

challenges improvement innovation good governance

# Local Government Reform Program - Promoting Better Practice

## **FOCUSSED REVIEW REPORT**

### **BERRIGAN SHIRE COUNCIL**

**MARCH 2005**



**dlg** Department of Local Government

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## 1. ABOUT THE REVIEW

### Focussed Review objectives

The Local Government Reform Program - Promoting Better Practice is a review process that has a number of objectives for the focussed review strategy:

- to generate greater compliance to legislation across local government;
- to provide an 'early intervention' option for councils experiencing operating problems;
- to promote good governance and ethical conduct principles;
- 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.

### Focussed Review process

Focussed reviews are short reviews on specific areas of council activities that have been identified as a result of an analysis of council's information and data. These reviews use the same tools for identifying and analysing performance as the full reviews. This means that even though the department spends much less time with the council undergoing a focussed review, it still has the tools to get the best possible benefit out of the process.

Focussed reviews involve the department working with several councils in a region at one time. After completing the practice checklist, the council spends a day with departmental staff on site carrying out focussed checking. The focussed review has a greater compliance focus than the full review strategy.

There are essentially five steps in a review - preparing, assessing, checking, analysing and reporting. The review team examines local circumstances in order to understand the pressures on council and how the council has sought to manage that environment.

In order to review council it is necessary to examine its performance across a range of functions. A number of modules of a practice checklist have been developed to assist council in assessing its functions and checking its compliance. Council's response to the checklist is used as a guide for the on-site review and tests how council has set about delivering its priorities and measuring its achievements.

It is expected that this type of review will be limited to some aspects of council operations. As such, it will not provide an in depth or overall picture of council operations. The results of the review may, however, provide an indication of matters needing attention across aspects of council operations.

### **Berrigan Shire Council Review**

Berrigan Shire Council was asked to complete a checklist of key council practices. The completed checklist was analysed by the review team prior to commencing the on-site review process.

Senior Investigations Officer John Canadi and Senior Finance Officer Scott Wallace comprised the review team who conducted an on-site review of council on 9 December 2004.

The on-site review consisted of a briefing with the Mayor and General Manager, conducting interviews with other council staff and the review of a number of council's policies and other documents.

## 2. RECOMMENDATIONS

### Governance

1. Council should ensure it uses pecuniary interest forms that comply with the Local Government (General) Regulation 1999. *(Refer to the Department of Local Government's Circular 04/16: Pecuniary Interest Returns).*
2. Council should develop a statement of business ethics to communicate both internally and externally the ethical standards that council abides by and expects others to abide by when doing business with council. *(Refer to the ICAC publication: Developing a statement of business ethics).*
3. Council should develop and adopt a policy on disaster recovery. Such a policy should also include a records management plan. *(Refer to <http://www.oict.nsw.gov.au/content/2.3.35.business-continuity.asp>).*
4. Council should examine the costs and benefits of establishing an internal audit function. Given the council's size consideration should be given to contracting for this function or to sharing this function with other councils.
5. Council should develop and adopt a policy on fraud prevention control. *(Refer to ICAC: Fighting Fraud – Guidelines for State and local government (2002), NSW Audit Office: Fraud control – developing an effective strategy (1994) and Standards Australia: AS8001-2003 Fraud and Corruption Control).*
6. Council should conduct routine fraud risk assessments as part of its risk management responsibilities.
7. Council should review its procurement policy. *(Refer to the joint ICAC and Department of Local Government publications "Managing risk – Taking the Con out of Contracting" and "No Excuse for Misuse").*

8. Council should conduct routine risk assessments of council's procurement and disposal procedures.
9. Council should ensure for all tender processes that:
  - the advertisement relating to a particular tender is kept on the relevant file;
  - the record for all requests for tender documents is kept on the relevant file;
  - the record of staff involved in preparing and issuing tender documents is kept on the relevant file.
10. Council should develop and adopt a policy supports legislative compliance.
11. Council should expand its expenses and facilities policy by including the payment of councillor telephone expenses with financial limits. *(Refer to the Department of Local Government Circular to Councils, no 04/60).*
12. Council should develop and adopt a communications devices policy that incorporates council's e-mail and telephone policy. The communications policy should also cover the use of mobile phone, internet, personal digital assistants, facsimiles, scanners and photocopiers. *(Refer to the NSW Premier's policy and guidelines for the use by staff of employer communication devices).*

