

challenges improvement innovation good governance

Promoting Better Practice Program

REVIEW REPORT

SHOALHAVEN CITY COUNCIL

FEBRUARY 2009



Department of Local Government

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1. ABOUT THE REVIEW

Review objectives

The Promoting Better Practice review program is a review process that has a number of objectives:

- to generate momentum for a culture of continuous improvement and greater compliance across local government
- to provide an 'early intervention' option for councils experiencing operating problems
- to promote good governance and ethical conduct principles
- to identify and share innovation and good practice in local government
- to enable the Department to use review information to feed back into its work in identifying necessary legislative and policy work for the local government sector.

Reviews act as a "health check", giving confidence about what is being done and helping to focus attention on key priorities.

Review process

The review process was developed after extensive research into council performance measurements in Australia and overseas. There are essentially five steps in a review – preparing, assessing, checking, analysing and reporting. The review team/reviewer examines local circumstances in order to understand the pressures on council and how the council has sought to manage that environment.

The process involves a Department of Local Government (DLG) review team/reviewer evaluating the effectiveness and efficiency of the council's operations and giving feedback. This involves checking compliance, examining appropriate practices and ensuring that council has frameworks in place to monitor its performance. The review is different from an investigation or a public inquiry in that it aims to achieve an overview of council systems and processes and is not intended to look in detail into specific issues as an investigation or a public inquiry would.

The results of reviews are analysed and fed back to the council reviewed, the Director General of the Department of Local Government and the Minister for Local Government.

Shoalhaven City Council Review

Shoalhaven City Council completed a strategic management assessment and a comprehensive set of checklists about key Council practices. The reviewer examined these and a range of other source documents prior to visiting Council, in order to gain a preliminary understanding of the circumstances in which Council operates and how the Council has sought to manage that environment.

The strategic management assessment tool asked Council to respond to four critical questions:

- How has Council determined its ambitions and priorities?
- How do these ambitions and priorities drive the Council's services and resources?
- How does Council use its corporate capacity and systems to drive forward the organisation in an ambitious, challenging yet managed way?
- How does Council measure the progress it is making with its agenda to ensure that its priorities are delivered and that service improvement is achieved?

Ms Aleksandra Valda, Senior Investigations Officer with the Department's Investigations and Review Branch, assisted by Ms Cathy Collins, Assistant Investigations Officer, conducted the on-site component of the review from 21 to 30 May 2008. The Planning module was reviewed by Ms Lois Gray from the NSW Department of Planning.

The on-site review involved meetings with Council's former Mayor, General Manager, a number of Councillors and Council staff; conducting briefings for Council senior staff and Councillors; attending a Councillor briefing session and Council meetings; the review of a number of Council's policies and other documents and visits to Council worksites.

2. EXECUTIVE SUMMARY

Shoalhaven City Council is an organisation of many achievements that also faces a number of challenges. A failure to address those challenges may place at risk Council's sustainability as an organisation. Following the September 2008 local government elections, the newly elected Council will have the ability to turn this situation around. This report provides to Council an outline of areas of strengths, identifies some issues to be addressed immediately and suggests areas for improvement.

While Council has a sound approach to corporate and operational planning and performance management, it will need to better integrate its strategic land use plans, as they are key in shaping Council's works programs. Council also needs to adopt extensive indicators to measure its performance in this regard. The review team found insufficient commitment to Council's policy framework by the elected body.

Prior to its visit to Council the review team was made aware of numerous concerns by members of the Shoalhaven community that were raised with the Minister for Local Government, the Department of Local Government and with a number of other Government agencies about the poor leadership shown at the elected level of Council. The review team was disappointed to find indicators that some Councillors tend to get bogged down in the detail of running the Council, as well as unsatisfactory relationships and the level of cooperation among elected councillors and between councillors and Council staff.

Some councillors the review team spoke with appeared to lack an understanding of their statutory roles and obligations under the Council's code of conduct and seemed unable to demonstrate an understanding of Council's strategic direction and focus on the 'big picture'.

There are a number of aspects of Council's operations that are performing well, indicating a mature approach to delivering services to the community. This includes sound internal controls, business continuity, procurement and tendering practices, information management, a policy register linked to the corporate plan, good

complaints and customer request management, excellent project management, innovative organisational improvement programs, prudent financial and business management, a good system for handling development applications and providing information to applicants and prospective applicants, good environmental management practices, good companion animals management, social planning and facilitation of services, community engagement, the committees of Council, economic and tourism development, and a number better practice workforce strategies and practices.

On the other hand, Council should, as a matter of urgency, reconsider the strategic and policy setting role of Councillors, as opposed to their involvement in the operational management of Council. Council should also put in place strategies to improve the relationships among Councillors and between Councillors and Council staff. As an immediate step, Council should change the additional provision in its Code of Conduct that states that persons exercising delegated authority must use the authority as if they were the elected council – this should be replaced with a reference to the consistent application of a robust policy framework. Council should also review its delegations and make changes to its meeting practices to make meetings more efficient, transparent and participation in meetings more equitable. Council should define and be committed to providing a reasonable level of access to Council documents and information by Councillors.

Council should also add to its otherwise good practices in terms of contractor performance, make changes to its expenses and facilities policy, and define Councillors' expectations of the corporate media policy.

In terms of land use planning, there is an urgent need to have a new and up to date comprehensive Local Environmental Plan (LEP) in place that will deliver a structure for growth and change and is supported by a Development Control Plan that provides one integrated set of development controls for a piece of land. Extension of exempt and complying development should be considered in developing the new LEP to reduce the large number of development applications having to be considered by the Council. A new section 94 plan is also urgently required. The strategic land use program should be focussed in delivering these key documents as soon as possible.

Council should consider re-establishing the General Manager's delegation to conduct prosecutions if there are legislative breaches.

In the area of asset management, Council should articulate a comprehensive asset management strategy and attend to gaps in asset maintenance. Prior to any of its land sales, Council should obtain and take into consideration the land valuation, the potential developers' financial and construction feasibility and establish the need for and community benefit of any development on its land.

In terms of its workplace relations, councillors should not attempt to intervene in staff performance matters as this is the role of the General Manager. Council should use the results of the recent staff survey to achieve the best outcomes for the organisation. Council should consider replacing the supervision of the General Manager by a single Councillor with a committee or sub-committee of Council.

3. RECOMMENDATIONS

Ambitions, Priorities and Future Focus

1. Councillors should limit their role within the organisation to strategic policy setting, rather than becoming involved in the day-to-day management of Council, and rely on and respect Council's systems and policies.

Governance

2. Council should immediately remove from its Code of Conduct the additional provision protecting Council official spokespersons (the Mayor and the General Manager) from sanctions under the Code.
3. Council should develop an overall organisational risk management plan that would bring together all of its risk management activities.
4. Council should develop a system for management of contractors' performance.
5. Council should aim to reduce the length of its meetings.
6. Council should review its recent business papers and reconsider its practice of referring a large number of matters to the elected Council if those matters can be dealt with by Council staff under delegated authority.
7. Council should continue to conduct ongoing reviews of its Expenses and Facilities policy, including improving a number of shortfalls identified in the departmental audit. These include:
 - the need for the policy to specifically exclude general allowances
 - the need for the policy to include detail on reconciliation of expenses for private use of facilities
 - the need for the policy to provide for training and development for councillors and
 - the need for the policy to include limits on expenditure for all categories of expenses and facilities.

8. Council is encouraged to continue to monitor and report on the complaints it receives. In this review process, Council should consider including the appeal/review process in its complaints policy and provide guidance to staff for dealing with unreasonable complainant conduct.

Planning and regulatory

9. Council needs to grasp the complexity of its planning responsibilities and provide leadership to the broader community with sound planning direction setting and decision making in the context set by the Government's South Coast Regional Strategy.
10. Council should clarify the functions of its Strategic Planning and Development and Environmental Services groups so that any land use strategy or policy setting components are developed by or endorsed through the Strategic Planning Group.
11. Council should develop more formal links for the sharing of planning strategy and policy setting, policy interpretation and ongoing feedback on policy implementation.
12. Council should review the projects on the Strategic Planning Group's work program in order to give priority to finalising the Growth Management Strategy and the new comprehensive LEP.
13. Council should review and rationalise the DCP controls in conjunction with the preparation of the new comprehensive LEP so that they are consistent with and support the new comprehensive LEP provisions.
14. Council should show greater commitment to its adopted plans and planning policies and keep them under review so they continue to be relevant.
15. Council should reactivate the review of its section 94 contributions plan.
16. Council should look to increasing the scope for further exempt and complying development in its new comprehensive LEP as a means of reducing the number of applications that need to be dealt with by Council staff.

17. Council should build into its DARTS/DA tracking system the capacity to lodge development applications on line.
18. Council should adapt the DA processing system to provide a monitoring mechanism for the delivery of the Growth Management Strategy outcomes.

Asset and financial management

19. Council should consider developing an overall asset management strategy based on its existing asset management plans.
20. Council should articulate into a policy the principle on which it operates: that the proceeds of the sale of assets are returned to the community where the asset was sold.

Community and consultation

21. When Council next reviews its Social and Community plan, Council should have regard to the issues raised in this report: the needs of women in the area; comparison with the previous plan; regional focus; housing; and ageing strategies.

Workforce

22. Council should consider translating its human resources strategies into specific targets. This may include relevant targets in its corporate planning process and reporting on the achievements against those targets.
23. Council should decide, as a matter of priority, how to use the employee survey results to maximise the outcomes for the organisation.
24. Council should determine and prioritise actions arising from the findings of the employee attitude survey.
25. Council should review the role of its Senior Staff Contractual Matters Committee to ensure this committee does not have a role in the performance management of staff.

26. With regard to their involvement in employment matters, all councillors should ensure they are acting in accordance with the *Local Government Act 1993* and that they do not act outside the role provided in section 232 of the Act.

4. CONTEXT

Shoalhaven City Council is located on the South Coast of NSW, approximately 160 km south of Sydney. It is bordered by Kiama and Wingecarribee Councils to the North, Goulburn Mulwaree and Palerang Councils to the West, Eurobodalla Shire Council to the South and the Tasman Sea to the East.

The City covers an area of 4,568 square kilometres. Shoalhaven is part of the Illawarra Region, which includes Wollongong, Shellharbour, Kiama, Wingecarribee and Shoalhaven local government areas.

At the 2006 Australian Bureau of Statistics census, the City had 93,615 residents. At peak holiday times the population of the City is estimated to increase to over 300,000 people. At the same census 3.6% of residents identified as being of Aboriginal and Torres Strait Islander origin. People of culturally and linguistically diverse backgrounds make up around 4.41% of the population. In 2001 the median weekly individual income for people aged 15+ was \$251, compared to \$260 for the Illawarra region and \$297 for NSW.

The City comprises 49 towns and villages. It also boasts over 100 beaches and several waterways, ranges and national parks. Nowra is the largest town in the Shoalhaven and the business and administrative centre of the City. Nowra is also the home of the Shoalhaven campus of the University of Wollongong. The City is a habitat to a large number of flora and fauna species, including the black cockatoo, which is the symbol of the town of Nowra.

With over 20 percent of the population aged 65+ years in 2004, Shoalhaven was the 8th eldest local demographic government area in NSW. It is estimated that in 2022 it will become the 18th oldest demographic, with the 65+ population estimated to comprise 27.4% of the total population¹.

Forty-nine percent (49%) of the land of Shoalhaven comprises national parks, 11% is state forests, 8 % is Crown land and 32% is other.

¹ Jackson, N.O. (2004) NSW Local Government Population Ageing Project.

Twelve councillors over three wards and a popularly elected Mayor represent the community.

At the time of the review, Council's administration consisted of a General Manager, the Assistant General Manager, five Group Directors and 857 equivalent full time staff. The General Manager has been with the Council since 2001 and in his current position since January 2003. Several key functional positions report directly to the General Manager, in addition to group directors. Council's organisational structure comprises five groups headed by directors, as follows:

1. finance and corporate services (finance, administration, insurance, fleet management, Shoalhaven Mechanical Services Council business, compliance and ranger services, Holiday Haven Council business, tourism and economic development)
2. city services and operations (cemeteries and crematorium, aquatics, sports and recreation, parks and reserves, community facilities, management committee, arts, library, community development, volunteers, works and services, noxious weeds, emergency services, project and contract management, waste)
3. strategic planning (land use, development control plans, policy, geographic information system, infrastructure and asset management, property planning, traffic planning, regional strategies, plans of management, natural resources planning, water and sewer, social planning)
4. development and environmental services (development, building, subdivisions, environment, health)
5. Shoalhaven Water (water, wastewater and customer service).

In 2007/08, Council had an operating budget of \$232 million.

5. COUNCIL'S AMBITIONS, PRIORITIES AND FUTURE FOCUS

This part of Council's assessment examines: clear ambition; focus on communities and services; ownership of problems and willingness to change; shared and realistic vision; a sustained focus on what matters; improvement integrated into day to day management; flexibility and innovation; capacity and systems to continue to deliver performance improvement.

What is working well

Corporate planning framework

In the late 1990's Shoalhaven City Council undertook a process to formulate the vision for the City and to formulate strategies and actions for putting this vision into action. This vision is contained in the **Cityplan** (June 2000). Council has formulated the principles guiding the vision definition and delivery as follows: *"To achieve our VISION first we need to indentify our OBJECTIVES and prepare plans or STRATEGIES before setting SIGNIFICANT TASKS; these in turn lead to ACTION"*.

Councillors, the community and Council staff were involved in the process of formulating the **Cityplan**. The vision, strategies and actions of the **Cityplan** are identified in a range of other Council documents, some strategic, the others operational, in the areas of environmental, economy and community management. These plans drive Council's operational objectives and performance targets. However, the key strategic delivery plan underpinning the **Cityplan**, the Citywide Structure Plan, has not been completed. While there has been some very good work done for individual districts, for example the Nowra-Bomaderry Structure Plan, an LGA wide view and beyond is needed to confirm the future role and functioning of towns and localities. This work in turn is instrumental in determining social and physical infrastructure allocation and programming.

The delivery of the longer-term plans is put into effect through the 4 year management plans and annual group and section operational plans. The management and annual delivery plans are formulated over the following principal activities:

- Effective government
- Protecting the environment and planning for growth
- Promoting and delivering for the local community
- Improving community facilities and services
- Providing essential water and sewerage services and
- Operating Holiday Haven Tourist Parks

These principal activities are translated into objectives, strategies and tasks, with specific accountabilities assigned to key Council positions.

The delivery of tasks, strategies and objectives of the management plan, as well as group and section plans, are monitored through the quarterly review process, with achievements being reported to the Council (quarterly) and the community (annually). These achievements also form the basis for the senior staff and General Manager's performance reviews.

The review team observed a collaborative approach among Council management and staff to implementing Council's vision, objectives, strategies and goals.

Various Council plans include strategies for the provision of services to the ageing population. Council's structure and staffing arrangements reflect focus on succession strategies, especially in terms of the ageing workforce.

There seems to be a clear delineation between the service provision and regulatory functions within the organisational structure.

Council's Management Plan seems to be well integrated with other key documents. A strong aspect of the Management Plan is that attention is given to the organisation itself.

The reviewers examined Council's Annual Report for 2006/2007 and found that it complied with the statutory requirements. The report shows achievement against its objectives and performance indicators.

Council also has in place a good performance management system which is linked to the corporate planning framework. This is discussed in more detail further in the report, under the Workforce heading.

Integrated planning and reporting

Planning is a process that seeks to translate community aspirations into directions for Council. Plans should therefore result in specific actions and broader outcomes for Council's communities, in addition to satisfying the statutory requirements.

The Department of Local Government, in consultation with local councils, the community and other Government agencies, has commenced the Integrated Planning and Reporting project that is aimed at assisting councils in the integration of their different plans so plans do not end up working against each other, but complement each other towards common organisational objectives.

The Department intends to release Integrated Planning and Reporting Guidelines in the near future. These guidelines will describe the preferred planning and reporting model and provide assistance to councils on how to implement the new model. At that time, all councils will be required to revisit their planning and reporting models, including those that work well.

Challenges for improvement

Councillors' strategic role

Councillors have a strategic role in the provision of leadership to the organisation and the community. The elected body and the organisation must work together in order to realise the organisation's strategic goals.

