wide range of sport, recreation and healthy lifestyle opportunities for the community through the delivery of infrastructure, facility management, club development and activity programming.
Aquatic Services	Provision of aquatic facilities to the community to facilitate water safety and swimming lessons and water club activities as well as being a venue for leisure and recreation.
Childcare Services	Operate an Out of School Hours Care service during school term and a School Holiday Program during the holidays for children aged between 5-12 years. Deliver a number of programs designed to foster learning and skills development in a fun and safe environment.
Place	Coordination of Place Advisory Group meetings in each Shire locality to improve community engagement and participation in the Shire's decision-making processes.



Sustainable Development

Service Area	Description
Environmental Health Approvals	Protecting the health and well-being of the community by conducting inspections and providing approvals to a wide range of services and facilities including food premises, hairdressers and beauty premises, public buildings and caravan parks.
Public Event Compliance	Assist with and assess event applications for approval to ensure that venues are safe for patrons.
Mosquito and Pest Management	Reduce nuisance pests and mitigate the disease risk associated with mosquitoes.
Waste Water Management	Ensure waste water applications are compliant with public health legislation.
Building Services	Responsibility for ensuring that all building construction within the Shire complies with all relevant codes, regulations and standards.
Town Planning	Prepare, maintain and review the Shire's strategic planning instruments, including the Local Planning Strategy and the Town Planning Scheme.



Service Area	Description
Planning and Development Services	Provide a regulatory service administering all aspects of land use, including subdivisions, developments, building design and operation. Provide assessment of infrastructure to ensure compliance with approved engineering conditions and standards.
Economic Development	Implement the Economic Development Strategy aimed at activating commercial property on land controlled, owned or managed by the Shire. Advocate and support businesses and industry to bring development opportunities to enhance the economic diversity of the Shire.
Environmental Management	Develop plans, policies and strategies for managing natural areas, reserves, coastal zones and waterways to protect and promote the biodiversity of the Shire.

Infrastructure Services

Service Area	Description
Infrastructure Services	Responsibility for the maintenance, upgrade and construction of Shire buildings, roads, paths, cycle ways, bridges, car parks, drains and lighting in accordance with the Shire's Forward Capital Works Plan
Asset Management	Conducts scheduled maintenance work on all Shire assets in accordance with the Asset Management Plan. Develop the Asset Management Plan in conjunction with the Long Term Financial Plan to ensure adequate levels of service and longevity of assets.
Parks, Playgrounds, Streetscapes and Open Public Spaces	Deliver horticultural, irrigation, maintenance and turf services for parks, sporting grounds, gardens and public open spaces. Install and maintain infrastructure such as street furniture, barbeques, playground equipment, stairs, fencing, signs and eventrelated infrastructure
Cemeteries	Maintain cemetery grounds and assist with cemetery burials and ashes interments

Service Area	Description
Rangers	Responsibility for the enforcement of compliance with local laws, including animal control, parking and traffic management control and use of public spaces. Provides proactive surveillance and community education
Waste Management	Provide waste management services to the community and develop best practice strategies and community education programs that promote waste minimisation and recycling.
Emergency Services	Plan, develop, manage and implement community emergency services in accordance with Local and State Government legislation, Council policies and local laws

Functions of the Shire

The Shire encompasses the districts of Harvey, Australind, Leschenault, Binningup, Myalup, Brunswick and Yarloop

In 2016 the estimated residential population for the Shire of Harvey was 27,723, an increase of approximately 16.1% over the past five years. It is estimated there were 10,120 households in the Shire in 2016. Population forecasts are that the Shire population will reach 32,567 by 2026.

Local governments operate within a framework of delegated legislation, including orders and proclamations made by the Governor, by-laws, regulations and ordinances made by other statutory authorities.

The functions of the Shire are to provide services and facilities, by proper and democratic government, in an efficient and cost-effective manner, subject to the *Local Government Act 1995* (LG Act) and other legislation that provide the powers and directions for local government.