#### *Asset and Financial Management*

13. Council should seek to complete the development of its long-term financial plan in conjunction with its strategic plan, taking into account the following considerations:
  - a. alternative sources of revenue;
  - b. long term rates strategy (rating structure, special variations etc);
  - c. long term borrowing needs and debt service ratio;
  - d. investment strategies;

- e. the alignment of its long-term financial plan with other strategic plans for areas such as asset management, social planning and council's overall strategic objectives.
14. Council should investigate the development of a rating hardship policy.
15. Council should investigate the development of a pensioner rates and charges reduction policy.
16. Council should develop and adopt a policy in respect of the use of external contractors for major services.
17. Council should develop and adopt an asset disposal policy.
18. Council should seek to implement a revaluation of its roads and sewerage infrastructure classes.
19. Council should consider the implementation of the following Best Practice Management guidelines for its Water Supply and Sewerage businesses, if applicable:
- a. complying residential and non-residential charges;
  - b. sound demand management strategy;
  - c. integrated water cycle management strategy;
  - d. complying liquid trade waste charges;
  - e. Development Servicing Plan with commercial developer charges;
  - f. liquid trade waste approvals and policy.

#### *Community and Consultation*

20. Council should consider providing information that assists members of the public to access information under council's policy and information on how to lodge a complaint or comment with council.

21. Council should develop and adopt a written guarantee of service policy (*Refer to the Management Planning for NSW Local Government Guidelines – NSW Department of Local Government*).



### **3. CONTEXT**

Berrigan Shire Council was constituted in 1906. It has retained its current boundaries since 1912. It has a population of 8,176 as at 30 June 2002. Over the 5 years to 30 June 2002 the population had declined at an average rate of 0.33% per annum. Eight councillors represent the population.

Berrigan Shire Council is situated in the Southern Riverina area of NSW. Its neighbouring shire councils are Corowa, Urana, Jerilderie, Conargo and Murray. It is also bounded to the south by the Murray River.

Berrigan Shire Council covers an area of 2049 square kilometres. It is predominately irrigated rural land in nature, with its main pursuits being devoted to the agricultural industry. The council boundaries encompass the towns of Barooga, Berrigan, Finley and Tocumwal. Each town has between approximately 1000 and 2000 people.

## 4. DELIVERING AND ACHIEVING

### **Overview**

Council appears to broadly comply with its statutory obligations and appears to meet its obligations under the council's charter under section 8 of the Local Government Act 1993.

The council understands its resource limitations and strives to find solutions to problems. This is shown in its strategic alliances to other councils in the Southern Riverina region. For example, it has taken advantage of economies of scale by combining with Moira Shire Council in Victoria to jointly tender and contract for the disposal and collection of waste. Council is a strong supporter and participant of the Murray Regional Organisation of Councils.

The council addresses its needs for the present. Council has a vision for the shire area. This is illustrated in such areas as business development and tourism. Council is very supportive of residential and commercial growth within its region, and expects that the populations of the Barooga and Tocumwal will increase significantly in the near future. Council has recently employed an economic development officer to encourage businesses to operate from within its region.

## 4.1 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 industry 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*
- *Monitoring and review*
- *Access to information*

### ***What is working well***

#### *Cross Border Development Project*

The Shire Councils of Berrigan (NSW) and Moira (Victoria) believe that the community has strong interest in the region with their shared culture and common interests, but that the state border impedes potential social and economic development. Through better cooperation, the two councils believe that there are opportunities to improve services efficiencies and development prospects.

The councils are of the view that they can work cooperatively on local issues as well as providing a common approach to State and Commonwealth Governments and the wider community. To assist the two councils in their vision, they have developed a Cross Border Development Project – Development Strategy.