The review team assessed Council's leadership and strategic directions as well as its operational capacity to achieve results. Some of the review tools applied in this assessment were the councillor survey, discussions with councillors and staff and a review of Council policies, processes and relevant recent decisions.

Ten councillors, including the Mayor, responded to the councillor survey and met with reviewers.

Most councillors expressed a high level of understanding of their strategic, policy making and community representational roles. Several councillors highlighted that the important part of their role was the setting of strategic direction for the organisation and involving the community in that process. However, some councillors expressed views that it was their role to liaise with staff in managing day-to-day issues where political guidance was required, or to assist staff in prioritising work. Other councillors strongly expressed an entirely different view – that councillors should not interfere in the day-to-day running of Council.

The review team has found evidence that the overall strategic-operational regime in Council is constantly challenged by some members of the elected body and that some councillors get preoccupied with operational issues, at the expense of the stability of the bigger picture. This is particularly evident in the setting and constant challenging and undermining of Council's policy framework. It is not the case that Council does not have good policies, rather that its policies are not adhered to and are constantly challenged, changed or set aside in an attempt to resolve ongoing operational matters. This is particularly the case with Council's planning policies. An example brought to the review team's attention is the Planning Statement for the 3(g) Area and its application to development at Huskisson.

One of the consequences of such situations is that the elected council is constantly in a reactionary role (rather than a statutory and espoused policy setting one), which may result in delays to processes and changes of priorities. It also leads to the appearance of micro management by the Council's executive and to the perception of weak management. The sentiment of weak and micro management by the Council's executive became apparent in the recent staff survey.

One example of this tension between the policy setting role and operational involvement of the elected body is the situation where Council has an advanced system for informing prospective developers of the policies that apply to a particular development, for tracking development applications, accessing development policies

and soliciting comments on specific developments. The normal process in contemplating a development is for the applicant to acquaint themselves with relevant policies and meet with Council staff.

However, there is a practice in the Council whereby the former Mayor was promoted as a point of contact for developers that experience problems with Council policies or staff. There are also examples of hands-on negotiations between elected councillors and developers. The letter from the former Mayor to development applicants congratulating them on the development and inviting them to contact the former Mayor should they experience problems with the development, while possibly serving a public relations purpose, in actual fact puts Council's systems, policies and the decision making by Council staff into question.

While councillors can seek to represent the concerns of individual constituents by raising issues that have a more immediate or local impact, in doing so, they must be mindful that in that process they do not lose sight of strategic and policy issues and of the fact that one of their key roles is to be the leaders of the organisation and not the challengers in situations where organisational practices are adequate.

Another example is councillors' intervention concerning the performance of a particular staff member within the Council structure and the attempt by the elected council to determine the future of that position on the basis of the incumbent's performance. The Local Government Act clearly outlines the role and responsibility of the general manager and council employees and the roles of the mayor and elected councillors. Under the Act all staffing matters rest wholly within the functions of the general manager. The mayor and elected councillors have a role for the setting of strategic policies, objectives and direction for the council, as well as the role to review the organisation's performance at that same high level. It is therefore inappropriate for elected councillors to make decisions regarding staff appointment, working conditions, performance, or have access to specific employee details or information.

Councillors should limit their role within the organisation to strategic policy setting, rather than becoming involved in the day-to-day management of Council and rely on and respect Council systems and policies. **(Recommendation 1)**

Relationships

Another area where the review team encountered significant problems concerns the relationships among elected councillors and between elected councillors and Council staff.

The former aspect of the above comment – about poor relationships among councillors – is based on the observations of the conduct in council meetings and councillor briefing. Some of this conduct was the subject of a Stateline TV report in 2008. Some of the standards of behaviour go beyond unacceptable. This refers to offensive words and metaphors, threatening body postures, lack of respect for colleagues when they speak through interruptions and ongoing commentary and derogatory remarks. Several instances of such behaviour have been the subject of action under Council's code of conduct. Further examples of councillor conduct are given further in the report, under the Governance/Council Meetings heading. Some councillors were in the habit of casting aspersions against their colleagues, the Mayor, the General Manager and Council staff.

The second aspect of the above comment about problematic relationships between elected councillors and Council staff is more insidious and more difficult to capture, with possibly farther reaching consequences for the organisational culture if it is not addressed properly and immediately.

Through assessment of various background documents, including complaints to the Department and other regulatory agencies by councillors and members of the community, as well on the basis of various media reports, and following a brief observation of the organisation, the review team found that in some cases the difference between “us” and “them” was overwhelming.

The review team viewed several emails from elected councillors to Council staff. The tone of those emails was unnecessarily terse, rude and threatening.

Councillors frequently question staff advice, refuse to accept staff recommendations and make changes to staff recommended options without giving reasons for doing so. It seems that the problem stems from a lack of understanding or acceptance by councillors of the different roles they and Council staff play in the current local government framework. There is also a pronounced tendency of the elected council to play a more executive role. This creates the question for Council staff of who is actually the boss – is it elected councillors or their managers and directors - which can undermine the executive management of Council. It also poses the question of the value of staff's work and what actually is the role of staff if elected councillors can make operational decisions at the spur of the moment, or guided by some unclear influence.

There is a controversial provision in Council's code of conduct that makes this situation more subtly harmful to the organisation, because it legitimises the elected council's involvement in operational matters – this will be discussed in more detail under the Governance/Code of Conduct heading of this report.

Disrespectful treatment of staff by elected councillors is unacceptable. Councillors must make every effort to demonstrate respect for Council staff and for the professional advice staff provide.

The General Manger should consider including councillors in the appropriate module of the Organisational Responsibilities exercise so that a team work approach is reinforced and mutual responsibilities better understood.

6. DELIVERING AND ACHIEVING

This part of Council's assessment focussed on: capacity and systems to deliver performance improvement; defined roles and responsibilities and accountabilities; delivery through partnership; modern structures and processes; strong financial

management; resources follow priorities; performance information; risk managed appropriately; open to external challenge.

6.1 Governance

“Corporate governance refers to all the means by which entities are directed and controlled.” (Standards Australia, HB401-2004:12) Corporate governance is important because it enhances organisational performance; manages and minimises risks; increases the confidence of the community and the local government sector in the organisation; ensures that an organisation is meeting its legal and ethical obligations; and assists in the prevention and detection of dishonest or unethical behaviour.

A review was conducted of a range of aspects of Council’s governance practices including:

- *Ethics and values*
- *Risk management and internal control*
- *Council’s decision-making processes*
- *Information management*

Ethics and values

Code of Conduct

The Council’s Code of Conduct adopted under the Local Government Act is important because it assists councillors and Council staff to understand the standards of conduct that are expected of them. From 1 January 2005, all councillors, staff and council delegates are required to observe provisions consistent with the Model Code of Conduct for Local Councils in NSW that is prescribed by the Local Government (General) Regulation 2005.

Following consultation with councillors and staff, in May 2005 Shoalhaven City Council adopted its current Code of Conduct that is based on the Model Code of Conduct prepared by the Department of Local Government. Council has

supplemented the Model Code provisions with additional provisions that are relevant to local circumstances.

The Code's provisions were conveyed to staff and councillors in the training undertaken since 2005, through staff news bulletins, team briefings and workshops for councillors and staff. A copy of the Code is provided to all new staff and delegates. Council's Code of Conduct is available on its website. The Code was last reviewed in March 2007. Since the on-site review of Council, the Department has released a revised Model Code of Conduct. Council has been reviewing its own Code to include the new provisions of the Model Code.

The review team's attention has been drawn to the additional provision of the Code that delegated decision makers must use delegated authority as if they are the elected council. The Department has already written to Council about this provision pointing out its inadequacy. However, at the time of the review, the provision was still in Council's Code of Conduct and still vague in its meaning and intent. In addition, the provision does not set a suitable standard against which conduct could reasonably be assessed. It can also be argued that the provision may amount to a dictation to a delegated administrative decision maker.

As the Department has previously advised Council, there should be a common link between the elected Council and Council delegates in a form of a robust policy framework that is consistently applied. If the additional provision is intended to make the policy framework flexible and open to interpretation, then the provision should be removed from the Code. If the intention of the additional provision is to enable communication between the decision making and professional operational bodies, the provision should be reworded to refer to the common policy framework that is determined by the elected body and put into action by Council staff.

Another additional provision in Council's Code of Conduct the review found to be inappropriate relates to the circumstances in which authorised spokespersons (the Mayor and the General Manager) are exonerated from sanctions under Council's Code of Conduct. This is contained in clause 10.2 of Council's code. While this clause appropriately places obligations on the Mayor and the General Manager to defend and uphold Council's corporate values and resolved position and act in good

faith, it then goes a step further and removes the important element of scrutiny and accountability, which may lead to the abuse of official position. No one can be protected from sanctions under the Code of Conduct for their actions. Council officials' actions must be subject to scrutiny and complaints must be handled appropriately. The review strongly recommends that the protection of Council official spokespersons from sanctions under the Code of Conduct be immediately removed.

(Recommendation 2)

Some councillors expressed the view to the review team that there was an uneven application of the Code of Conduct and that it was used as a sword, rather than as a shield. The Code of Conduct was produced by the Department, in consultation with the local government sector, as an instrument to assist councils with the management of the conduct of their officials. The Model Code was accompanied by a set of guidelines and given to councils to implement. Following its implementation, the Model Code has been revised having regard to feedback from the sector in the application of the Code over the past three years. Following further consultation, the revised Model Code was released in June 2008. It is expected that the revised Code will overcome the perceived inconsistencies with the application of the Model Code.

Business ethics

Council's statement of business ethics conveys to people doing business with the Council its values and the expected standard of conduct. The statement is available on Council's website.

Gifts and benefits

Council has a gifts and benefits policy and a register which was inspected during the review.

Management of pecuniary interest

The *Local Government Act 1993* sets out the provisions that must be adhered to when council officials have a conflict between their public duty and private interests that constitute pecuniary interests. The Act requires that: councillors and designated staff complete and lodge written disclosure of interest returns in the form prescribed

by the Local Government (General) Regulation 2005; and to appropriately manage pecuniary interests when relevant matters arise.

Shoalhaven City Council maintains a register of disclosures of interests returns by councillors and designated persons, as prescribed by section 449 of the Act. During the review councillors' and designated officers' written returns for 2006/07 were assessed. The assessment revealed a high level of assistance provided by Council to persons required to complete the returns – all sections of the form are preceded by the relevant provision of the Local Government (General) Regulation 2005 and every category of disclosure is required to be signed individually.

In terms of compliance with the legislative requirements by persons required to lodge disclosures of interest, the review team noted that all returns were lodged on time and there was a great degree of compliance with legislative requirements in most returns. However, the review found some minor inaccuracies in councillors' returns, mainly in the area of the nature of interest in real properties, sources of income declared in wrong categories, no dates and other requisite detail in travel undertaken.

In the context of the good system put in place by the organisation, councillors should be more careful in completing their returns accurately. If required, they should seek additional guidance from Council staff, or refer to the guidelines provided by the Department in the form of council circulars and Pecuniary Interest Guidelines which are all available on the web site: www.dlg.nsw.gov.au.

Council's Code of Conduct outlines a process for disclosures in council and committee meetings (in accordance with section 451 of the Act). In addition, a reminder of the declaration of interest pro-forma is attached to all business papers. This is intended to serve as a prompt for persons who may have an interest in any matter before the Council to appropriately manage that interest.

Protected disclosures

Protected disclosures are an important means by which councils demonstrate commitment to ethical practice. They also can act as an early warning system for management.

Council has an internal reporting policy to assist staff in making disclosures about alleged corrupt conduct, maladministration or serious and substantial waste of public money under the *Protected Disclosures Act 1994*. The policy reflects the current reporting options.

Council informs its councillors, staff and council delegates of the requirements and protections of the *Protected Disclosures Act 1994* through staff induction and training programs.

Risk management and internal controls

Risk management

Councils are exposed to a wide range of risks as a consequence of their diverse functions. Risk management comprises systems and processes for systematic identification, analysis, evaluation, control and monitoring of risks.

While risk cannot be entirely eliminated, councils should aim to establish a risk awareness culture and to continually work towards establishing structures, processes and controls that cost effectively reduce the organisation's risk profile and thereby protect the interests of council, the public and other key stakeholders.

There needs to be a balance between the cost of managing risk and the benefits expected from engaging in an activity that has inherent risks. The significance of specific risks varies from council to council.

The review examined the way Shoalhaven City Council seeks to manage risk. Discussions with Council staff and review of Council documents disclosed a high level of risk awareness. This was particularly evident in areas of insurable risks and Occupational Health and Safety, as the Council self-insures.

Evidence was also found of the identification of broader organisational risks at the enterprise and operational levels, for example, the risks associated with various project and areas of operation, as well as of the development of controls and safeguards which, consistent with contemporary thinking, should assist the organisation in managing identified risk. There is a risk management committee in place and a risk register.

However, Council does not have an overall risk management plan that would bring together all of its risk management activities. It is recommended that Council develop such plan. **(Recommendation 3)**

Fraud control

Fraud is a crime involving the dishonest obtaining of a financial or other benefit by deception. The benefit might be of a direct or indirect value. Fraud wastes funds and resources and can damage an organisation's reputation and competitiveness. It is important that fraud risks are identified and managed effectively and that supervisors and staff are kept up-to-date on known and emerging risk areas, as well as on strategies for properly managing those risks.

Council has developed a fraud control and corruption resistance policy and plan, which operates in combination with its risk management and internal audit functions.

Internal audit

Internal audit provides for the systematic scrutiny of an organisation's operations, systems and performance. It assists in ensuring that service standards are met, data records are accurate and complete, and established procedures are both adequate and being followed.

Council has an internal auditor position as well as the audit committee and the annual audit program. The audit results feed into the system improvements through group directors' work plans. Council was awaiting the release of the Department of Local Government's *Internal Audit Guidelines for Councils and County Councils – October 2008* in relation to the organisation of its audit function in the future.

Procurement, disposal of assets, tendering, contract management

Procurement, disposal of assets, tendering and contract management are areas of any organisation's operations where benefits passing between the public and private sectors may provide ample opportunity and incentive for corrupt dealings. Non-existent or weak policies and procedures for the procurement, disposal of assets, tendering and monitoring of contractors' performance and failure by organisations to

conduct risk assessment and regular audits of those policies and practices have been identified by the regulatory agencies as areas of highest risk. In addition, weak and unchecked policies and practices may provide additional opportunities and incentives for circumventing the procedures and making that circumvention harder to detect.

The basis on which decisions to purchase and dispose of assets, as well as the tendering and management of contractors' performance procedures, should be made transparent to both organisational staff and external observers. These procedures should be well documented, opportunities for corrupt conduct identified and defences and safeguards put in place at the points of highest risk. The policies and their practical application should be regularly observed and evaluated for effectiveness and efficiency.

The review of Shoalhaven City Council looked at whether the Council has in place policies and procedures that address the areas of procurement, disposal of assets, tendering and contract management, as well as whether these policies and procedures are reflected in practice. The review also assessed two tender files to check compliance with legislative requirements.

Council has in place documented policies and procedures for the purchasing of goods and disposal of assets (other than land and buildings – the purchasing and disposal of these assets are regulated through different processes). These are available on Council's intranet site. There is a separation of responsibilities in the purchasing process. The internal auditors conduct regular audits of contract management and purchasing files.

The acquisition and disposal of land and buildings is discussed in more detail under the Asset and Financial management module.

While there are practices in place in Council that enable regular periodic monitoring and auditing of the performance of contractors and immediately acting upon unsatisfactory performance, Council does not have an articulated process for making a record of contractors' performance upon the completion of a contract. Such records would assist the organisation in future selection of contractors. Council

should take this further step and develop a system for management of contractors' performance. **(Recommendation 4)**

With regard to tendering, the assessment of two tender files revealed that the relevant requirements of the *Local Government Act 1993* and Local Government (General) Regulation 2005 were complied with. Consistent with clause 179(b) of the Regulation, Council should display in a conspicuous place a notice of successful tenders.