In carrying out its functions, a local government is to use its best endeavours to meet the needs of current and future generations through

integration of environmental protection, social advancement and economic prosperity.

Under the Act the Shire has general, legislative and executive functions.

General functions

The general function of a local government is to provide for the good government of people living and working within its district. Refer to Section 3.1

Legislative functions

A local government may make local laws that are necessary or convenient for it to perform any of its functions. Refer to Section 3.5

Executive functions

A local government is to administer its local laws and may do all other things that are necessary or convenient to be done for, or relating to, performing its functions. Refer to Section 3.18

Decision making at the Shire

Ordinary council meetings

The council consists of thirteen elected members which includes the Shire President. The Council is the policy and decision-making body for the Shire with a focus on the strategic direction. The CEO and Directors of the business units also attend the Council meetings to assist the Elected Members in making informed decisions.

Special meetings of Council

Special meetings are convened to consider an urgent matter or a matter that involves special circumstances. Special meetings are conducted in similar ways as the Ordinary Council Meetings.

Special electors' meetings

A Special Electors' meeting occurs if a petition, signed by at least 100 eligible electors, is submitted to the Council requesting that a meeting be held on that matter.

Electors' general meetings

The Electors' General Meeting occurs once every financial year. Reports that are submitted

include the Annual Report, Annual Financial Statements, Auditors Report for the previous financial year and other general business.

Committees and advisory groups

The Shire has a number of committees with Council Members formed under the *Local Government Act 1995*. None of these committees have any delegated powers. These include:

- Alcoa Harvey Sustainability Fund Advisory Committee
- Annual General Electors
- Audit Committee
- CEO Employment Committee
- Regional Joint Development Assessment Panel
- Shire of Harvey Bush Fire Advisory Committee
- Shire of Harvey Local Emergency Management Committee
- Shire of Harvey and Shire of Dardanup Joint Town Planning Committee



Public participation

Members of the public have several opportunities to participate in the formulation of the Shire's plans, policies and strategies as well as comment on the performance of the Shire's functions.

Council and committee meetings

The procedures for conducting Council and Committee Meetings are governed by the Shire of Harvey Standing Orders Local Law 2017. Members of the public are welcome to attend Council and Committee meetings. There is an opportunity at Council and Committee meetings for members of the public to ask questions (refer to 'Public Question Time') and an opportunity at Council meetings for members of the public to make a deputation (refer to 'Deputations').

Public question time

The allotted public question time during a Council meeting is 20 minutes and may be extended if circumstances require. Any member of the public attending a Council meeting can ask up to three questions on any matter relating to the ordinary business of the Shire of Harvey or the function of the Council regardless of whether or not the matter in question is on the agenda.

Deputations

Members of the public can make a deputation (statement) regarding an item on the agenda at a Council meeting. A deputation must be requested in advance of the meeting and approved by the Shire President.

Elected members

In their role, Elected Members make themselves available to the community to assist with matters regarding the function of Council.

Written requests

A member of the public can write to the Shire regarding the policy, activity, service or any issues within the Shire's jurisdiction.

Community consultation

The Shire is committed to ensuring quality place-based community consultation for Shire projects, plans and proposals. Each consultation is customised depending on the context, place, timeframe and legislative requirements. Consultation can occur through submissions or surveys on the Shire's Have Your Say online engagement platform and is promoted on the Shire's website, in local newspapers and on public notice boards as needed. Where appropriate the Shire will also host public meetings and write to residents or landowners impacted by a decision.

Petitions

Petitions can be submitted in a hard copy format or electronically for the attention of an Elected Member or CEO. Petitions received will be formally presented at the next Ordinary Council meeting where Council will vote to either; receive the petition, request a report on the petition be prepared or the petition be referred to a Committee.