It is encouraging that the two council's have recognised common needs of the communities and have a vision for cross border cooperation to enhance the social and economic needs of the area.

### *Tourism*

Council has recognised the importance of tourism in the area, particularly along the Murray River. The council subsidises two organisations that have vested interests in tourism. Council advised that it provided \$124,000 to the Cobram-Barooga Accommodation group and the Tocumwal on the Murray group. Both groups have provided council with a business plan for the future and council appears to be satisfied with their progress.

### *Domestic waste collection and disposal for Moira and Berrigan Shire Council*

Council jointly tendered with Moira Shire Council in 1998 for the collection and disposal of domestic waste with a private company. Council considers that through joint tendering, it was about to negotiate lower prices. Since the start of the contract, council estimates that it has had financial saving of \$825,000.

### *Economic development vision*

Council has recognised that in the past there has been no planned approach to the overall development of the shire or its individual towns or industries. Council believes that the lack of coordinated approach towards economic development has resulted in the loss of economic opportunities to the shire.

In late 2002 Council employed an economic development officer to assist it realising its full economic development potential. Council has developed an economic strategy and identified four key result areas that have the highest potential for creating growth or strengthening the local economy. The key result areas are strategic land use, building business, promoting investment and labour attraction and retention. Progress has been made in each of the four key result areas that council believes will harness economic opportunities for the shire.

### *Council policies*

Council has a well documented policy framework. The policies are well communicated and available to staff.

### ***Challenges to improve***

#### *Pecuniary Interest*

The Local Government Act sets out the parameters that must be adhered to when councillors and staff have a conflict between their public duty and private interests that constitutes a pecuniary interest. The Act requires that councillors and designated staff complete and lodge disclosure of pecuniary interest returns. It is important that councillors and staff observe these requirements, as to not do so has the potential to seriously undermine the community's confidence in the integrity of local government and the decision-making processes.

The review identified that the pecuniary interest forms used were not the prescribed forms.

It is important that councillors and staff who are identified as designated persons complete the pecuniary interest returns accurately and in a timely way and use the correct form. Council should use the information provided in the department's circular 04/16 to ensure that the correct forms are used. (*Recommendation 1*).

#### *Statement of business ethics*

Council has business relationships with the private sector but does not have a statement of business ethics to guide these relationships. A statement of business ethics is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector. A statement of business ethics can be an excellent tool for raising private sector awareness of public sector values. (*Recommendation 2*).

### *Disaster recovery*

Business Continuity Planning - which includes disaster recovery planning - is a vital activity. The creation (and maintenance) of a sound business continuity and disaster recovery plan is a complex undertaking, involving consultation from a number of areas from within an agency.

Information security is one aspect of business continuity planning. The Office of Information and Communications Technology Information Security Guidelines addresses information security and can be found at <http://www.oict.nsw.gov.au/content/2.3.35.business-continuity.asp>

State Records also provides guidance in relation to business continuity planning. Two of its guidelines that may assist council are: “Standard on counter disaster strategies for records and record keeping systems” and “guidelines on counter disaster strategies for records and record keeping systems”.

Council should adopt a disaster recovery plan. (*Recommendation 3*).

### *Internal Audit*

Internal audit provides for systematic scrutiny of an organisation’s operations, systems and performance. It assists in ensuring that service standards are met, data recorded in an organisation’s files is accurate and complete and established procedures are being followed. It is an essential corruption prevention strategy. However, an internal audit function will only contribute to an organisations’ corruption resistance if corruption risk management strategies are subject to regular auditing and if auditing findings are used to improve the effectiveness of those strategies. Internal audit is separate from an external audit.

Council should adopt an internal audit program and establish an internal audit committee. However, council should take into consideration the costs and benefits of such a program and committee. (*Recommendation 4*).

### *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 value or it might be an indirect value. Fraud wastes scarce 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 staff are kept up-to-date on emerging risk areas and proven strategies for properly managing them.

Council should adopt a fraud prevention strategy, as it does not currently have such a strategy. (*Recommendations 5 & 6*).

### *Procurement and disposal*

The fundamental objective of a procurement policy is to ensure that an organisation's procurement activities achieve best value for money in supporting the delivery of an organisation's services.