Legislative compliance

A fundamental principle of good public administration is that public officials comply with both the letter and the spirit of the law. To facilitate compliance with legal requirements, councils and their senior staff should ensure that:

- management commitment to compliance is clear and unequivocal
- the legal requirements that apply to each activity for which they are responsible are identified (including updates reflecting changes to the law) and documented (preferably in detail, but as a minimum by reference to relevant provisions)
- all staff are kept fully informed, briefed and/or trained about the key legal requirements relevant to their work
- staff are made aware of the potential repercussions of non-compliance with legal requirements that apply to them, and
- record-keeping systems and practices that capture evidence of compliance and non-compliance are in place.

It is important for councils to consider what systems they have for identifying their compliance obligations, for staying on top of legislative changes and for ensuring they are meeting those obligations on an ongoing basis.

Shoalhaven City Council has a protocol for systematically identifying and reviewing its compliance obligations. Group and section managers ensure they keep up-to-date with changes to the legislation pertaining to their specific expert areas of

responsibility and circulate information to staff in order to ensure continued compliance with legislative requirements.

Council may consider examining whether there is an easier, more streamlined way of ensuring regulatory and legislative compliance.

Business continuity

Council has an organisation-wide disaster recovery/business continuity plan to manage the impact of adverse events on its operations.

Decision making

Delegations

The power of delegation is an important tool that assists Council officers to carry out the functions of Council in an effective and timely manner. Delegations need to be made in accordance with sections 377-381 of the Act and regularly reviewed to ensure they remain current.

The delegations in Council are organised at two levels: from Council to the General Manager under the Act; and from the General Manager to staff – the latter are referred to as authorisations.

Council's delegations system is currently under review. Council should continue with this review and include the heads of authority in its delegations. It should also ensure an audit trail of delegations at any time is established.

Council meetings

A key document covering Council's decision-making is its code of meeting practice. Council last reviewed its code of meeting practice in December 2007. The Code incorporates the relevant provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

The review observed council and committee meetings on 13 and 27 May 2007 and assessed Council's policies relating to meetings as well as records of randomly selected previous council and committee meetings.

Ordinary council meetings are held on the second and fourth Tuesday of the month. Until April 2008, Council held one ordinary meeting a month and Policy and Planning Committee meetings on alternate Tuesdays. In April 2008 the Policy and Planning Committee was disbanded and issues that would be considered by this Committee transferred to the newly established second ordinary meeting.

At present, ordinary council meetings are followed by meetings of the Works and Finance Committee and Development Committee. All councillors are members of these Committees. On the third Tuesday, meetings of the Shoalhaven Water Operations & Strategic Review Committee and Crown Reserve, Community & Operations Committee are held.

Council meetings start at 3:30 in the afternoon and are usually preceded by councillor briefings. The meetings tend to go on until after 10 o'clock in the evening.

While the duration of council meetings is a matter for Council, and we note the councillors' commitment to public office (as indicated by their willingness to attend Council or committee meetings at least three afternoons and evenings a month), the review team is concerned that the need for long meetings is an indication that Council is not making the best use of councillors' and officers' time. The duration of council meetings also has the potential to limit possible candidates seeking election as councillors. This is in spite of the practice of clearing a number of items on the agenda, without debate, at the beginning of meetings.

The general observation made by the review team is that the length of the meetings is the result of councillors concerning themselves excessively with operational matters, their willingness to debate the issues at length and that a number of issues discussed by the elected Council could easily be resolved under delegated authority.

In support of the above arguments, in 2007 Council had five extraordinary meeting. Since the introduction of the two monthly ordinary meetings in April 2008, Council held an additional two extraordinary meetings. A review of the minutes of the 2007

and 2008 extraordinary meetings revealed that some items discussed in extraordinary meetings related to urgent development. However, business papers and minutes of most extraordinary meetings indicate those meetings were called because Council was unable to complete its business in the course of the previous ordinary meeting.

The nature of matters discussed in extraordinary meetings confirms the observation made by the review team in the meetings it attended in May 2008 that the elected body of Council has a propensity not to use the meeting time effectively and fails to resolve issues efficiently due to the councillors' preoccupation with operational matters, which could be done by Council staff.

Some of the discussions in council meetings are too long. To independent observers at times councillors' long debates sounded like grandstanding exercises aimed at the media. During the review, this observation was put to Council's former Mayor who explained to the review team that in spite of the rules of the meeting he was prepared to be flexible about the length of address on issues that matter to councillors and their communities, that he did not want to be perceived as curtailing the freedom of expression, and that he also took into account the interruptions.

Council should aim to reduce the length of its meetings. **(Recommendation 5)**

Council should also aim to review its recent business papers and reconsider its practice of referring a large number of matters to the elected Council if those matters can be resolved by Council staff. **(Recommendation 6)**

The behaviour at Council meetings observed by the review team seemed to be generally good by most councillors, with questionable conduct by some councillors in the form of the use of inappropriate language, mockery and sarcasm, the use of body language that is inappropriate for the occasion, and attempts to cast aspersions towards fellow councillors and Council staff.

The former Mayor, as the Chairperson of council and committee meetings, explained to the review team that he allowed a considerable degree of latitude in councillors' behaviour in order to enable a free expression of views by all participants. In the

meetings observed by the review team the former Mayor called several points of order. The former Mayor is an experienced and skilled Chair. His views were that more points of order would stifle the discussion leaving it short of the richness and diversity of views. It then basically comes down to self-censorship of what constitutes acceptable behaviour in the circumstance of a formal interaction between colleagues and professionals. Although some of the councillors' conduct, whilst rude, may be entertaining and acceptable in a different environment, councillors should keep in mind what represents acceptable standards of behaviour.

In relation to the speaking order in meetings, the review team observed that Council had in place red indicator lights attached to each councillor's microphone. When the light is switched on, it indicates to the Chair that a person wishes to speak on a matter. In addition, the person who wishes to speak must be noticed by the Chair. Several councillors expressed a concern to the review team that they feel overlooked by the Chair and that the speaking right is given to those councillors that jump higher and are better able to attract the Chair's attention.

In order to reinforce the feeling of equality among councillors, the review team suggests that Council consider investing in an inexpensive electronic device, which is already successfully used by some councils, that would establish a speaking order of councillors who wish to (and have the right to) contribute to the debate.

Several councillors raised concerns with the reviewers that published minutes of council and committee meetings do not accurately reflect what actually transpired in the meeting and that the Chair often "puts the words into councillors' mouths" when motions are amended. In the meetings we attended we observed that the minutes are kept by hand by two Council staff, as well as that on more than one occasion there was some confusion about the interpretation of the wording of suggested amendments. With respect to the suggestion that the Chair imposes his views on matters, in the two council meetings and one councillor briefing session observed by the review team, we noticed attempts by the Chair to succinctly clarify the proposed amendments to achieve accuracy. To remove any doubts about the Chair's intentions and to achieve greater transparency, we suggest that Council make use of the two large projection screens it has in place in the chambers to project the original

motion and to record the suggested amendment so that all clarifications are made on the screen. Similar practices in other councils do not take more time than the oral debate – this will of course depend on the preparedness of the participants in discussion to resolve issues quickly, with mature respect for the time invested by other councillors, Council staff, members of the public and media representatives.

The reviewers have observed the practice of introducing matters before the Council as matters of urgency. Generally these issues appear to be tolerantly ruled by the Chair to be matters of “*great urgency*”, in accordance with clause 241(3)(b) of the Regulation. On assessment of several issues that were allowed to be transacted as matters of great urgency, the review team was somewhat puzzled with the nature of the urgency, as the matters did not appear to be of any urgent, but of routine, administrative nature.

For example, in the council meeting of 13 May 2008 one of the issues which was introduced as a matter of great urgency was the motion that for administrative purposes the Mayor should be given the same status as “*Divisional Manager*” (what is probably meant is as Group Director – the divisional manager structure was abandoned with Council’s 2006 restructure). The resolution relevant to this motion was that the General Manager should prepare a report on the meaning of this proposal. The General Manager’s report was presented to Council in its meeting of 10 June 2008, i.e. almost a month later, only to be deferred further to be discussed in a councillor briefing. The urgent nature of this motion is therefore questioned.

The item may have been introduced into debate through a notice of motion or a Mayoral minute.

In addition to the questionable nature of ‘urgency’, entering motions such as the one described above as matters of urgency, while technically consistent with the provisions of the Regulation, may hinder councillors’ deliberations by not informing them fully of the business that would be transacted in a council meeting in a timely manner.

The practice of introducing non-urgent items into the debate as urgent items was also brought to the attention of the reviewers by several councillors and Council staff.

The review team suggests that the Chair carefully consider whether matters put before the Council as matters of great urgency are indeed matters of urgency, or whether those matters can be transacted through some other, more appropriate means.

As a general rule, meetings of the Council and its committees are required to be open to the public. Where Council determines that a matter should be dealt with in confidential session, section 10 of the *Local Government Act 1993* outlines the requirements for this determination.

In 2007 Council has closed meetings to the public on 26 occasions (2 meetings in full and 24 in part).

The review of the minutes of Council's meetings over the past six months revealed:

- that when the meetings or part of the meetings were closed to the public, this was done in the appropriate manner
- that the grounds for closing the meeting were specified
- that public views on the matter were allowed before closing part of the meeting and
- that reasonable access was allowed to members of the public to relevant material.

Councillor briefings

As indicated in the previous text, council meetings are preceded by a briefing for councillors to which all councillors and relevant Council staff are invited. The briefings are intended to clarify items on the business papers in a more flexible environment than council meetings. There is no legislative requirement to record the briefings proceedings. However, as Council has been criticised for allegedly making decisions in councillor briefings, for transparency purposes, Council may consider making its briefings open to the public if appropriate and inviting affected community groups to councillor briefings or part of the briefings.

Prior to the review and during the review the Department received allegations from members of the public and councillors that “the Mayor’s group” caucuses before Council meetings. Caucusing refers to adopting a position on a matter on the basis of an allegiance to a group before the proper debate. In this sense, councillor briefings cannot be seen as caucusing. The review team could not verify any other meetings that would constitute caucusing. However, as indicated in the introduction to this report, the tools of the review are not intended to go into detailed investigation of issues raised. Councillors who brought up the issues of caucusing could not provide details of the alleged caucus meetings.

Committees of Council

Section 355 committees are an important way in which Council exercises its functions. Shoalhaven City Council has a large number of section 355 committees – 46 at the time of the review. The committees have been made aware of their obligations under Council’s Code of Conduct and have all received copies. The committees have also received information that sets out their functions and delegations.

Council also operates through several council committees, committees with delegated authority, special interest groups, natural resource and floodplain management committees and the Rural Fire Service Strategic Planning Committee.

The meetings of relevant Council committees are properly minuted. The front page of committee meetings business papers contains relevant information about the committee’s charter, membership, as well as a reminder about the handling of pecuniary and non-pecuniary interest by committee members.

Council has recently resolved to adopt the recommendation from the ICAC position paper on corruption risks in NSW development approval process and record the division of its development committee decisions.

Councillor training

Councillors' knowledge and skills have a significant impact on the organisation's capacity to make sound and transparent decisions. New councillors require both induction and ongoing development to equip them with knowledge and skills required to properly carry out their duties and allow them to be effective members of Council's elected body. For long-serving councillors there is the ongoing challenge to keep up-to-date with changes in the areas where they are making decisions for the communities. It is therefore appropriate that councils allocate appropriate resources to councillor training and development.

Following the 2004 election, Shoalhaven City Council provided induction training for councillors addressing major areas of their role. All councillors attended this training.

The record of councillor training following the initial training shows uneven attendance at different development opportunities provided by Council. The Department of Local Government, in consultation with the Local Government and Shires Associations, identified the need to provide a structured development program for elected councillors. Implementation of this Councillor Development Strategy, including conducting information sessions for elected councillors, commenced following the September 2008 local government elections.

In addition to this structured program, the Department encourages Council to continue to provide opportunities for its elected members to keep abreast with the knowledge developments in those areas that are most likely to be beneficial for carrying out councillors' strategic role within the organisation.

Further, it is important for each individual councillor to critically review their skills and knowledge and commit to on-going development over their term as a councillor.

Policies, protocols and strategies

Policy register

Council policies and formal protocols are an important mechanism for setting, monitoring and reviewing Council's systems and processes.

Under section 222 of the Act elected councillors comprise the governing body of council. Section 223 provides that “the role of the governing body is to direct and control the affairs of the council in accordance with this Act”. Section 232 expands on this provision, indicating that one of the key roles of councillors is, as members of the governing body, “to play a key role in the creation and review of the council’s policies and objectives and criteria relating to the exercise of the council’s regulatory functions”. Therefore, policy making and review is a key function of the elected councillors.

The review found that Shoalhaven City Council had a number of policies to support and guide its operations. Council’s policies and protocols link directly to the **CityPlan** and other relevant strategic plans.

All Council policies have an adoption date with a reference to the council minutes, a review date, and the area responsible for the policy.

In its design, the policy register seems to follow best practice. As previously indicated, the problems encountered by the review team in the area of Council policies is the apparent lack of commitment by the elected Council to follow policies they have themselves adopted; the constant challenge to those policies; and the expectation that Council staff should be flexible about the implementation of policies. This is addressed in more detail elsewhere in the report.

It is considered good practice for councils to review and re-format the organisation’s policy suite following ordinary local government elections so that policies clearly delineate the responsibility of the elected body for the strategic aspect of policies and of the various sections of council for the operational aspect of policies. This has been the Department’s experience with councils that have experienced problems with the lack of commitment by the elected body to a council policy framework. Some of

those councils also experienced a period of administration. Shoalhaven City Council may consider adopting this approach in an attempt to reinforce the importance of commitment by elected councillors to Council's policies, along the lines "this is how far you should go, the rest should be done by Council's professional staff".

Expenses and facilities policy

A policy on the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and councillors is a requirement under section 252 of the Local Government Act.

Council adopted the policy in 1999 and progressively amended it to reflect the changes in the legislation. The last review of the policy was in 2007. Council planned to review its expenses and facilities policy later in 2008.

While Council's policy provides appropriately for most expense and facility categories and includes appropriate approval processes and limits for most of these, the Department encourages Council to continue to conduct ongoing reviews of this policy, including improving a number of shortfalls identified in a Departmental audit.

These include:

- the need for the policy to specifically exclude general allowances
- the need for the policy to include detail on reconciliation of expenses for private use of facilities
- the need for the policy to provide for training and development for councillors and
- the need for the policy to include limits on expenditure for all categories of expenses and facilities. **(Recommendation 7)**

In addition to the above specific recommendations, Council should ensure that it updates its expenses and facilities policy in accordance with all guidelines and advice issued by the Department.

At the time of the review Council voted to expand its expenses and facilities policy to include additional annual expenses for councillors' communication with the community but subsequently removed that proposal on request by the Department due to inconsistency with the Act.

Complaints handling

An effective complaint handling system is an essential part of the provision of quality council services. It is one method of measuring customer satisfaction and provides a useful source of information and feedback for improving the Council's service.

Council has a complaints and compliments policy and distinguishes between complaints and requests for services.

The complaints policy identifies that complaints will be processed according to identified standards. Council keeps a record of all complaints and requests for service it receives and monitors these.

Council provides information to members of the public about how to make a complaint or offer a compliment to Council. This information is available on Council's website.

Council has also adopted comprehensive procedures as a guide for persons dealing with complaints. Council is encouraged to continue to monitor and report on the complaints it receives. It should also consider including the appeal/review process in its complaints policy and guidance to staff for dealing with unreasonable complainant conduct. **(Recommendation 8)**

Project management

At the time of the review work on the Shoalhaven Entertainment Centre was being finalised. This project was completed on time and within budget, following a well defined process which included a clear separation of the lines of reporting. Council may consider articulating its experience in project management, demonstrated in the

Entertainment Centre into a project management guide that could be used to facilitate corporate, and possibly sector, capacity building.

Information Management

Access to records and information

Councils are required to make their documents available for inspection free of charge under section 12 of the Local Government Act, unless they are exempt under that section, or the council is satisfied that allowing access would, on balance, be contrary to the public interest. Councils are entitled to impose reasonable photocopying charges for reproducing documents under this section. Where the general manager or other person refuses access to a document, they must provide their reasons for doing so in writing to the council. Those reasons must be publicly available. Council must review the restriction within 3 months of access being refused.