Documents held by the Shire

The Shire maintains comprehensive records of all its dealings including correspondence, memoranda, file notes, reports, plans, sketches, maps, diagrams, documents pertaining to the keeping of records, applications, approvals and notices.

Availability of information is subject to the provisions established in the FOI Act 1992 and the *Local Government Act 1995* and may be free or subject to the Shire's Schedule of Fees and Charges. The Shire will assist members of the public to obtain access to documents promptly, at the lowest reasonable cost and ensure that personal information contained in documents is accurate, complete, up-to-date and not misleading.

Information is made available through a range of mediums including public statements, news releases, the Shire's website, advertisements placed in local and state-wide newspaper, public notice boards, library services, information sheets, individual correspondence, public and statutory documents and reports.

Documents available on the Website

Section 5.96A of the *Local Government Act 1995* lists a number of documents the CEO must publish on the Shire's website. These include:

- a map of the district showing the district boundaries and, if the district is divided into wards, the ward boundaries
- an up-to-date consolidated version of any local law made by the local government in accordance with section 3.12 that is in force
- the annual budget
- an up-to-date list of fees and charges imposed under section 6.16
- current plans for the future of the district made under section 5.56
- confirmed minutes of council or committee meetings
- minutes of electors' meetings
- notice papers and agenda relating to council or committee meetings and reports and other documents that have been — (i)

tabled at a council or committee meeting; or (ii) produced by the local government or a committee for presentation at a council or committee meeting and that have been presented at the meeting; information of a kind prescribed for the purposes of this subsection or required by another provision of this Act to be published on the website.

Documents available for Inspection

Section 5.94 of the *Local Government Act 1995* lists a number of documents to be made available for inspection during office hours. These include:

- any code of conduct
- any register of complaints referred to in section 5.121 of the *Local Government Act 1995*
- any register of financial interests
- any register of gifts
- any annual report
- any annual budget
- any list of fees and charges imposed under section 6.16
- any plan for the future of the district made in accordance with section 5.56
- any proposed local law of which the local government has given local public notice under section 3.12(3)
- any local law made by the local government in accordance with section 3.12
- any regulations made by the Governor under section 9.60 that operate as if they were local laws of the local government
- any text that — is adopted (whether directly or indirectly) by a local law of the local government or by a regulation that is to operate as if it were a local law of the local government; or would be adopted by a proposed local law of which the local government has given local public notice under section 3.12(3)
- any subsidiary legislation made or adopted by the local government under any written law other than under this Act

- any written law having a provision in respect of which the local government has a power or duty to enforce
- any rate record
- any confirmed minutes of council or committee meetings
- any minutes of electors' meetings
- any notice papers and agenda relating to any council or committee meeting and reports and other documents that have been — (a) tabled at a council or committee meeting; or (b) produced by the local government or a committee for presentation at a council or committee meeting and which have been presented at the meeting
- any report of a review of a local law prepared under section 3.16(3)
- any register of owners and occupiers under section 4.32(6) and electoral rolls - application form
- a report on a supplementary audit prepared under section 7.12AH (1)
- such other information relating to the local government — (a) required by a provision of this Act to be available for public inspection; or (b) as may be prescribed
- Shire Policy
- Community Plans
- Planning Approvals and Building Licences for a property you own - application form
- Original septic plans for a property you own - application form
- Owner postal information - application form
- Access to information by authorised persons, Police and emergency services

Documents not available

Documents not listed above are not freely available to the public and access will be determined through making a Freedom of Information application with the Shire - application form. Examples of such documents include:

- Documents relating to a property that you own -not including planning, septic and building approvals
- Documents relating to a property that you are not the owner
- Documents relating to internal Shire decision making

Other available documents

The Shire makes the following documents available to the public even though there is no statutory requirement. These include:



Freedom of Information Act 1992 (WA)

Objectives of the Act

- Creates a general right of access to state and local government documents. This is subject to the sensitivity of the documents. A person's right to access is not to be affected by any reason the person gives, or the agency's beliefs as to what the person's reasons are for wanting access.
- Ensures that personal information is accurate, up to date and not misleading. Individuals have a right to see their own records and have them amended where they are inaccurate.