Key principles underpinning the policy should be:

- Value for money, being the benefits achieved compared to whole-of-life costs;
- Efficiency and effectiveness;
- Probity and equity; and
- Effectiveness competition.

Council should review its procurement policy in line with the Independent Commission Against Corruption publications entitled "Managing risk – Taking the Con out of Contracting" and "No Excuse for Misuse" (*Recommendation 7 & 8*).

### *Tendering*

During the course of the review process, the review team was advised that council had a number of contracts that exceeded the \$100,000 threshold prescribed by section 55 of the Local Government Act 1993. We were further advised that council had utilised the tendering process in relation to these contracts. These contracts include the supply of bitumen products for road resealing and the construction of Barooga Library and Technology Centre.

The review team reviewed the files relating to these tenders and found that in the main, the tendering requirements as prescribed by the Act and the Local Government (Tendering) Regulation 1999 had been followed. However, the review team did note the following records were in some respects less than better practice in this area:

- The advertisement relating to a particular tender was not kept on the relevant file.
- No record of all requests for tender documents was kept on the tender file.
- No record of the staff involved in preparing and issuing tender documents was kept on the tender file.
- The record of staff involved in preparing and issuing tender documents was not kept on the relevant file.

Council should ensure that all tenders comply with better practice for tendering. (*Recommendation 9*).

### *Legislative Compliance*

A fundamental principle of good public administration is that public officials comply with both the letter and spirit of applicable law (be it statutory or common law). No public official has an unfetter power or discretion.

To facilitate compliance with legal requirements, agencies and their senior staff should ensure that:



- Management commitment to compliance is clear and unequivocal;
- The legal requirements which apply to each activity for which they are responsible are:
  - Identified (including updates reflecting changes to the law), and
  - Documented (preferably in detailed, 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.

Essentially there are two areas that a policy on legislative compliance could cover. The first is in regard to implementation. When legislation changes, council should have a system in place to ensure that, where necessary, steps are taken to ensure that it complies with the legislation. The second area is in regard to a review process. Council should review its current processes to ensure that it is complying with legislative requirements. This aspect could be incorporated with an internal audit function, where periodic examinations are conducted into key operational areas.

Council should develop and adopt a policy that supports legislative compliance. (*Recommendation 10*).

#### *Expenses and facilities policy*

Section 252 requires council to adopt a policy concerning the payment of expenses and the provision of facilities to councillors in relation to the discharge the functions of civic office.

Council has adopted an expenses and facilities policy. However, council is encourage to expand on the policy by identify appropriate financial limits on telephone expenses. (*Recommendation 11*).

*Communications devices policy*

Communication devices in local government are provided for business use. As public officials, they are accountable for the manner and purpose for which they are used. There is therefore a need for local government to have appropriate guidelines in place.

Although council has a policy on the use of e-mail and telephone, council should adopt a policy that covers all communication devices and include the usage of e-mail, telephone, mobile phone, internet, personal digital assistants, facsimiles, scanners and photocopiers. Council should use the NSW Premier's policy and guidelines for the use by staff of employer communication devices. *(Recommendation 12).*

## 4.2 Asset & 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 aspects of council's practices in the areas of:

- *Financial management*
- *Asset management*
- *Insurance*

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### *Overview of financial position*

Council has budgeted for a surplus cash budget. Council has achieved an operating surplus from ordinary activities of \$1,406,000 for 2003/2004.

Outstanding rates and charges have been recently reduced to 3.86% and it is anticipated that this rate will remain at this level for 2004/2005 with the utilisation of adequate debt recovery action.

Council receives 42.56% of its total income from grants and contributions. This is principally from two sources, Financial Assistance Grants and RTA contributions. Should either of these be reduced the council would face significant financial challenges.

### ***What is working well***

Council has adequate liquidity. As at 30 June 2004, council's unrestricted current ratio was 2.82, which is greater than the recommended benchmark of 1.5. Council has unrestricted funds of \$1.573 million to finance its working capital.