Shoalhaven City Council has a good open access policy and practices for public access to Council information.

Council also has a policy for councillors' access to information. The policy addresses key aspects of councillors' access to information, as well as the protocol for relevant group directors for access to records by councillors.

The Code requires designated staff to be nominated by the General Manager for specified councillor contact. If staff other than those listed are contacted by a councillor (in their capacity as councillors, not as a members of the public) they know they should refer the councillor to the relevant staff member for assistance and advise their supervisor.

However, Council's policy on the level of access to information has been challenged by councillors who believe they should have more access to operational matters in order to properly address residents' representations. Greater degree of access to Council information seems to be at the heart of the already discussed motion that the Mayor should be given the same administrative status as group directors. The Department has separately advised Council of its position on this matter.

Since the review Council adopted specific customer service targets for requests from Councillors. Depending on the urgency of the matter, councillors' emails and requests for information are expected to be responded to within ten days. The service targets, combined with the properly administered access to Council's records management system, should overcome the problem of councillors' expectation regarding the level of access to information.

In considering the manner in which information can be released to members of the public, Council applies a process whereby as a matter of principle, requests for information under the *Freedom of Information Act 1989* are first assessed for applicability of the provisions of section 12 of the Act. If it is determined that the request for information under the Freedom of Information Act relates to documents that could be made available under section 12 of the Local Government Act, Council makes such documents available and refunds the FOI application fee to the applicant. Council may consider including references to this good practice in its access to information policy.

Council handles a reasonable number of applications under the *Freedom of Information Act 1989*. Over the past 24 months, it received 81 FOI applications, the majority of which were granted in full and some were granted in part. Council also complies with the requirements of the FOI Act to report on its FOI activities by way of the Statement of Affairs and Summary of Affairs. Council's FOI coordinator and relevant staff should receive training in FOI procedures.

Management of private and personal information

Council has developed a privacy management plan, as well as a privacy policy on collection, storage, access, use and disclosure of relevant information contained on public and other registers it manages. The plan was last reviewed in 2007.

Council has received two complaints about breaches of privacy information protection principles or disclosure of personal information and handled that information in the appropriate manner.

Councillors and staff have received training in the requirements of privacy legislation.

Council also considers the application of the privacy principles in its records management and DA processing systems.

Record keeping and management and IT policies

Councils are required to make and keep full and accurate records of their activities in accordance with section 12 of the *State Records Act 1998*. Councils must establish and maintain a records management program that conforms with best practice standards and codes.

Shoalhaven City Council uses the TRIM system as an electronic records and document management system to meet its business needs. The system is interfaced with a number of other IT applications and has the ability to accept various types of electronic files.

Council had a records management policy in place. The policy applies to all Council officials, staff and councillors, and relates to both physical and electronic Council documents. The policy operates in conjunction with Council's Code of Conduct and highlights responsibilities of relevant officers and general users. The policy addresses all phases of the life of a record, from creation and control, through storage/retrieval to retention and disposal. The policy also includes the disaster recovery steps.

Council also has in place sound computer protocols and protocols for the use of communication devices. Council's Internal Auditor conducts spot checks of the application of IT protocols and reports to management.

The Manager IT reports directly to the General Manager, together with other key positions, such as Manager HR, Internal Auditor and Information Officer. This provides a framework for the impartiality of those positions.

Media policy

Council has in place protocols about who in the organisation can act as a corporate spokesperson if contacted by the media.

Views have been expressed to the review team by some councillors that Council should correct inaccurate media statements.

Councillors should be specific about the errors reported in the media so that factual errors can be corrected by Council's media unit. However, it would be inappropriate for councillors to expect Council's media unit to correct media commentary other than factual reporting (such as opinions expressed by the journalists or in the letters to the editor).

6.2 Planning and other regulatory functions

Council exercises regulatory functions in relation to a range of activities within its area. The efficiency and probity of Council's regulatory functions is important for effectively managing Council's responsibilities and for preserving public trust in Council and its staff. Regulation is important to achieve a wide range of social, economic and environmental goals.

A review was conducted of a range of aspects of Council's planning and regulatory practices including:

- *Council's planning instruments and policies*
- *Development assessment*
- *Section 94 plans*
- *Environmental management*
- *Enforcement practices*
- *Companion animals*

Overview of the planning context

The linear shape of the Local Government Area, its topographical and environmental constraints, together with 49 separate towns and villages, is a real challenge for Council's administration in terms of planning. It is also an area that is undergoing significant change, particularly in growth of settlement. These changes are producing divergent views/values within the community and among the councillors, which increases the complexity for the delivery of Council's planning responsibilities. There is evidence that Council tends to be reactive to development proposals rather than

setting and driving the strategic and policy framework for the longer term. Council needs to grasp these challenges and provide leadership to the broader community with sound planning direction setting and decision making in the context now set by the Government's South Coast Regional Strategy. **(Recommendation 9)**

Structure of Council's planning section

The Strategic Planning Group and the Development and Environmental Services Group have principal responsibility for delivering Council's land use planning functions. This structure broadly separates the strategic and policy development roles from that of development assessment and the separation of these functions is supported. However, there appear to be some anomalies in the structure in relation to this principle. A number of units outside the Strategic Planning Group are also engaged in developing land use policy. For instance, the Development and Service Group prepares DCPs and policy; some aspects of social and community service planning developed by the City Services and Operations Group have land use implications; the Finance and Corporate Services Group is involved in preparing tourism and economic development strategies with land use implications; and the Strategic Planning Manager is involved in disposal and acquisition decisions for Council's landholdings.

A number of Council's decisions to prepare LEP amendments, especially in relation to Council landholdings, have been inconsistent with the current land use framework and were not otherwise strategically justified.

For improved consistency between strategic policy setting and operational delivery across these areas, it would be beneficial if these like functions could be more closely aligned.

Council should clarify the functions of its Strategic Planning and Development and Environmental Services groups so that any land use strategy or policy setting components are developed by or endorsed through the Strategic Planning Group. **(Recommendation 10)**

Successful policy formulation and implementation is assisted by regular feedback between the policy makers and the implementers of that policy. There is regular sharing of information at the directors' level through management meetings, but these meetings are more focused on management issues than providing a forum for discussing detailed planning issues. Formal mechanisms do not exist for staff below Director level. Council staff indicated that while there are informal networks for sharing information, providing/seeking feedback, etc, these are on an ad-hoc basis and initiated by particular officers for specific projects or applications.

Council should develop more formal links for the sharing of information of planning strategy and policy setting, policy interpretation and ongoing feedback on policy implementation. **(Recommendation 11)**

Council's planning instruments and policies

Council is required by section 73 of the *Environmental Planning and Assessment Act 1979*, to keep its planning instruments and policies, such as local environmental plans (LEPs) and development control plans (DCPs), under regular and periodic review. Council's current Local Environmental Plan was adopted in 1985. This plan is over 23 years old and has had 232 amendments. Despite a major revision in the late 1990s, the LEP remains out of step with many current State Government policies and a new plan is well overdue. More than 18 amendments were reacting to land owners'/developers' requests for change, rather than Council seeking to be proactive in delivering its vision for the area. Some amendments have been in preparation since the 1990s and are yet to be finalised for the Minister for Planning's consideration for making. Preparation of LEPs over such an extensive period of time is poor practice.

Reform of the planning system is a priority for the NSW Government. It aims to deliver a more effective and efficient planning system for NSW. Modernising local planning instruments so that they are more strategic, efficient and transparent is a key part of these reforms. The Department of Planning has given the Council a target date of 2009 for a new LEP based on the *Standard Instrument (Local*

Environmental Plans) Order 2006. Funding has been provided to Council under the Planning Reform fund to facilitate the preparation of a new strategically based LEP.

To date Council has made slow progress on the development of the strategic land use framework and the new comprehensive LEP. Council planning staff has advised that this is due to the extensive list of projects on the strategic work program, the lack of available and suitably qualified planning resources and the constant requests from councillors to add projects to the work program. A review of the strategic work program indicates a vast array of projects stemming from Council resolution dates as far back as the 1990s, and even one from 1983.

Council should review the projects on the Strategic Planning Group's work program in order to give priority to finalising the Growth Management Strategy and the new comprehensive LEP. **(Recommendation 12)**

The quarterly reporting to Council on the Planning work program utilising the 'traffic light' format and providing it on the Council's Intranet site to enable councillors and staff to review and monitor progress is good practice and should continue to be used to show that the priorities are being achieved.

Council's development control plans (DCPs) are also well overdue for review. There are a large number of DCPs; recently DCP 123 was adopted by Council. Some DCPs have been in existence for a long period of time. The result is inconsistencies in the policies that the DCPs seek to apply. They also vary greatly in their purpose, ranging from specifying strategic outcomes, from land uses and the form they should take, through expressing policy statements and including detailed DA type conditions, to outlining procedural aspects of various planning processes.

In some circumstances developers, rather than the Council, seem to be driving the strategic direction for areas through the preparation of site specific development control plans. This situation is exacerbated where Council's policies are unclear or ambiguous. An example is the 3(g) Business 'G' (development Area) zone and the manner in which outcomes for the Nowra Hotel Site and sites at Huskisson have

been driven by the proponents and as a result, generated significant community concern.

The *Environmental Planning and Assessment Act 1979* now requires all councils to have only one DCP in place for any piece of land when their new comprehensive LEP is made. Issues arising from the number, age and use of DCPs can be resolved through that process. The review of the DCPs will need to ensure that the DCP provisions are consistent with and support the provisions of the LEP.

Council should review and rationalise the DCP controls in conjunction with the preparation of the new comprehensive LEP so that they are consistent with and support the new comprehensive LEP provisions. **(Recommendation 13)**

Council has a large number of planning policies that sit outside the LEP and the DCPs. It was conveyed to the review team that Council frequently varies or ignore its policies. Such practice undermines the reason for having the policies. Council's practice of using 'policies' instead of the statutory mechanisms to enable it to more easily set aside or change policy at a whim is not supported. One example of such practice is the change in status for the Ulladulla CBD controls from a DCP to that of a Council policy. Development controls affecting the level of development in the centre should be contained in either the LEP or the DCP and be consistently applied to development proposals.

Council should show greater commitment to its adopted plans and planning policies and keep them under review so they continue to be relevant. **(Recommendation 14)**

Section 94 Plans

Council's section 94 contribution plan is an important tool for delivering facilities and/or services required as a result of growth in the LGA. Hence the plan needs to be informed by the Growth Management Strategy and its new comprehensive LEP.

Once adopted, a contribution plan needs to be subject to ongoing monitoring and regular review. Council has commenced a review of its plan, but put it on hold

pending outcomes from the recent planning reforms introduced by the State Government. As the legislative framework is now known, Council should reactivate this task again. **(Recommendation 15)**

Council should also take opportunities to utilise other recognised mechanisms, such as voluntary planning agreements, to achieve beneficial outcomes for the community.

The finalisation of the Growth Management Strategy, the availability of a new and up to date comprehensive LEP, and revised and consolidated controls will provide for greater transparency and understanding of the planning outcomes desired for the area and enhance the community's confidence in Council's dealing with development proposals.

Development assessment

Council handles a large number of development applications (DAs). In 2006/07 Council handled 2250 DAs. This was the fourth highest number of DAs per LGA in the State, as well as being the third highest by value (\$864M).

Shoalhaven City Council was fifth in the State by the number of equivalent full-time positions involved in the processing of these applications. Over the past few years Council's processing times have been better than the State average. Council should look to increasing the scope for further exempt and complying development in its new comprehensive LEP as a means of reducing the number of applications that need to be dealt with by Council staff. **(Recommendation 16)**

Over the last 11 months about 64 matters were formally referred to Council for a determination. However, the review team was advised that councillors also provide direction on a considerable number of matters outside of the formal meeting structure, even where the staff have a delegation to deal with the matters and where the matters are consistent with existing policies. Such involvement is unnecessary and indicative of lack of commitment to adopted policies and plans and should be avoided.

Council has in place clearly documented procedures to assist staff in the processing of applications and adequate training programs for new practices and policies. Council also has an extensive pre lodgement service that is offered to applicants. However, the operation of this service has been undermined by the practice of writing to all applicants inviting them to deal with the elected representatives directly if they experience problems with their DA. In making representations on behalf of their constituents on development application matters, councillors should respect the administrative processes the organisation has in place for dealing with objections.

Council has invested in IT systems that enable staff and the public to track the progress of development applications on-line (DARTS for internal use and DA Tracking for external access). It is recommended that Council build onto this system the capacity to lodge development applications on-line. **(Recommendation 17)** The DA processing system could also be adapted to provide monitoring for the delivery of the Growth Management Strategy. **(Recommendation 18)**

Environmental management

Since 1999 councils have been required to report on the state of the environment in their areas through State of the Environment (SOE) reports, reporting on the main environmental issues facing local government areas. SOE reports address eight environmental sectors and include major environmental impacts and related activities.

The Local Government Act requires councils to prepare a comprehensive report the year following each ordinary council election or otherwise to provide a supplementary report in each of the intervening years. These reports must identify any new environmental impacts since council's last report and update the trends in environmental indicators that are important to each environmental sector.

The review assessed the 2007 supplementary report and noted that the supplementary report contains sufficient information to meet the standards for a comprehensive report. It is evident that Council has a good understanding of the

major environmental issues it is facing. It is also evident that Council is actively engaging with community groups in addressing environmental issues and that it is aware of its statutory obligations.

The report has strong linkages with the management plan and comprehensively considers the impact on the environment of Council's activities.

However, to facilitate access and navigation around the report, Council should consider expanding the overview section of the report by providing:

- a summary of report, or links to the index
- progress in relation to the previous year in the overview section and
- detail of community consultation.

Overall, Council wishes to be recognised as a place of balanced consideration of development needs and prudent environmental management.

Council has several proactive environmental management programs, such as water sampling, beach watch and on-site effluent disposal.

Enforcement practices

In the exercise of their functions under the Local Government Act and other relevant legislation, councils are required to ensure compliance with legislation and, where necessary, take enforcement action.

Councils must properly deal with allegations of unlawful or non-compliant activities. This includes activities that are prohibited or unauthorised, or contrary to the terms of a consent, licence or approval, or other instrument of permission issued pursuant to lawful authority.

Failure to properly deal with such allegations, in addition to being poor administrative practice, could expose a council to liability for compensation and the expense of litigation. The way in which councils exercise their enforcement powers also plays an

important part in the public's perception of councils. Alleged inconsistencies in responses to non-compliance issues are a major source of complaints about councils.

The enforcement practices of councils must be resolute and demonstrate consistent approach and transparency. Those practices must signal the position taken by the council on specific issues. It is good practice that councils and other agencies with enforcement powers set out in a considered way a policy to be used to ensure rational and consistent decisions are taken. An enforcement policy should deal with the manner in which a council will carry out its enforcement functions, the procedural steps that may be involved, the circumstances in which council will institute court proceedings and the manner and circumstances in which discretions may be exercised.

The recognised good practice in carrying out council's enforcement activities is that the elected council should not get involved in those activities.

Shoalhaven City Council has, or at least had, an organisation-wide enforcement policy, undertaking investigations into matters in both reactive (in response to allegations) and proactive ways (conducting audits of scheduled areas, mainly those that are considered to be high risk).

The steps Council officers followed in enforcing regulatory requirements were based on a standard operating procedure, staff experience and discussion with managers.

However, following a successful prosecution case in relation to an unauthorised land clearing matter and other non-compliance with development consent, in December 2007, the elected Council resolved to remove the delegation to the General Manager to instigate prosecutions and that all proposed prosecution matters must be referred to the elected Council for consideration and determination. The claims for recouping Council costs in the land clearing matter were abandoned. At the time of the review Council staff could still issue penalty infringement notices. Council justified the removal of the staff power to commence prosecutions with its desire not to impose

criminal charges on its residents and to institute some kind of restorative justice system.

While the intention of removing the powers to instigate prosecution may have a chivalrous intent, the effect of it may be to interfere with the intent of the legislation that prescribes certain penalties in cases where breaches are committed and proven. Such interference challenges the ability of the law to achieve what is intended – this is not the role of the elected Council.