Requires that certain documents concerning government operations be made available.

Major features of the Act

- General rights of access
- Exemptions that protect essential public and private interest
- Reasons for decisions
- Review of decisions
- External Review (Information Commissioner)

Making an FOI application

Access applications must:

- be in writing using the application form available on the Shire of Harvey website
- give enough information so that the document(s) requested can be identified
- give an Australian address to which notices can be sent
- be lodged at the Shire with the application fee payable

Applications lodged on behalf of another person, require written authorisation from the person which is to accompany the application.

Applications may be lodged in the following ways:

- in person at the Shire's administration office located at 102 Uduc Road, Harvey
- in person at the Shire's administration office located at 7 Mulgara Street Australind
- mailed to PO Box 500 Harvey WA 6220
- emailed to shire@harvey.wa.gov.au

Applications will be acknowledged in writing and the applicant will be notified of the decision within 45 calendar days. An application form is available on the Shire website.

FOI charges

A scale of fees and charges are set out in the FOI Regulations. Apart from the application fee for non-personal information (information that is not personal information about the applicant) all charges are discretionary. An estimate of charges will be provided if the additional cost of

processing the application is expected to exceed \$25.00. For impecunious applicants or those issued with prescribed pensioner concession cards, any charges payable can be reduced by 25% by providing a written application. The fees and charges are detailed in the table below.

Fees and Charges	
Application fee for personal information about the applicant	No Fee
Application fee for non-personal information	\$30.00
Charge Dealing with Application – Per Hour	\$30.00
Charge Supervision Access – Per Hour	\$30.00
Photocopying Charge – Per Hour	\$30.00
Photocopying Charge – Per copy	\$0.20
Delivery, Package & Postage Charge – Actual Cost	P.O.A
Advance Deposit – 25% of Estimated Costs	P.O.A

GST

All charges, outlined above, are exempt from GST under Determination No 2. 2000, made by the Federal Treasurer (Exempt Fees and Charges) Part 5 (Western Australia), page 203.

Waiver or reduction of fees

Under section 3. of the FOI Regulations, fees may be reduced where the applicant is;

- Impecunious; or
- The holder of a valid pensioner concession card.

The reduction or waiver of fees only applies to associated processing costs, not the original application fee if applying for non-personal information.

Impecunious

The FOI Act does not specify what constitutes being 'impecunious', leaving this at the discretion of agencies. The Shire of Harvey requires such a claim be supported by written evidence, for example a letter from Centrelink.

Pensioner concession

The Shire of Harvey requires that the Pensioner Concession Card be sighted upon request. If the applicant holds a currently valid pensioner concession card, the charge payable is reduced by 25%.

Deposits

Under section 17 of the FOI Act, the Shire is required to provide the applicant with an estimated cost should the charges for dealing with the application exceed \$25.00. An advance deposit of 25% of the estimated cost may be required as a sign of good faith that full payment will be provided once the Notice of Decision is issued. This is in accordance with section 6 of the FOI Regulations.

Time limits

A Notice of Decision must be issued within 45 days from when the application was lodged. The Shire aims to respond as soon as practicable to any application and will negotiate with the applicant on an extension to the 45 day limit should the application be unusually large, or require consultation with a significant number of Third Parties.

The applicant has 30 days in which to lodge an application for an Internal Review if dissatisfied with the Shire's Notice of Decision. The Shire must respond within 15 days.

The applicant has 60 days in which to lodge an Application for an External Review if dissatisfied with the Shire's Internal Review decision. The Information Commissioner must respond within 30 days.

All time limits are in calendar days.

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; or a transcript of a recorded, shorthand or encoded document from which words can be reproduced.

If any accessible documents are subject to copyright, the Shire will provide access by way of inspection only.