Council's debt recovery process appears to be adequate, as it has operated with a low rates and annual charges outstanding percentage over the past four financial years.

### ***Challenges to improve***

#### *Long term financial planning*

Council has a three-year financial budget and a five-year capital works program. Council should develop a long-term financial plan (ie. five years minimum) in order to give council a greater capacity to identify and plan for future risks. (*Recommendation 13*).

#### *Alternative sources of revenue*

Council's revenue over the last year was made up of:

Rates and annual charges	39.79%
User Charges and fees	10.24%
Grants	33.52%
Contribution	9.03%
Interest	3.47%
Other revenue	3.94%

In view of the uncertainty associated with grant funding and heavy reliance on grants as a funding source, council should consider what other revenue options are available if grant funds decline.

### *Rates hardship policy*

Section 577 of the Local Government Act 1993 allows council to extend concessions to avoid hardship in relation to its rates and charges. Council does not have a rates hardship policy in place. Given the demographics of the area there appears to be a need for council to consider adopting such a policy. (*Recommendations 14 & 15*).

### *Use of external contractors*

It is important that council has a policy in respect of the use of external contractors for major services, to ensure transparency of the decision-making process and to prevent bias from being present in the choice of the particular contractor. (*Recommendation 16*).

### *Asset disposal policy*

It is important that council has a policy in respect of the disposal of its assets, to ensure transparency of the process and to prevent bias from being present in the determination of the asset's sale price and recipient. (*Recommendation 17*).

### *Linking of strategic plans*

It is important that the financial direction of the council is aligned to its strategic objectives. Therefore the development of council's long-term financial plan should support its strategic direction.

### *Valuation of roads, bridges and footpaths*

Council has not engaged an independent professional valuer to value roads, bridges and footpaths for some years. Council should have these valuations reviewed.

Updated valuations will enhance the external financial reporting of council and provide an improved basis for depreciation calculation. (*Recommendation 18 & 19*).

### **4.3 Community & 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 social and community plan*
- *Community participation*
- *Cultural planning*
- *Reporting to the community and keeping the State government informed about its activities*
- *Tourism and economic development*

#### ***What is working well***

##### *Social and community plan*

Overall, council has a good community focus. The community consultation processes undertaken has underpinned council's planning. Council particularly targets community groups that have an interest in the social and community plan.

##### *Innovative approach to customer requests*

Council has taken an innovative approach to dealing with customer requests. A customer request form is issued to ratepayers with their rates notice. Those customer requests that are returns assist council to:

- Control, monitor and improve the physical environment to secure and maintain the health and well being of the community;
- Be responsive to the needs of the community, especially in relation to health and safety concerns, within existing budgetary constraints, and
- Maintain a record of the areas of most concern to the community during the periods, which can be addressed by council in future management plans.

### *Community feedback*

Council uses a range of methods to obtain feedback from its community. Council consults the community on planning and policy issues. Additionally, council conducts briefing sessions in the community to provide residents with the opportunity to raise and discuss issues directly with councillors and council staff.

Council has a number of section 355 committees that regularly meet and include members from the community. This highlights the council's willingness to involve the community in council activities.

### ***Challenges to improve***

#### *Council's website*

Council has a user-friendly website. There are a number of council policies that would be of interest to the community that are currently not contained on the website. Council should consider providing a list of its policies on its website so that members of the community are aware of the policies that council has developed. Council should consider providing information that assists members of the public to access information under council's policy and information on how to lodge a complaint or comment with council. (*Recommendation 20*).

#### *Customer service standards*

Customer service levels (also known as guarantees of service standards) lay out some key performance standards for the most frequently used services. The highlighting of customer service levels sets a level of expectation within the community, as well as sets guidelines for staff performance. Customer service levels

are different to strategic indicators. They reflect an informal contract with the community in relation to the standards for routine services.

It is important to monitor and report on achievement in relation to service levels to ensure accountability to the community and provide feedback to the council.

Council should develop and adopt a written guarantee of service policy (*Refer to the Management Planning for NSW Local Government Guidelines – NSW Department of Local Government - Recommendation 21*).