Secondly, it has been conveyed to the review team that the elected councillors' discussions on specific prosecution issues that were placed before them were along the lines of which legislation should the prosecution be conducted under. This should be a matter for Council professionals who are qualified in such issues to recommend, in spite of all the good will councillors as community representatives may have in specific matters.

Thirdly, this is yet another example of councillors challenging Council's policy framework at the back end of the process and councillors' reactionary and reluctant acceptance of the policies they are supposed to set and be committed to. The elected Council has the opportunity to review Council policies at the time they were elected. The restorative justice principles may or may not form part of Council's enforcement policy, however, this operational power must remain with the executive part of the organisation.

Private Swimming Pools

Private swimming pool safety is managed well for new developments, but reactively for older pools. In this regard, Council has adopted a risk management approach and relies on information received on suspected non-compliance with the Swimming Pools Regulation.

Council has advised that the number of recorded non-compliances in this area has been minimal. Council has also advised that, consistent with its risk management

approach, should the need arise, it would conduct swimming pool inspections for once-off situations in a locality.

Companion animals

The primary aim of the *Companion Animals Act 1998* is to provide for the effective and responsible care and management of companion animals. The adoption of a local companion animals management plan assists councils in achieving a balanced relationship between companion animals, humans and the environment. Such a plan also provides Council with an opportunity to identify the future direction for its services and strategies to meet the challenges faced in the provision of these services. Council has adopted a companion animals management plan, which provides a link between the legislative requirements and the desires of its communities. At the time of the review team's visit to Council, the plan was being reviewed for currency.

Council has also produced a range of information material about the management of cats and dogs for its community.

The Department's Companion Animals Unit advises that Council has a low euthanasia rate, a high registration rate and that its payments to the Companion Animals Register are up to date.

6.3 Asset and financial management

Under its charter, Council has a responsibility to raise funds for the purposes of carrying out its functions. This can be achieved by the fair imposition of rates, charges and fees, borrowings and grants. The Council is also the custodian and trustee of public assets and must effectively account for and manage these assets.

A review was conducted of a range of Council's practices including:

- *Financial management*
- *Asset management*
- *Management of Council businesses*
- *Management of land assets*

Overview of financial position

Council is in a satisfactory financial position, with financial indicators better than industry benchmarks, except for outstanding rates and annual charges.

Council has reported a surplus before and after capital items for the last three years.

Council's unrestricted current ratio (UCR) measures the adequacy of its working capital and the ability to satisfy obligations in the short term. For the 2006/07 financial year Council's UCR was 3.25. This ratio is considered to be satisfactory. A good UCR is greater than 2. This represents an improvement in relation to 2005/06 when the UCR was 2.51.

The Debt Service Ratio (DSR) in 2006/07 was 7.06%. This is a reduction from 7.67% in 2005/06. This indicator assesses the degree to which revenues from ordinary activities are committed to the repayment of debt. A DSR of less than 10% is considered to be good.

Council's percentage of Rates & Annual Charges Outstanding (RACO%) in 2006/07 was 7.08%, which represents a decrease from 7.70% in 2005/06. The RACO% assesses the impact of uncollected rates and charges on liquidity and the efficiency of debt recovery. A benchmark for urban and regional councils is less than 5%.

Council's ELE reserve has increased substantially in recent years to 22% of requirements in 2006/07, and is a direct and appropriate response to Council's awareness of the impact of its ageing workforce.

Financial Planning and Policies

Council has long term financial plans (10 year plan for general fund and 20-year plan for water and sewerage funds), which are linked to other Council plans such as management plans for individual classes of assets, Nowra Bomaderry Structure Plan, the **CityPlan** and the business plans for Category 1 businesses.

Council uses forecasts to inform councillors of the long-term implications of any long-term decisions before the adoption of management plans.

Council has a long-standing policy that it would reduce the amount of loan funding for major projects, such as the North Nowra – Bomaderry link road. Instead, Council puts money aside for major projects into internal reserves for major projects. At the time of the review this amount was in the order of \$28 million. The forecast in Council's current management plan is that this amount in 2008/2009 will be \$23.5 million and \$13 million by 2010/2011.

Council has policies for debt management, overdraft, pensioner rebates, in addition to a hardship policy for its ratepayers.

Council Investments

In the past Council resolved that it would invest in financial vehicles that mature in periods longer than three years if there was a sufficiently liquid market for that kind of investment. However, with current fluctuations on international capital markets, there has been recent attention on the exposure of councils to losses arising from some investment products. A recent report from Council's Internal Auditor has indicated that Council should review its investment policy as a matter of urgency. Council should ensure this policy is updated accordingly to reflect changes in legislation, including the Ministerial Investment Order and the Local Government (General) Regulation 2005. Council's current policy, which was updated in September 2006, does not refer to the above legislation.

Council should also ensure that investments should adhere to the current policy, such as funds not being invested for more than three years. Investment in the 'Federation' investments indicates it is contrary to the policy.

Auditor's report

The 2007 auditor's report included the following comments:

"Council's continuing operations for the 2007 year resulted in a net operating surplus of \$48.879M (2006 surplus of \$39.089M)."

With respect to Unrestricted Current Ratio the auditor's report stated:

"The 2007 result is also an improvement on prior years, and indicates that Council's financial position continues to improve."

In relation to the Debt Service Ratio the auditor's comments were as follows:

"The cost of servicing Council's debt has continued to decline and illustrates the positive impact of Council's debt minimisation policy."

Regarding Rates & Annual Charges Ratio, the auditor's comments were:

"Council's rates & annual charges revenue represents 40.59% of 2007 total revenue, which is consistent with prior years and indicates the stability of Council's operations."

The auditor's overall comments were that:

"In our opinion:

(a) The Council's accounting records have been kept in accordance with the requirements of the Local Government Act, 1993, Chapter 13, Part 3, Division 2; and

(b) the general purpose financial report

(i) has been prepared in accordance with the requirements of this Division;

(ii) is consistent with the Council's accounting records;

(iii) presents fairly the Council's financial position and the results of its operations;

(iv) is in accordance with the Australian accounting standards and other professional reporting requirements.

(c) all information relevant to the conduct of our audit has been obtained; and

(d) there are no material deficiencies in the accounting records or financial reports that we have become aware of in the course of the audit."

Asset Management

Asset management is a systematic process to guide the planning, acquisition, operation and maintenance, renewal and disposal of assets. Its objective is to maximise asset service delivery potential and manage related risks and costs over their entire lives. It involves effective coordination of the Council's financial and engineering resources.

Condition of Council assets

Council's condition of assets as reported in the 2006/07 financial statements is as follows:

- Written down values – roads bridges and footpaths 77%
- Written down values – stormwater and drainage 57%
- Cost to bring to satisfactory standard \$34,657,000
- Shortfall between estimated and actual maintenance \$4,534,000

Council assets are ranked to provide the overall condition of different classes of assets. Council determines the condition of its assets through planned inspections and customer reports which are fed into the Council Action Management System (CAMS). Council has in place risk management procedures for roads and footpaths.

Council has an unplanned maintenance budget, in addition to the programmed maintenance and operating cost.

Council has gone through the process of asset rationalisation. The process involved consultation with elected Council and the community.

Council does not have a single plant replacement policy, but has policies for replacement of different classes of assets.

Asset management strategy/plans

Council does not have an asset management strategy, but has plans for specific classes of assets. The plans of management of specific classes of assets link to other Council key strategic documents, particularly financial strategies through a prioritised list of capital works and budget plans. Council should consider developing an overall asset management strategy, based on its existing asset management plans. **(Recommendation 19)**

There is a clear line of delineation between longer-term asset plans and shorter-term provision of services on the basis of a performance agreement between the two sections of Council.

Special variations

Council applied for a section 508A special variation in 2006/07 for 4 years. The additional income will assist Council to fund additional infrastructure works and loan costs associated with rezoning and road design within the City's heritage estates.

Council received approval to increase its general income, inclusive of the rate pegging limits, as follows:

| | |
|---------|-------|
| 2006/07 | 6.50% |
| 2007/08 | 5.00% |
| 2008/09 | 6.00% |
| 2009/10 | 5.00% |

A letter from Council dated 16 May 2008 indicated that the additional funding has contributed greatly to the reduction in funds required to bring its infrastructure to a satisfactory standard.

Example of the management of a specific asset (Shoalhaven Entertainment Centre)

As discussed previously under the Project Management heading, Council has recently completed construction of the Shoalhaven Entertainment Centre. Council has allocated a contingency of \$750,000 for any future contract claims. Council has managed this project well, keeping all areas of Council well informed of progress.

Business Activities

Council reported six business activities in the 2007 financial year statements, namely: water supply; sewerage; Holiday Haven Tourist Parks; cemeteries; mechanical services; and electrical services. Council has formal business plans for all businesses it operates.

Council has established internal controls for financial transactions of each of its businesses – these are being monitored by Council's Internal Audit section and ensuring performance to budget.

Competitive neutrality principles are being applied to all category 1 businesses. Council also has a system to deal with national competition policy complaints, including informing the public of the manner in which a complaint should be made.

Council participates in several partnerships, cooperatives and joint ventures. Some of these include:

- South Coast Cooperative Library Services
- South Coast Regional Tourism Organisation Inc
- Southern Regional Illegal Dumping Squad
- Jervis Bay Territory waste services
- Southern Phone Limited
- Kleenheat

- Main Road 92 (Nerriga to Nowra)
- South Eastern Australian Transport Strategy
- PHOCUS

Council has participated in the formation of Southern Water Services Pty Limited after obtaining Ministerial consent in 1998.

At the time of the review Council did not have any joint venture arrangements and was in the process of submitting to the Department one public-private partnership proposal.

Land Management

The Local Government Act stipulates how a council is to govern the use and management of community land. This is a fundamental responsibility of councils. The Department's *Practice Note No 1 – Public Land Management* – deals with this issue and is available for download from the Department's website.

Council has comprehensive registers of the land it manages, as well as of licences and leases on public land. Council also has in place management plans for its community land.

Council decisions concerning the acquisition and disposal of land and buildings are managed through a multi-level process, which starts with the multi-disciplinary property review committee, which comprises Council staff. The property review committee's recommendations are passed on to the property steering committee, which comprises Council staff and councillors. Community consultation, through a system of community consultative boards, is supposed to be an essential part of the property and buildings acquisition and disposal process. The disposal of assets is intended to operate on the principle that the proceeds of the sale are returned to that community.

Council should articulate this process into a policy that would guide its operations so the corporate processes are defined should the composition of its property committees change. **(Recommendation 20)**

Through a separate process the Department has expressed concerns with Council about some of its land management practices, especially as they relate to the valuation of land prior to sale and the comprehensiveness of its community consultation before the land is sold.

Information Technology as an asset

As previously mentioned, Council has a comprehensive information systems/technology strategy to support its corporate goals. Council is continuously reviewing the system to reflect the changing nature of technology.

6.4 Community and consultation

A council's charter requires that a council:

- Provides services after due consultation
- Facilitates the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and coordination of local government
- Actively promotes the principles of multiculturalism
- Plans, promotes and provides for the needs of children, and
- Keeps the local community and State Government informed about its activities.

The review of Council's activities in this area looked at the various aspects of Council's community and consultation functions, namely, at social and community planning and reporting about Council activities; methods Council uses to involve and determine the views of its community; customer service; management of tourism and economic development.

The Council has made a commitment to community development and the provision of related services. Council has a current and comprehensive social and community plan, makes significant investments in community consultation mechanisms and the facilitation of a range of community services; it has a well developed framework for tourism and economic activities; and has developed a framework around its

advocacy role aimed at securing the provision of services in the area by other tiers of government.

Council's commitment to this area of its charter is acknowledged and is commendable.

Social and community planning

Legislative requirements

Clause 200(2) of the Local Government (General) Regulation 2005 requires all councils to develop a social/community plan. This plan must be prepared in accordance with guidelines issued by the Department.

The guidelines require councils to prepare a plan that examines and prioritises the needs of the local community, as identified through research including a demographic analysis and consultation with the local community. The guidelines require a plan to be prepared at least every 5 years. It must also specifically discuss the needs of seven target community groups that may be disadvantaged in some way.

Shoalhaven Social and Community Plan

Council's Social and Community Plan covers the period 2005 – 2010. The Plan seems to be comprehensive. There is evidence of active input from the target groups in the consultative process. The Plan identifies a range of issues and includes detailed suggestions on strategies to address these issues. However, the presentation of these strategies is not always clear and may result in the Plan being difficult for members of the public to follow. Also, the section on the needs of women is incorporated in a group called "Men and Women". This may not sufficiently address the issues affecting women in the area.

The draft 2008 – 2011 Management Plan lists strategies in a user-friendly way, clearly identifying which target group the strategy relates to and which council plan it is contained in. This is an improvement compared to the layout of the 2004-07 Social Plan. The Plan is available on Council's website and from Council's administration centre.

The Plan contains an excellent demographic data section that provides a comprehensive snapshot of the Shoalhaven City community.

The Plan does not include an assessment of Council's previous social/community plan (from 2000). This makes it difficult to obtain benchmark indicators and chart the success of the implementation of the previous plan. Any future plans should include a discussion on the success of implementing the previous plan.

Council should also consider a greater focus on regional planning for future plans. Regional needs are identified in a number of areas, but few coordinated regional responses are included in the strategies section. A notable exception is in the area of aged and youth services where several strategies are linked to partnership initiatives with Illawarra Area Health Services.

The Plan does not contain a housing strategy or ageing strategy, despite these two areas being identified in the needs analysis as major concerns to the local community. The Plan does, however, list strategies to address problems in these areas, which could be developed into a more coordinated strategy for each of the two areas.

When it next reviews its Social and Community Plan, Council should have regard to issues raised in this report: the needs of women in the area; comparison with the previous plan; regional focus; inclusion of housing and ageing strategies.

(Recommendation 21)

Integration of social/community planning and land use planning

Social/community planning is undertaken by the City Services & Operations Group and land use planning is undertaken by the Strategic Planning Group. There is an ongoing liaison between the two groups.

For example, the broad land use strategies (eg, the recently adopted Sussex Inlet Settlement Strategy, the Shoalhaven Housing Strategy or the Nowra-Bomaderry Structure Plan) are prepared by the Strategy section, with input sought by community development officers to ensure that relevant social and community issues are considered and integrated.

Input from community development officers is also sought in the development of more specialist plans, such as Accessibility Guidelines and Safer by Design Guidelines. In return, strategic land use planners provide input to the preparation of plans carried out by the Community and Operations section, for example, the Review of the Disability Discrimination Action Plan, the preparation of the Community plan.

At the time of the review, to further enhance the orientation towards both planning and community outcomes, one of the recently appointed senior strategic planners was to be responsible for the preparation of broad land use strategies (eg the Growth Management Strategy), as well as the relevant community plans.

Provision of community services

Council does not engage in the direct provision of services to the community, but in the facilitation of the provision of those services, provision of infrastructure and advocacy for funding.

In terms of the ageing population, Council considers the location of services; and in terms of affordable housing, the subdivisions and dual occupancy options.

Community participation

Council has statutory obligations to communicate and consult with its community. Effective community engagement can mean greater community support for the planned directions and actions that are taken.

As previously indicated, Council has a number of committees established under section 355 of the Local Government Act that regularly meet and include members of the community. Council consults with its community on a wide range of issues and projects. Council reports on its community engagement activities in its annual report.

Council also has policies on consultation and notification and an elaborate system of 24 Community Consultative Boards (CCB) that operate across 49 towns and villages within the City reflecting the diversity of the area. There are guidelines for the operation of CCBs. Councillors and senior Council staff attend the meetings of CCBs. Those meetings are held six-monthly covering various areas. The

consultation works on the principle that CCBs set the agenda and keep records of the meetings and Council adds to the agenda.

Councillors and staff also participate in a number of community forums, some of which are hosted by the CCBs.

Council uses a range of other mechanisms for obtaining the views of its community on particular issues: focus groups; the review of customer feedback and complaints; research of trends. To keep its communities informed of its activities Council also uses a wide range of methods including newsletters, newspaper items, radio and television time, direct mailouts, media releases.

Some of the communication and consultation mechanisms specifically target particular social justice groups, such as the Aboriginal Land Councils, child and family networks, multi-group access committees.