Contact officers and procedures

To obtain access to the Shire Harvey's documents, or to amend personal information in Shire documents, interested persons should contact the Shire's Information Management

and Freedom of Information Officer during office hours of 9am to 4pm Monday to Friday by phone (08) 9729 0300, or by email shire@harvey.wa.gov.au

Clauses for exemption

- Clause 2 – Intergovernmental Relations
- Clause 3 – Personal Information
- Clause 4 – Commercial or Business Information
- Clause 5 – Law Enforcement, Public Safety & Property Security
- Clause 6 – Deliberative Process
- Clause 8 – Confidential Communications
- Clause 9 – The State's Economy
- Clause 10 – The State's Financial or Property Affairs
- Clause 11 – Effective Operations of Agencies
- Clause 12 – Legal Professional Privilege

Copies of these Clauses can be obtained upon request.

In all these exemptions except Clause 6, the material concerned is not exempt if its disclosure 'would on balance, be in the public interest'. Material relating to deliberative processes is exempt if certain conditions are met and disclosure 'would, on balance, be contrary to the public interest'.

Factors in favour of a disclosure may include:

- There is a serious interest by the community – not just curiosity
- The benefit from disclosure will flow to the general community
- The information will make a valuable contribution to public debate on the issue
- The information will assist public understanding of the processes of government
- The information will disclose the reasons for a decision
- The right of persons to have access to documents that concern them

Factors against disclosure may include:

Disclosure will affect the proper workings of government

- The need to protect the integrity and viability of decision-making processes of government
- The efficient and economical conduct of an agency will be significantly affected by disclosure
- Premature release of tentative and partially considered policy matters may mislead and encourage ill-formed speculation
- The interest in maintaining the personal privacy of individuals

Public interest test

Some of the exemptions in the FOI Act require an agency's decision-maker to decide whether disclosing certain information is, on balance, in the public interest. If the agency is required to consider the public interest, this usually means that information that would otherwise be exempt will not be exempt if its disclosure would, on balance, be in the public interest.

The term 'public interest' is not defined in the FOI Act. It can be a complex legal concept.

Consideration of the public interest under the FOI Act is not primarily concerned with the personal interests of the particular access applicant or with public curiosity. The public interest is a matter in which the public at large has an interest as distinct from the interest of a particular individual or individuals. The question is whether, on balance, giving access to the information would be of some benefit to the public generally.

Deciding whether or not disclosing information would, on balance, be in the public interest test involves identifying and weighing the relevant competing public interests for and against disclosure of the information and deciding where the balance lies.

In relation to personal information of a private nature, the Information Commissioner has consistently found that there is a very strong public interest in maintaining the privacy of individuals. If you are seeking information about another person, the onus is on you to establish that it is in the public interest for private information about the other person to be disclosed to you (section 102 of the FOI Act).

Third party consultation

Sections 32 and 33 of the FOI Act together provide that an agency is not to give access to a document that contains:

- personal information about an individual
- information concerning the trade secrets of a person
- information (other than trade secrets) that has a commercial value to a person
- information concerning the business, professional, commercial or financial affairs of a person unless it has taken such steps as are reasonably practicable to seek the views of the third party as to whether that information is exempt under clause 3 (personal information) or clause 4 (trade secrets, commercial or business information) of Schedule 1 to the FOI Act

There is no requirement to 'consult' if:

- the agency does not propose to grant access
- the agency releases the document with the relevant personal, commercial or business information deleted from the document (under section 24)

If an agency 'takes such steps as are reasonably practicable' and does not receive a response from a third party, the agency must go ahead and make its decision on access based on the information and facts before it.

If the views of a third party are obtained, and the third-party objects to disclosure, the onus remains with the agency's decision-maker to decide whether the information is actually exempt. A third party's objection to disclosure is not sufficient of itself to justify an exemption claim. A third party does not have a power of veto over an agency's decision to release documents.

However, a third party does have review rights if the agency decides to give access to documents contrary to the third party's claims that the document or information is exempt (section 34).

Notice of decision

A Notice of Decision will include details such as;

- The date on which the decision was made;
- The name and the designation of the officer who made the decision;
- The reason why documents are considered exempt, or the fact that access is given to an edited document; and
- Information on the right of review and the procedures to be followed to exercise those rights.

Review and appeal process

A person who is dissatisfied with an agency's decision may lodge an application for external review with the Information Commissioner. An application for external review is also called a complaint. The Shire of Harvey has no internal review process this is because the Chief Executive Officer is the decision maker.

External review

A complaint to the Information Commissioner must be:

- made in writing
- give particulars of the decision to which the complaint relates
- have attached a copy of the agency's notice of decision
- give an address in Australia

There is no charge for lodging a complaint with the Information Commissioner's office.

The address for lodgement of a complaint is:

- Office of Information Commissioner
Albert Facey House
469 Wellington Street Perth WA 6000
- or by email to info@foi.wa.gov.au

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

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

Appeals to the Supreme Court

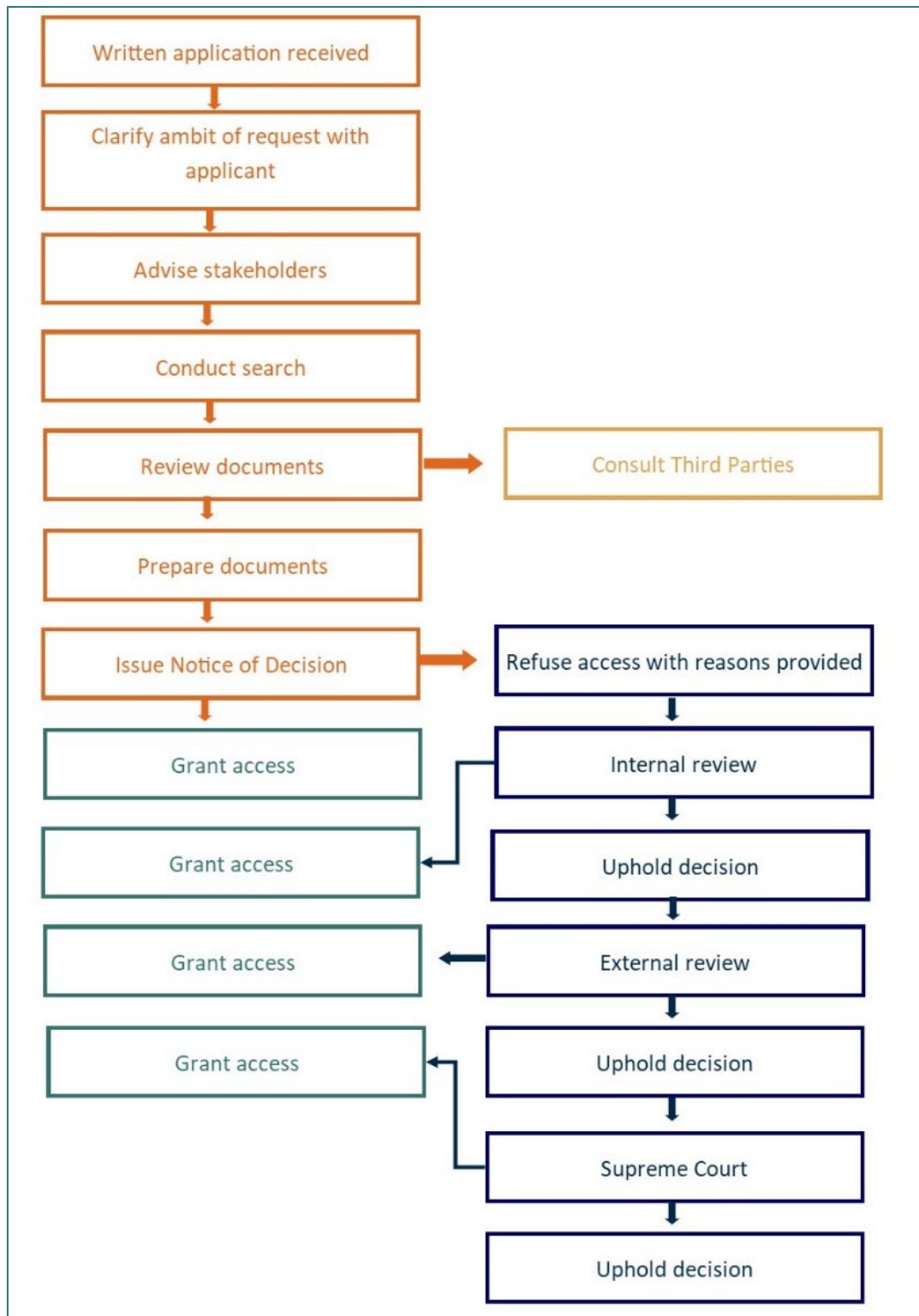
Under the FOI Act, all parties to the Commissioner's decision have the right to lodge an appeal against that decision with the Supreme Court. The right of appeal is limited to a question of law.