Customer service standards

Together with their other roles, councils are service providers. The highlighting of customer service standards sets a level of expectation within the community, as well as providing guidelines for staff performance. Like any service provider, it is important that councils clearly communicate:

- what services they provide
- the terms for receiving/accessing a service
- the standard of service that customers can expect
- how services can be accessed
- how complaints can be made and
- how council will deal with any complaints it receives.

Shoalhaven City Council has a set of specific customer service standards, both external and internal. The standards for external customer service standards are determined by seeking public input through public exhibition processes and for internal customer service standards through the process of agreeing customer service targets. Council collects and reviews information on its performance against customer service standards.

External customer service targets for different services are readily available on Council's website and promoted. They provide a clear benchmark against which Council's customer service outcomes are assessed.

Council's Website

The increasing importance of the Internet as a primary source of information has been widely recognised. Council's website has become an important means of communication with the community.

Council's website (www.shoalhaven.nsw.gov.au) provides a range of information to the public. It provides access to a number of key documents such as the management plan, annual report and financial reports, planning documents, various council policies, as well as links to relevant other information that may be of interest to residents and visitors. The website also contains a section on business papers and council and committee minutes. Council provides other information on the site in relation to community services, facilities and economic development. The website is easy to navigate, the information seems logically sorted and comprehensive. The website has a number of interactive features and is constantly monitored for necessary and desirable changes by Council's IT Manager. This position reports directly to the General Manager.

Tourism and Economic Development

Council has Tourism and Economic Development plans for the area. It employs a Tourism and Economic Development Manager and recognises the value of this position for the development and coordination of tourism activities at the organisational, LGA and regional levels.

Council has a comprehensive Tourism Development Plan that is regularly updated. The last update was in March 2008. Council also has a number of tourist programs, the top six being: the development of the boat harbour for Jervis Bay; the progressing of the development of the Shaolin Temple; the development of Ulladulla Harbour; the completion of the multi-purpose cultural and convention centre

supported by a business hotel; the continuation of the multi-media marketing program. Council's expenditure on tourism activities in 2006/07 was \$1,185,000.

Council has identified that it has a role in facilitating economic development for the City. In 2004, following extensive consultation with a number of stakeholders, Government agencies and the community, Council created its current economic development strategy. The strategy aims to facilitate economic development in the City, particularly in the areas of business growth and capability, jobs growth, public and private investment in the Shoalhaven and tourism yield.

The plan contains specific strategies, programs and the implementation matrix. Council has also developed a number of strategic indicators to monitor economic development in the City, with a suggestion that additional indicators may be introduced as strategies and programs are implemented.

Council, together with other relevant agencies, is monitoring the indicators to ensure that its strategies and programs are effective, or to make the necessary adjustments to its strategies and programs.

6.5 Workforce relations

Councils have a number of legislative responsibilities in relation to their role as an employer. Council is required to conduct itself as a responsible employer.

A review was conducted of a range of aspects of Council's workplace relations practices including: workforce planning; human resources strategy and policies; secondary employment policy; job descriptions and job evaluation; recruitment and selection processes; staff development; grievance management; occupational health and safety.

Overview of the organisation

All employers have legislative responsibilities in relation to their staff. The Local Government Act imposes additional requirements on councils. Importantly, a council's charter requires it to conduct itself as a responsible employer.

Council advised that it last undertook a review of its organisational structure in December 2006. Council's senior management team consists of the General Manager, Assistant General Manager, Director City Services & Operations, Director Development & Environmental Services, Director Strategic Planning, Director Finance & Corporate Services and Director Shoalhaven Water.

Council has 857 equivalent full-time staff (1,092 actual staff). In terms of some of the social justice target groups Council reports that its staff are comprised of:

- 39% women
- 2% Aboriginal and Torres Strait Islander people
- 3% people of culturally and linguistically diverse origins and
- 3% people with physical disabilities.

Council is aware that the composition of its workforce only marginally represents the diversity of the community it serves and is considering possible actions for redress.

At the time of the review Council employed 31 trainees and apprentices.

Over the past three years the employee costs were 37 percent and 38 percent of Council's budget, which is considered to be relatively low. Council does not capitalise the wages. The overtime represented 3 percent of the overall salary budget.

The overall split between indoor and outdoors staff is approximately 50%-50%, with the exception of the Ulladulla district office, where the division is 20%-80% due to a number of support functions being delivered by the Nowra office.

Workforce planning

All councils are expected to respond to workforce issues such as:

- ageing workforce
- changes in workload for certain sections as council's and government priorities change
- attraction and retention of suitably qualified and experienced staff

- remuneration/market pressures for higher wages
- societal demands for a better work/life balance.

According to the Jackson's Ageing and Place report (2004), Shoalhaven has already reached the crossover point where there are more exits from the workforce (10) than entrants (9). The projection is that this position will decline further by the year 2022 to six new entrants to every ten people approaching retirement age. Shoalhaven's total working age population (15-64 years) is projected to fall from its current 60 per cent of the population, to around 57 per cent by 2022, but to increase in size from its current 55,360 to around 62,877 (14 per cent). Council is aware of this issue and has put in place strategies and programs to address its ageing workforce situation, consistent with its longer-term corporate strategy.

Council has put in place a management training program for future leaders as well as a traineeship program for staff with no qualifications; and a pre-retirement contract policy which includes mentoring of younger staff. Council should consider undertaking an analysis of age-against-position profile of its workforce, identifying the positions that are likely to involve exits in the near future.

Human resource strategies, policies and practices

Council has a human resources strategic plan that identifies goals, service principles and programs. This enables Council to monitor its workforce and document its approach to providing a whole-of-council strategic purpose and direction to human resource planning.

Council has policies and procedures in place to manage its human resource needs. These are available in the form of a manual, available on Council's intranet site, as well as in hard copy form for outdoors staff. Council's espoused values in the area of HR are:

- Safe and healthy workplaces;
- Clever and productive workforce; and
- Caring and flexible employer and employees.

Each of the above values is supported by objectives, and existing and future strategies. It is evident that Council policies, procedures and strategies guide its activities. Council should consider translating the human resource strategies into specific targets; this may include relevant targets in its corporate planning process and reporting on the achievements against those targets. **(Recommendation 22)**

Council policies address issues such as recruitment and selection of staff, training needs, performance management, occupational health and safety, staff consultation, industrial relations issues, equity and diversity, succession strategies, child protection, flexible work practices, grievance handling, to name a few.

Council has a good, comprehensive, secondary employment policy which appears to be consistently implemented.

Council should consider mechanisms for promoting more widely the awareness and benefits of its flexible work practices.

Recruitment, selection, performance and development

Council has a recruitment and selection policy and guidelines. The policy provides assurance to the organisation and the community that all selections are done on merit, consistent with the provisions of section 349 of the Local Government Act. The policy includes the appeal process.

By way of good risk management practices, Council should also consider conducting an audit of its recruitment files as recruitment has been identified by the integrity agencies as the area of highest corruption risk.

Council has a structured induction program.

As commented previously, Council has a succession strategy, as part of its human resources strategy and workforce plan.

All organisations, including local councils, face the problem of the large amount of corporate knowledge being lost if there are changes in key positions. Shoalhaven City Council is in a position where it is likely to lose a number of its key staff in the next 12 months. In this regard, Council may consider adding to its otherwise good

human resources framework an articulated knowledge management aspect that will capture and regularly review its human potential, with the emphasis on human 'know-hows' and how they maintain organisational values.

Councils are expected to regularly review the performance of their employees. These reviews should be undertaken at least annually. Reviews provide employees with feedback on their performance and an avenue to address any issues. Shoalhaven City Council has a performance management framework that assesses and encourages performance.

During the review, Council advised that all positions have job descriptions, which are provided to Council staff and regularly reviewed.

Equal employment opportunity (EEO)

Section 334 of the Local Government Act requires councils to “promote equal employment opportunity for women, members of racial minorities and physically handicapped persons in councils”. In accordance with section 345 of the Act, councils are also obliged to “prepare and implement an equal employment opportunity management plan”.

Council has a three-yearly EEO management plan that includes an EEO policy statement and a number of strategies with objectives, actions and performance indicators. The review of the plan is coordinated with the development of Council's management plan each year. Council reports on its EEO strategies and outcomes in its annual report.

Occupational health and safety (OH&S)

While the review does not represent a comprehensive audit of Council's occupational health and safety practices, it did examine a number of Council documents and practices in this area.

Council has adopted the OH&S management plan and injury management and return to work policy in 2005. These documents provide extensive resources to its management and staff.

Council's policy is comprehensive. It is supported by a number of KPIs in group and section plans, in addition to the OH&S manual, information on Council's intranet site, newsletters, alerts and team briefs. Council has regular safety themes.

Council also has in place an injury management and return to work policy and an OH&S committee. There are no elected councillors on this committee.

As previously mentioned, Council self insures and has recently moved to a three-year Workcover audit. Over the past two years, Council recorded a decrease in the number of incidents, time lost and workers compensation claims. The Department commends Council for its efforts, which are consistent with its responsibilities as an employer.

Consultative committee

Where a council has established a consultative committee, the aim of the committee is to provide a forum for consultation between council and its employees. The functions of the consultative committee are about day-to-day management issues such as award implementation, training, job redesign, performance management systems and hours of work. As this committee's aim and purpose is operational in nature, council's general manager (or her/his nominee/s) should represent council on this committee.

Shoalhaven City Council has in place a consultative committee which appears to be well supported by the organisation in terms of secretariat, technical support and timely provision of information. Relevant changes to Council policies are sent to the committee for comments.

The committee meets monthly. There are no councillors on Council's consultative committee.

Employee attitude survey

Council conducted an employee attitude survey in November 2007. The survey was conducted following the 2006 restructuring of the organisation as part of the internal strategy of monitoring and increasing the organisation's capacity and addressing the

'off-track' issues. It covered a range of issues in response to the fundamental questions of:

- How we work together
- How we are led and manage our work
- How we behave at work and
- What sort of workplace do we aspire to

The results of the survey were being finalised at the time of the review.

One of the key issues brought to the reviewers' attention was a marked low level of satisfaction, especially in some areas of the organisation, in response to the issue of staff and councillors working together in a respectful and cooperative manner.

The staff's view is further complicated by the additional provision in the Council's Code of Conduct that Council staff should exercise their delegations as if they were elected councillors (this is discussed in detail in the previous text) and the view expressed by some councillors during the review that the expectation articulated in the Code of Conduct is more often than not disregarded by staff.

There were also views expressed to the review team, by both staff and some councillors, that councillors' expectations of Council professional staff and the resulting attitudes have had a significant degree of influence on staff leaving or being prepared to leave the organisation, as well as on the organisation not being able to attract suitably qualified staff because of the image in the industry that it is not an employer of choice.

It was also suggested to the review team that the staff survey was conducted shortly after the proposal by Council's Senior Staff Contractual Matters Committee (which is comprised of councillors) to abolish a particular position within the Council structure on the basis of the incumbent's work performance.

It is a challenge for all councils, and especially for Shoalhaven City Council, to achieve and foster cooperation between elected councillors, council senior managers and staff. Council should decide, as a matter of priority, how to use the

survey results to maximise the outcomes for the organisation. **(Recommendation 23)**

Council is yet to determine and prioritise actions arising from the findings of the employee attitude survey; this is planned to occur over coming months. The review team strongly recommends this occur as a matter of priority. **(Recommendation 24)**

Most importantly, the Local Government Act clearly outlines the role and responsibility of the general manager and council staff and the roles of the mayor and elected councillors. Under the Act all staffing matters rest wholly within the functions of the general manager. The mayor and elected councillors have a role for the setting of strategic policies, objectives and direction for the council, as well as the role to review the organisation's structure and performance at that same high level, in accordance with section 332 of the Local Government Act.

It would therefore be inappropriate for elected councillors to make recommendations or decisions regarding staff appointment, working conditions, or have access to specific employee details or information. In the case of the recommendation made by the Council's Senior Staff Contractual Matters committee, councillors may have acted contrary to the requirements of section 232 of the Act.

Council should review the role of its Senior Staff Contractual Matters Committee to ensure this committee does not have a role in the performance management of staff. **(Recommendation 25)**

With regard to their involvement in employment matters, all councillors should ensure that they are performing in accordance with the Local Government Act and that they do not act outside the role that is provided in section 232 of the Act. **(Recommendation 26)**

Annual reporting of senior staff contract conditions

In Shoalhaven City Council the positions of Assistant General Manager and five Group Director positions are defined as senior staff. Council is using the Standard Contract for Senior Staff (Other than General Managers) produced by the Department of Local Government.

Section 339 of the *Local Government Act 1993* requires general managers to report to the elected council on the contractual conditions of senior staff. Better practice in this area is for general managers to include the following information in the report for all senior staff employed by Council:

- list of senior staff
- the specific term of each contract and when it was entered into
- the value of the remuneration package and any variations that have been made in the past year or which are proposed for the ensuing year
- the timing and outcome of any performance assessments that were undertaken
- a copy of any performance agreement entered into for the current year and/or proposed for the ensuing year, and
- details of any other "material" matters. These could include any requirement for the General Manager or other senior staff member to advise if she/he is seeking an extension of the current contract or reappointment for a further term and similarly, any requirement for the Council to advise the General Manager/senior staff member of any intention not to renew their appointment and/or to readvertise the position.

As previously mentioned, Shoalhaven City Council has in place the Senior Staff Contractual Matters Committee. The Committee has delegated powers under section 377 of the Local Government Act to:

- review the General Manager's performance against the agreement, at least annually
- deal with matters relating to requirements of the contract including the annual review of remuneration and to make any determinations where necessary and
- receive the General Manager's annual reports on other Senior Staff contracts where Council is required to deal with contractual matters.

While the lack of guidance for general managers in respect to the implementation of section 339 of the Act has been identified on a number of occasions, in the case of Shoalhaven City Council the General Manager seems to be seeking to ensure that the better practice identified above happens.

Included in the General Manager's and senior staff's performance assessment is the cost savings/productivity gain component of 10%-20% over the period of the contract.

Comments about the Senior Staff Contractual Matters Committee's involvement in the performance of staff who are not considered to be senior staff is discussed in the previous text.

General Manager's contract

As previously mentioned, the current General Manager started in this position in January 2003. The General Manager's current contract was extended for another five-year period in February 2006, before the introduction of standard contracts. Following the 2004 local government election, Council resolved to delegate to the Mayor "the general direction and supervision of the General Manager and the supervisory role of the General Manager, within the terms and conditions of the General Manager's contract".

General Managers, in the exercise of their public duties, can find themselves in situations where their application of the legislative framework may not be to the satisfaction of the elected body. This may be particularly pronounced in a situation where the General Manger is accountable to a single Councillor; in such cases it may be more appropriate that Council broadens the 'supervisory', ie, performance monitoring arrangements to a committee or subcommittee of Council.

Following the September 2008 local government elections, Council may consider expanding the delegation for the performance management of the General Manager to include a committee or subcommittee of Council.

7. COUNCIL'S RESPONSE

COUNCIL REFERENCE: 37606
CONTACT PERSON: Russ Pigg

Mr G Payne
Director General
Department of Local Government
Locked Bag 3015
NOWRA 2541

Dear Garry,

Promoting Better Practice Review – Draft Report

Thank you for your letter of 11th November, 2008, and the draft Promoting Better Practice report.

I note that the draft report is to be treated as strictly confidential and that you recommend the report should not be reproduced. To facilitate proper input from Councillors and senior staff to respond and comment on the draft report and its 53 recommendations, it has been necessary to provide copies of the document to Councillors and senior staff and to discuss this response through Councillor and senior staff briefings.

It is acknowledged that Council's response will be reproduced as part of the final report.

Firstly it is important for the Department and readers of this report to acknowledge that the circumstances and personnel (elected members) involved at the time of the review (May 2008) are substantially different to the present time. Following the September 2008 elections, Council has a new Mayor and eight (8) newly-elected Councillors, with only 5 previous Councillors re-elected. For these reasons, combined with actions already implemented by Council since June, 2008, many of the "challenges" identified by the Departmental report have already been satisfactorily addressed.