The agency is a party to an appeal even if it is neither the appellant nor the respondent (section 86(1)). The Commissioner is not a party to the appeal.

The timeframe and process for lodging an appeal is governed by the Rules of the Supreme Court 1971. As at the time of drafting this document, an appeal must be lodged within 21 days after the date of the Commissioner's decision. Some periods of time, for example the Christmas period, may be excluded when calculating the 21 days to appeal: please refer to the Rules of the Supreme Court 1971 for further guidance.

If an agency lodges an appeal against the Commissioner's decision, it is not required to give the applicant access to the document or information pending the outcome of the appeal. However, if the agency does not intend to lodge an appeal and no third parties are involved, the agency should give the applicant access to the document or information without delay.

FOI flowchart



Amending personal information

The right to amend personal information held by the Shire ensures information does not unfairly harm the person referred to, misrepresent facts about them or give a misleading impression.

An application can be made to the FOI Officer to correct or amend any documents containing an individual's personal information.

Under section 46, an application for amendment of personal information must:

- be in writing;
- give enough details to enable the document that contains the information to be identified;
- give details of the matters in relation to which you believe the information is inaccurate, incomplete, out of date or misleading;
- give your reasons for holding that belief;
- give details of the amendment you wish to have made (specifying whether you wish the amendment to be made by altering, striking out or deleting the information or inserting a note in relation to information);
- give an Australian address to which notices can be sent; and

- be lodged at the office of the agency that holds the documents.

Your application for amendment should include some information or evidence to establish that the personal information you seek to have amended is inaccurate, incomplete, out of date or misleading as you claim.

Furthermore, applicants must indicate whether they wish the amendment to the information to be made by altering, striking out or deleting the information or inserting information or a note in relation to the information.

The FOI Act does not allow the Shire to obliterate or remove information or destroy a document without written certification from the Information Commissioner in accordance with section 48(3) of the FOI Act.

If the Shire decides to amend the information it will usually alter the record, or add a further note in relation to the record.

The Shire will inform the applicant of its decision, and reasons for arriving at that decision, together with rights of review if dissatisfied with the Shire's decision.

Access to documents outside FOI

Availability of information is subject to provision established in legislation such as the Freedom of Information Act and the Local Government Act. Access may be free, or subject to fees and charges. The Shire will, in all instances, seek to provide access to information upon request except where there may be issues under relevant legislation.

Information is made available through a range of mediums including public statements, news releases, the Shire's website, advertisements placed in local and state-wide newspapers, through libraries or other external services of the Shire, information sheets and other publications, as well as individual correspondence, public and statutory documents and reports.