It is also Council's view that many of the recommendations appear unnecessary, in that they use the terms – "*should consider*", "*may consider*" or "*should continue*", rather than a definitive direction. The recommendations should be separated into two parts – Part 1 being those matters requiring immediate action, and Part 2 being suggested actions to be considered by Council.

It is also considered that some recommendations do not logically follow-on from the content and context of the text in the body of the report.

The very nature of these types of reports inevitably concentrates on required improvements in the organisation through the 53 recommendations. However, this should not overshadow the overwhelming positive aspects of the organisation and the Council appreciates the Department's positive comments within the body of the report in respect of the many aspects of Council's operations which are performing well.

In respect of the draft report, Council makes the following comments –

Executive Summary:

Council recognises that it must respond positively to the “challenges” identified, to maintain its sustainability and reputation in the industry and the local community. The new-elected Council sees this as an opportunity to provide strong leadership and vision for the future.

The draft LEP was submitted to the Department of Planning in early September, 2008, the Citywide Growth Management Strategy is expected to be completed and reported to Council in two stages in December 2008 (hierarchy) and March, 2009 (final draft).

The consolidation of all DCP's into one single DCP is expected to be completed before LEP 2009 is Gazetted (working draft available December 2008, Council exhibition, review and adoption early-mid 2009).

The Section 94 Plan is a more fluid document with continuing review, as has been happening. There is a legal requirement to review all plans before March, 2010, and subject to the State Government finalising guidelines/legislation, this target will be achieved by the end of 2009. In the interim, the Plan will be picking up major projects as they come into Council's Capital Works Programme.

The review of Exempt and Complying Development is complicated by three factors – the LEP review, significant fire hazard areas and the bush fire legislation. Council has no desire to unnecessarily require a DA for any works.

The new Council is committed to working within its policy framework and over the next twelve months will review the existing policies. Should decisions be made in variance with a policy, Council will publicly state its reasons for doing so in the minutes of its meetings, to ensure that the public has a full understanding.

The new Council is committed to –

- Providing strong leadership and good governance.
- Understanding the role of “Councillor” and not inappropriately becoming involved in operational matters.
- Improving relationships between Council/community, Councillors/staff and increase co-operation and respect amongst the Councillors themselves.
- Review and abide by the Code of Conduct obligations.
- Review the conduct of its meetings (Council and Committees) and ensure all members are treated equitably.
- Reviewing its expenses and facilities policy for elected members.
- Reviewing its Compliance Policy and how legal actions are initiated.

- Develop an overarching asset management strategy, but noting that Council has extensive and detailed Asset Management Plans for most of its assets/infrastructure.
- Review its approach to land sale dealings.
- Review its involvement in staff matters and the supervision of the General Manager and address matters raised in the recent staff survey.

RECOMMENDATIONS:

Ambitions, Priorities and Future Focus

Recommendation 1: *Councillors should limit their role within the organisation to strategic policy setting, rather than becoming involved in the day-to-day management of Council and rely on and respect Council's systems and policies.*

Response: Agreed – Extensive Councillor Induction programme has been undertaken since the September 2008 elections, to reinforce this position.

Recommendation 2: *Councillors should treat each other and other people with respect.*

Response: Agreed – Code of Conduct training undertaken.

Recommendation 3: *At the commencement of the term of the new elected Council following the September 2008 Local Government election, the General Manager and the Mayor consider organising a team building exercise for the new elected Council.*

Response: Agreed – this has occurred through the extensive Induction Sessions and other briefings with the new Council.

Recommendation 4: *Councillors should make every effort to demonstrate respect for Council staff and for the professional advice staff provide.*

Response: Council notes the need to demonstrate respect for Council staff and professional advice provided.

Recommendation 5: *The General Manager should consider including Councillors in the appropriate module of the Organisational Responsibilities exercise so that a teamwork approach is reinforced and mutual responsibilities better understood.*

Response: The Corporate Responsibilities Workshops are designed for staff at an operational level. It is considered that the extensive Councillor Induction Programme has addressed this issue.

Governance

Recommendation 6: *Council should reword or remove from its Code of Conduct the additional provision to the Model Code requiring delegated decision makers to use delegated authority as if they are the elected Council.*

Response: The clause relating to the “Use of Delegations” was deleted on 22nd July, 2008.

Recommendation 7: *Council should immediately remove from its Code of Conduct the additional provision protecting Council official spokespersons (the Mayor and the General Manager) from sanctions under the Code.*

Response: The Council is currently reviewing the Code and this clause will be deleted. (Part Clause 16.2)

Recommendation 8: *Council should develop an overall risk management plan that would bring together all of its risk management activities.*

Response: Council has an over-arching Risk Management Policy and risk profile. A Risk Management Plan will be developed.

Recommendation 9: *Council should develop a system for management of contractors' performance.*

Response: Council will develop a system for management and recording of contractor performance.

Recommendation 10: *Council should display in a conspicuous place a notice of successful tenders.*

Response: Council has a public notice board in the foyer of the Administrative Centre for the purpose of displaying tenders received. The successful tenderer is published on the internet in Council minutes, which is considered to be a 'conspicuous place' and meets the Department's suggestion.

Recommendation 11: *Council may consider examining whether there is an easier, more streamlined way of ensuring regulatory and legislative compliance.*

Response: Investigation will be undertaken with the new Council.

Recommendation 12a: *Council should continue with the review and include the heads of authority in its delegations.*

Response: The review of the delegations system will continue, with specific attention given to the delegations given to staff undertaking regulatory & enforcement activities. The review is intended to link the Head of Authority (eg applicable legislation), the responsible position and the particular function.

Recommendation 12b: *Council should also ensure the audit trail of delegations at any one time can be established.*

Response: As all delegations are registered in Council's record system, the audit trail of applicable delegations at a particular point in time will be available.

Recommendation 13: *Council should aim to reduce the length of its meetings.*

Response: In September 2008, following the election, Council determined to review the Committee structure and members and its meetings within 3 months. This review will occur in December, 2008.

Recommendation 14: *Council should review its recent business papers and reconsider its practices of referring a large number of matters to the elected Council, if those matters can be resolved by Council staff under delegated authority.*

Response: A review of business paper content will also occur in conjunction with the review referred to in response 13.

Recommendation 15: *Council should consider investing in some kind of electronic device that would establish a speaking order of Councillors who wish to (and have the right to) contribute to the debate.*

Response: Council will investigate electronic solutions for this issue and to also record Councillor voting.

Recommendation 16: *Council should make use of the two large projection screens it has in place in the Chambers to project the original motion and to record the suggested amendments so that all clarifications are made on the screen.*

Response: Council will consider a solution along these lines.

Recommendation 17: *The Chair of Council meetings should carefully consider whether the matter put before the Council as a matter of great urgency is indeed a matter of urgency, or if that matter can be transacted through some other more appropriate means.*

Response: This matter is noted and agreed.

Recommendation 18: *Council may consider making Councillor briefings open to the public if appropriate and inviting affected community groups to Councillor briefings or part of the briefings.*

Response: Council will continue to conduct its briefings in accordance with the Local Government Act and Regulations. There may be some occasions when the attendance of affected community groups is appropriate.

Recommendation 19: *Council should continue to provide opportunities for its elected members to keep abreast with the knowledge developments in those areas that are most likely to be beneficial for carrying out Councillors' strategic role within the organisation.*

Response: Council already does this and will continue to do so. All Councillors have equal opportunity to attend relevant conferences, seminars and training sessions, including the ongoing Councillor training programme conducted by the Local Government & Shires Association. Council's expenses and facilities policy allows all related costs to be met by Council. Any perceived uneven attendance is entirely a result of the individual circumstances of the Councillors and whether they are able to expend the time for these purposes.

Recommendation 20: *Council should consider reviewing and re-formatting its policy suite so that policies clearly delineate the responsibility of the elected body for the strategic aspect and of the various sections of Council for the operational aspect of policies.*

Response: Policies will be reviewed, to delineate the strategic aspects (Councillor role) and the operational aspects (staff role).

Recommendation 21: *Council should continue to conduct ongoing reviews of its Expenses and Facilities policy, including improving a number of shortfalls identified in the Departmental audit. These include –*

- *The need for the policy to specifically exclude general allowances.*
- *The need for the policy to include detail on reconciliation of expenses for private use of facilities.*
- *The need for the policy to provide for training and development for Councillors.*
- *The need for the policy to include limits on expenditure for all categories of expense and facilities.*

Response: Council notes this item for reference and is currently reviewing this policy.

Recommendation 22: *Council is encouraged to continue to monitor and report on the complaints it receives. In this review process, Council should consider including (a) the appeal/review process in its complaints policy and (b) guidance to staff for dealing with vexatious complaints.*

Response: These issues will be addressed in the policy review.

Recommendation 23: *Council may consider articulating its experience in project management, demonstrated in the development of the Shoalhaven Entertainment Centre, into a broader project management guide that could be used as a corporate and possibly sector capacity building.*

Response: A Project Management Guide will be made available corporately on the Intranet.

Planning & Regulatory

Recommendation 24: *Council needs to grasp the complexity of its planning responsibilities and provide leadership to the broader community with sound planning direction setting and decision making in the context set by the Government's South Coast Regional Strategy.*

Response: Council acknowledges the need for a strategic and policy framework for the longer term and has substantially completed this process.

Recommendation 25: *Council should clarify the functions of its Strategic Planning and Development and Environmental Services Groups so that any land use strategy or policy setting components are developed by or endorsed through the Strategic Planning Group.*

Response: This issue will be further considered when the Organisational Structure is reviewed shortly.

Recommendation 26: *Council should develop more formal links for the sharing of planning strategy and policy setting, policy interpretation and ongoing feedback on policy implementation.*

Response: For several years Council has had in place an “across Group” Sustainable Planning Committee and Asset Management Committee which meet regularly, with membership comprising various levels of staff from all relevant Groups within Council. The Charter of these Committees will be reviewed.

Recommendation 27: *Council should review the projects on the Strategic Planning Group’s work program in order to give priority to finalising the Growth Management Strategy and the new comprehensive LEP.*

Response: The new comprehensive LEP was submitted to the Department of Planning in early September, 2008. The Citywide Growth Management Strategy is expected to be completed and reported to Council in two stages in December, 2008 (hierarchy) and March, 2009 (final draft).

It is planned to hold a Councillor Workshop, to review the Strategic Planning Group’s work programme, review priorities and resource allocation.

Recommendation 28: *Council should review and rationalise the DCP controls in conjunction with the preparation of the new comprehensive LEP so that they are consistent with and support the new comprehensive LEP provisions.*

Response: The review and rationalisation of DCP’s is well under way.

Recommendation 29: *Council should show greater commitment to its adopted plans and planning policies and keep them under review so they continue to be relevant.*

Response: Noted and accepted.

Recommendation 30: *Council should reactivate the review of its Section 94 contributions plan.*

Response: Review of the Section 94 Plan is ongoing.

Recommendation 31: *Council should also take opportunities to utilise other recognised mechanisms, such as voluntary planning agreements, to achieve beneficial outcomes for the community.*

Response: Council already has a policy to allow voluntary planning agreements in appropriate circumstances.

Recommendation 32: *Council should look to increasing the scope for further exempt and complying development in its new comprehensive LEP as a means of reducing the number of applications that need to be dealt with by Council staff.*

Response: Council agrees that it should review the exempt and complying development provisions. However, having much of its area identified as high bush fire hazard gives a

further complexity to this issue. Council is also aware that the state government is currently preparing state wide Exempt and Complying Development Codes. These Housing codes may well replace Council's current DCP.

Recommendation 33: *Councillors should avoid attempts to provide direction to Council staff on planning (and other) matters outside of the formal meeting structure, including in situations where staff have a delegation to deal with the matters and where the matters are consistent with existing policies.*

Response: This recommendation relates to representations made by Councillors on behalf of applicants and objectors which often relate to DA's which are determined under delegated authority. While these representations are inevitable, there can be a perception that "direction" is being given to staff on how they should use their delegation.

Councillors understand and accept this position. The situation has improved by –

- Deletion of the Clause in the Code of Conduct relating to use of delegated authority.
- Keeping file notes of meetings between staff, Councillors, applicants/objectors.
- Reinforcing the role of Councillors in induction sessions as distinct from the staff operational role.

Recommendation 34: *In making representations on behalf of their constituents on development application matters, Councillors should respect the administrative processes the organisation has in place for dealing with objections.*

Response: Council sees no issue with either the Mayor or Councillors writing to DA applicants or representing their constituents or objectors. In doing so, Councillors understand and respect their role.

Recommendation 35: *Council should build into its DARTS/DA tracking system the capacity to lodge development applications on line.*

Response: This option is still being investigated.

Recommendation 36: *Council should adopt the DA processing system to provide a monitoring mechanism for the delivery of the Growth Management Strategy outcomes.*

Response: Council is developing a "Land Monitor", following discussions with the Department of Planning in regard to the implementation and monitoring of the South Coast Regional Strategy. This is consistent with the Settlement Planning Guidelines that sit under the Regional Strategy. Council's Growth Management Strategy will need to be consistent with the Regional Strategy and the Land Monitor will be beneficial for informing a range of strategic planning projects (eg, Contributions Plan reviews, future LEP reviews, etc).

The Department provided Council with funding assistance to develop an employment land monitor. This funding will assist with the development of the overall monitor that is intended to cover both residential and employment land. The Land Monitor will utilise information from Council's existing processing systems related to development applications (subdivisions, etc), water/sewer connections, etc.

Recommendation 37: *To facilitate access and navigation around its State of the Environment Report, Council should consider expanding the overview section of the report by providing –*

- *A summary of the report, or links to the index.*
- *Progress in relation to the previous year in the overview section.*
- *Details of community consultation.*

Response: These suggestions will be implemented. Council has already engaged Planet Footprint to assist in developing a more user friendly presentation approach for the SOE which shall also enable better monitoring of indicators for Council and the community.

Recommendation 38: *The powers to prosecute should be immediately returned to Council's operational staff.*

Response: Council restored the delegation to the General Manager to commence prosecution in accordance with the Compliance Policy on 9th September, 2008, subject to the General Manager advising Councillors before commencement of significant and serious criminal prosecutions.

Asset and Financial Management

Recommendation 39: *Council should ensure its investments policy is updated accordingly to reflect changes in legislation, including the Ministerial Investment Order and the Local Government (General) Regulation 2005.*

Recommendation 40: *Council should also ensure that its investments adhere to the current policy, such as funds not being invested for more than 3 years.*

Response to Recommendations 39 & 40: Council's Investment Policy was amended on the 7th October, 2008. It is noted that the investments held by Council were all made in line with the Ministerial Order (applicable at the time) and in line with Council's Investment Policy (at the time) which stated that:

“Funds will not be placed in investments with an age to maturity of greater than three years unless there is an active and liquid market available for that investment.”

The investments Council made where the maturity date was greater than 3 years were into securities that (at the time) had an active and liquid market, and therefore were made in accordance with Council's Investment Policy.

It should be noted that Council has received all funds previously invested in the Federation CDO.

Recommendation 41: *Council should consider developing an overall asset management strategy based on its existing asset management plans.*

Response: An overall asset management strategy will be developed.

Recommendation 42: *Council should articulate into a policy the principle on which it operates: that the proceeds of the sale of assets are returned to the community where the asset was sold.*

Response: This cannot be enshrined into a Policy, as the Council must consider the priority for works and services across the whole City.

Community and Consultation

Recommendation 43: *When Council next reviews its Social and Community Plan, Council should have regard to issues raised in this report: the needs of women in the area; comparison with the previous plan; regional focus; housing and ageing strategies.*

Response: Noted and agreed.

Workforce

Recommendation 44: *Council should consider undertaking an analysis of age-against-position profile of its workforce, identifying the positions likely to involve exits.*

Response: Council has a Workforce Planning (Succession) Strategy that identifies key positions and the actions necessary to plan for staff exits. The annual Employee Development Discussion sessions (between each staff member and their supervisor) requires discussion and planning on this aspect for all key positions and staff who are 50 or older.

Recommendation 45: *Council should consider translating its human resources strategies into specific targets; this may include relevant targets in its corporate planning process and reporting on the achievements against those targets.*

Response: Relevant targets are being developed.

Recommendation 46: *Council should consider mechanisms for promoting more widely the awareness and benefits of flexible work practices.*

Response: Council has a broad range of flexible work practices including –

- Time recording and flexible working hours policy.
- Variable Working Hours Scheme.
- Pre-Retirement Contract Guidelines.
- Purchased Annual Leave Policy.
- Internal Job Exchange Policy.
- Working from Home Policy.

Promotion of these strategies is undertaken within each Group, the policies are accessible by all staff on the Intranet and implementation is dependent upon operational/functional needs.

Recommendation 47: *By way of good risk management practices, Council should also consider conducting an audit of its recruitment files, as recruitment has been identified as the area of highest corruption risk in any organisation's operations.*

Response: An audit of staff commencements controls was completed in July this year. The long range audit programme and the 2008 Annual Audit Plan have now been revised to also include recruitment audits to ensure that there is appropriate checking of qualifications and previous employment for new employees, prior to them being offered a position, or that they are only offered a position subject to such checks being successfully completed.

The Human Resources Section will also regularly review for such checks, as a normal HR management control.

Recommendation 48: *Council may consider adding to its human resources framework a knowledge management aspect that will capture and regularly review its human potential, with an emphasis on human “know-how” and how this brings value to an organisation.*

Response: A knowledge management framework will be integrated into the Workforce Planning (Succession) Strategy. The capture of corporate knowledge will also be part of the annual EDD process and annual review of succession plans.

Recommendation 49: *Council should decide, as a matter of priority, how to use the employee survey results to maximise the outcomes for the organisation.*

Recommendation 50: *Council should determine and prioritise actions arising from the findings of the employee attitude survey.*

Response to Recommendations 49 & 50: Strategies are being developed to address issues highlighted in the survey results. The new Council will be briefed in detail on these issues early in the new year.

Recommendation 51: *Council should review the role of its Senior Staff Contractual Matters Committee to ensure this committee does not have a role in the performance management of staff.*

Response: This issue is noted and applies. The Senior Staff Contractual Matters Committee considers –

- Appointment and performance management of the General Manager’s contract (Section 334 and 338)
- An annual report from the General Manager on senior staff contractual conditions and performance matters (Section 339).
- Consultation on senior staff appointments/dismissal (Section 337).
- The organisational structure (Section 332 & 333).
- Industrial Relations Policy (DLG Circular 07/09).
- Other staff related matters of a strategic nature.

Recommendation 52: *With regard to their involvement in employment matters, all Councillors should ensure that they are performing in accordance with the Local Government Act and that they do not act outside the role that is provided in Section 232 of the Act.*

Response: Noted and agreed – this is the current situation.

Recommendation 53: *Council may consider expanding the delegation for the management of the General Manager’s performance to include a committee or sub-committee of Council.*

Response: This has always been the case - the performance management of the General Manager is conducted by the Senior Staff Contractual Matters Committee consisting of eight (8) Councillors. In addition, the Mayor has a current delegation (adopted 30th September, 2008) in respect to the General Manager as follows –

“The General day-to-day direction and supervision of the General Manager within the terms and conditions of the General Manager’s contract and Section 352 of the Local Government Act 1993.”

Other comments relating to the substantive section of the draft report are –

- Page 61, it should be noted that the table of rate increases for 2006/07 to 2009/10 are inclusive of the rate pegging limits and not “above the announced rate pegging limit”.
- Page 63 – It is not correct to say, “*the disposal of assets is intended to operate on the principle that the proceeds of the sale are returned to that community*”. Whilst this is generally the case, the Council still considers the priorities for works and services across the whole City.
- Page 66 – *Integration of social/community planning and land use planning* – This refers to social/community planning land use planning being undertaken within two sections in Council’s Strategic Planning Group. It should read that social/community planning is undertaken in the City Services & Operations Group and land use planning is undertaken by the Strategic Planning Group. There is ongoing liaison between the two Groups.
- Page 67 – In respect of CCB Executive six-monthly meetings, the CCB’s provide items for the agenda. Council adds relevant items to inform/consult with the CCB’s. Council records the meeting discussions and outcomes and distributes these records to each CCB.
- Page 70 – Council’s senior management team is more accurately described as “consists of the General Manager, Assistant General Manager, Director City Services & Operations, Director Development & Environmental Services, Director Strategic Planning, Director Finance & Corporate Services and Director Shoalhaven Water.

Council wishes to thank the Department for the opportunity to comment on the draft report and looks forward to moving on with positive outcomes as a result of the PBP Review.

Yours faithfully,

RUSS PIGG
GENERAL MANAGER

Council provided its response to the draft report on 28 November 2008. Council advised of the requirement to amend part of the text to correct three inaccuracies. Changes have been made to the text at the appropriate places to correct these.

Council responded to all the recommendations in the report. Some of the responses provided information as to what action Council intends to take. This information is not reproduced in this report and should be incorporated into the action plan that Council is required to complete after it has tabled the review report. Council's response to relevant recommendations of the report that required amendment are reproduced and addressed below.

Twenty seven recommendations have been removed as a result of Council's feedback, including Council's comment regarding the lack of definitive direction of some of the recommendations. The recommendations that have been removed, including council's response in relation to each recommendation are as follows:

Recommendation

"2. Councillors should treat each other and other people with respect."

Council's response

"Agreed – Code of Conduct training undertaken."

Recommendation

"3. At the commencement of the term of the newly elected Council following the September 2008 local government elections, the General Manager and the Mayor should consider organising a team building exercise for the new elected Council."

Council's response

“Agreed - this has occurred through the extensive Induction Sessions and other briefings with the new Council.”

Recommendation

“4. Councillors should make every effort to demonstrate respect for Council staff and for the professional advice are providing.”

Council’s response

“Council notes the need to demonstrate respect for Council staff and professional advice provided.”

Recommendation

“5. The General Manager should consider including councillors in the appropriate module of the Organisational Responsibilities exercise so that a teamwork approach is reinforced and mutual responsibilities better understood.”

Council’s response

“The Corporate Responsibilities Workshops are designed for staff at an operational level. It is considered that the extensive Councillor Induction Programme has addressed this issue.”

Recommendation

“6. Council should reword or remove from its Code of Conduct the additional provision to the Model Code requiring delegated decision makers to use delegated authority as if they are the elected Council.”

Council’s response

“The clause relating to the “Use of Delegations” was deleted on 22nd July, 2008.”

Recommendation

“10. Council should display in a conspicuous place a notice of successful tenders.”

Council’s response

“Council has a public notice board in the foyer of the Administrative Centre for the purpose of displaying tenders received. The successful tenderer is published on the internet in Council minutes, which is considered to be a ‘conspicuous place’ and meets the Department’s suggestion.”

Recommendation

“11. Council may consider examining whether there is an easier, more streamlined way of ensuring regulatory and legislative compliance.”

Council’s response

“Investigation will be undertaken with the new Council.”

Recommendation

“12a Council should continue with the review and include the heads of authority in its delegations.”

Council’s response

“The review of the delegations system will continue, with specific attention given to the delegations given to staff undertaking regulatory & enforcement activities. The review is intended to link the Head of Authority (eg applicable legislation), the responsible position and the particular function.”

Recommendation

“12b. Council should also ensure the audit trail of delegations at any one time can be established.”

Council’s response

“As all delegations are registered in Council’s record system, the audit trail of applicable delegations at a particular point in time will be available.”

Recommendation

“15. Council should consider investing in some kind of electronic device that would establish a speaking order of councillors who wish to (and have the right to) contribute to the debate.”

Council’s response

“Council will investigate electronic solutions for this issue and to also record Councillor voting.”

Recommendation

“16. Council should make better use of the two large projection screens it has in place in the chamber to display the original motion and to record any suggested amendments to that all clarifications are made in a transparent way.”

Council’s response

“Council will consider a solution along these lines.”

Recommendation

“17. The Chair of Council meetings should carefully consider whether matters put before the Council as a matter of great urgency are indeed matters of

urgency, or if that matter can be transacted through some other, more appropriate means.”

Council’s response

“This matter is noted and agreed.”

Recommendation

“18. Council may consider making councillor briefings open to the public if appropriate and inviting affected community groups to those briefings or part of the briefings.”

Council’s response

“Council will continue to conduct its briefings in accordance with the Local Government Act and Regulations. There may be some occasions when the attendance of affected community groups is appropriate.”

Recommendation

“19. Council should continue to provide opportunities for its elected members to keep abreast with knowledge developments in those areas that are most likely to be beneficial for carrying out councillors’ strategic role within the organisation.”

Council’s response

“Council already does this and will continue to do so. All Councillors have equal opportunity to attend relevant conferences, seminars and training sessions, including the ongoing Councillor training programme conducted by the Local Government & Shires Association. Council’s expenses and facilities policy allows all related costs to be met by Council. Any perceived uneven attendance is entirely a result of the individual circumstances of the Councillors and whether they are able to expend the

time for these purposes.”

Recommendation

“20. Council should consider reviewing and re-formatting its policy suite so that policies clearly delineate the responsibility of the elected body for the strategic aspect and of the various sections of Council for the operational aspect of policies.”

Council’s response

“Policies will be reviewed, to delineate the strategic aspects (Councillor role) and the operational aspects (staff role).”

Recommendation

“23. Council may consider articulating its experience in project management, demonstrated in the development of the Shoalhaven Entertainment Centre, into a broader project management guide that could be used as a corporate and possible sector capacity builder.”

Council’s response

“A Project Management Guide will be made available corporately on the Intranet.”

Recommendation

“31. Council should also take opportunities to utilise other recognised mechanisms, such as voluntary planning agreements, to achieve beneficial outcomes for the community.”

Council’s response

“Council already has a policy to allow voluntary planning agreements in appropriate

circumstances.”

Recommendation

“33. Councillors should avoid attempts to provide direction to Council staff on planning (and other) matters outside of the formal meeting structure, including in situations where staff have a delegation to deal with the matters and were the matters are consistent with existing policies.”

Council’s response

“This recommendation relates to representations made by Councillors on behalf of applicants and objectors which often relate to DA’s which are determined under delegated authority. While these representations are inevitable, there can be a perception that “direction” is being given to staff on how they should use their delegation.

Councillors understand and accept this position. The situation has improved by –

- Deletion of the Clause in the Code of Conduct relating to use of delegated authority.*
- Keeping file notes of meetings between staff, Councillors, applicants/objectors.*
- Reinforcing the role of Councillors in induction sessions as distinct from the staff operational role.*

Recommendation

“34. In making representations on behalf of their constituents on development application matters, councillors should respect the administrative processes the organisation has in place for dealing with objections.”

Council’s response

“Council sees no issue with either the Mayor or Councillors writing to DA applicants or representing their constituents or objectors. In doing so, Councillors understand and respect their role.”

Recommendation

“37. To facilitate access and navigation around its State of the Environment report, Council should consider expanding the overview section of the report by providing:

- a summary of the report, or links to the index*
- progress in relation to the previous year in the overview section and*
- details of community consultation.*

Council’s response

“These suggestions will be implemented. Council has already engaged Planet Footprint to assist in developing a more user friendly presentation approach for the SOE which shall also enable better monitoring of indicators for Council and the community.”

Recommendation

“38. The powers to prosecute should be immediately returned to Council’s operational staff.”

Council’s response

“Council restored the delegation to the General Manager to commence prosecution in accordance with the Compliance Policy on 9th September, 2008, subject to the General Manager advising Councillors before commencement of significant and serious criminal prosecutions.”

Recommendation

- “39. Council should ensure its investment policy is updated accordingly to reflect changes in legislation, including the Ministerial Investment Order and the Local Government (General) Regulation 2005.”
40. Council should also ensure that its investments adhere to the current policy, such as funds not being invested for more than 3 years.”

Council’s response

“Council’s Investment Policy was amended on the 7th October, 2008. It is noted that the investments held by Council were all made in line with the Ministerial Order (applicable at the time) and in line with Council’s Investment Policy (at the time) which stated that:

“Funds will not be placed in investments with an age to maturity of greater than three years unless there is an active and liquid market available for that investment.”

The investments Council made where the maturity date was greater than 3 years were into securities that (at the time) had an active and liquid market, and therefore were made in accordance with Council’s Investment Policy.

It should be noted that Council has received all funds previously invested in the Federation CDO.”

Recommendation

- “44. Council should consider undertaking an analysis of age-against-position profile of its workforce, identifying the positions likely to involve exits.”

Council’s response

“Council has a Workforce Planning (Succession) Strategy that identifies key positions and the actions necessary to plan for staff exits. The annual Employee development Discussion sessions (between each staff member and their supervisor)

requires discussion and planning on this aspect for all key positions and staff who are 50 or older.”

Recommendation

“46. Council should consider mechanisms for promoting more widely that awareness and benefits of flexible work practices.”

Council’s response

“Council has a broad range of flexible work practices including –

- *Time recording and flexible working hours policy.*
- *Variable Working Hours Scheme.*
- *Pre-Retirement Contract Guidelines.*
- *Purchased Annual Leave Policy.*
- *Internal Job Exchange Policy.*
- *Working from Home Policy.*

Promotion of these strategies is undertaken within each Group, the policies are accessible by all staff on the Intranet and implementation is dependent upon operational/functional needs.”

Recommendation

“47. By way of good risk management practices, Council should also consider conducting an audit of its recruitment files, as recruitment has been identified as the area of highest corruption risk in any organisation’s operations.”

Council’s response

“An audit of staff commencements controls was completed in July this year. The long range audit programme and the 2008 Annual Audit Plan have now been revised to

also include recruitment audits to ensure that there is appropriate checking of qualifications and previous employment for new employees, prior to them being offered a position, or that they are only offered a position subject to such checks being successfully completed.

The Human Resources Section will also regularly review for such checks, as a normal HR management control.”

Recommendation

“48. Council may consider adding to its human resources framework a knowledge management aspect that will capture and regularly review its human potential, with an emphasis on human “know-how” and how this brings value to an organisation.”

Council’s response

“A knowledge management framework will be integrated into the Workforce Planning (Succession) Strategy. The capture of corporate knowledge will also be part of the annual EDD process and annual review of succession plans.”

Recommendation

“53. Council may consider expanding the delegation for the management of the General Manager’s performance to include a committee or subcommittee of Council.”

Council’s response

“This has always been the case – the performance management of the General Manager is conducted by the Senior Staff Contractual Matters Committee consisting of eight (8) Councillors. In addition, the Mayor has a current delegation (adopted 30th September, 2008) in respect to the General Manager as follows –

The General day-to-day direction and supervision of the General Manager within the terms and conditions of the General Manager’s contract and Section 352 of the Local Government Act 1993.”

8. SUMMARY- WHAT'S WORKING WELL & CHALLENGES

COUNCIL'S PRIORITIES AND FOCUS

What is working well

- Corporate planning.
- Monitoring and performance management.

Challenges to improve

- Councillors' strategic role.
- Relationships among councillors and between councillors and Council staff.

GOVERNANCE

What is working well

- Management of pecuniary interest.
- Internal controls.
- Business continuity.
- Procurement and tendering.
- Information management.
- Policy register linked to corporate plan.
- Complaints and customer requests management.
- Project management.
- Organisational improvement program.
- Committees.

Challenges to improve

- Code of Conduct – additional provision.
- Lack of commitment to policy framework.
- Delegations.
- Length of council meetings and conduct at meetings.
- Expenses and facilities policy.
- Structured training for councillors.
- Commitment to councillor-staff interaction policy.

PLANNING AND REGULATORY

What is working well

- .Environmental management.
- Companion animals management.

Challenges to improve

- Enforcement.

ASSET AND FINANCIAL MANAGEMENT

What is working well

- Good indicators of financial performance.
- Financial management plans and policies.
- Asset management plans.
- Business management plans.

Challenges to improve

- Asset maintenance gap.
- Value to the community of land sales.

COMMUNITY, COMMUNICATION AND CONSULTATION

What is working well

- Social and community planning.
- Facilitation of community services.
- Community participation.
- Tourism and economic development plans.

WORKPLACE RELATIONS

What is working well

- Good strategies, policies and plans.
- OH&S.
- Consultative committees.
- Senior Staff Contractual Matters Committee.

Challenges to improve

- Implementation of staff survey results.
- Councillors' intervention in staffing matters.
- Supervision of General Manager (as opposed to performance management).