

challenges improvement innovation good governance

Promoting Better Practice Program

REVIEW REPORT

NEWCASTLE CITY COUNCIL

February 2008



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

Newcastle City Council Review

Newcastle City Council was asked to complete a strategic management assessment and a comprehensive set of checklists about key Council practices. The review team examined these and a range of other source documents prior to visiting Council in order to gain a preliminary understanding of the pressures on Council and how the Council has sought to manage these pressures.

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?

Mr Dominic Riordan, Manager Investigations and Review, and Senior Investigations Officer, Ms Aleksandra Valda, conducted the on-site component of the review from 4 September to 7 September 2007.

The on-site review involved a meeting with Council's Lord Mayor and General Manager, briefings for Council's senior staff and for councillors, conducting interviews with councillors and staff, attending a council meeting and a review of a number of Council's policies and other documents.

A draft report was provided to Council for review and comment. This final version of the report incorporates some modifications to the draft report. Council's comments have been incorporated into the final report. As a result of Council's comments on the draft report, two recommendations have been modified (parts of one recommendation has been removed and one recommendation has been expanded.) A full copy of Council's response to the draft report has been included in this final version of the report, in section 8.

Council has been asked to prepare an action plan to address the recommendations and to provide the Department with an initial report on its progress by August 2008. Further reports are generally sought from council at six monthly intervals. The submission of progress reports is a standard element of the PBP program.

It is recognised that some recommendations will take a longer period to fully address because of the nature of the issue they address.

It is apparent, from Council's comments in relation to specific recommendations, that it has given serious consideration to some of the issues raised during the review. This is commendable. However, it is also noted that some serious issues raised during the review continue. These have been addressed in the final report in new section 3 – Director General's Comment.

2. EXECUTIVE SUMMARY

Newcastle City Council has started a journey that has been metaphorically described as “the new era”. The trigger for the new era has been the realisation of the extent of the shortfall in spending on infrastructure renewal and maintenance and the willingness by the organisation to respond to this challenge. To this end, Council has engaged independent consultants, Review Today, to identify the extent of Council’s situation and to propose financial management scenarios open to Council in responding. To date, organisational response to identified challenges has involved re-thinking of priorities for the Council, further cuts to the already low back-office costs and an organisational restructure. These have already realised savings of around \$0.5M.

The key challenge Council faces is whether it is committed to realising fully the implications of this change process. Council must realign its strategic orientation, maximise its state of operational readiness and performance and demonstrate a very high level of commitment to change. This is in the context of an elected council that has been in office for approaching four years, and a senior management team, most of whom have also been in their current roles for some years.

Council’s strategic priorities are currently guided by the five principles contained in its management plan: leadership in environmentally sustainable development; city-wide revitalisation; healthy lifestyle; compassionate community; and effective and efficient governance. In order to meet the challenges of the ‘new era’, Council needs to develop a robust strategic plan that will contain a commitment to where the organisation and the community would like the Council to be in the next 10-20 years and how it intends to get there. In the development of the strategic plan, Council should have regard to a number of its existing plans (some under development), such as the Community Plan, the Newcastle City Centre Plan, the LEP, the Environmental Management Plan. Central, too, will be the implications of the Review Today Sustainability Report. Once the strategic plan has been developed, Council’s management plan should assume a more operational role with appropriate measures of achievement.

Council has in place good systems to ensure effective governance, such as its risk management systems, internal audit, practices for assessing contractors' performance, making Council information and documents accessible to the public, management of private and personal information, records keeping and management system. The review report recommends that Council should address some issues raised in this report including management of its committees, and making changes to its annual reporting system.

A key challenge in governance is for Council to improve its meeting procedures. Our greatest criticism in terms of Council's strategic direction and governance systems and practices is in the area of organisational decision making. We saw evidence of failure by some elected councillors to use the meeting effectively and reach decisions that enable the organisation to move forward. We saw evidence of some councillor behaviour directed at other councillors and Council staff that falls short of the required standard, and saw evidence that some councillors appear preoccupied with minor and procedural matters.

In the area of planning and regulatory responsibilities, Council has advanced in the preparation of the draft Newcastle City Centre plan. It processes a considerable number of development applications and has good processing times. Council also has good environmental management and enforcement practices.

Council's financial position is satisfactory. Council is building and enhancing its asset management framework and systems. However, one significant challenge is to appropriately manage the implementation of its enhanced commitment to asset management, including the substantially increased financial commitment to this area. Council should also develop a longer-term financial plan.

Council has in place a sound community plan, an advanced housing framework that includes considerations for adaptable and affordable housing, and has put in place responsive crime prevention initiatives. Council should strengthen its community consultation and engagement policy and its implementation.

As an employer, Council has in place a good human resources policy framework and a good equal employment opportunity management plan. Its occupational health and

safety consolidation project will realise improvements in its performance as a self insurer for workers compensation. It should, however, develop a long-term workforce strategy and strengthen its recruitment and selection policy and practices.

In relation to the savings achieved through the restructuring of the organisation, Council has asked that the following information be included in the final report:

Reference to savings of \$500,000. This was a value that was reported in the June 2007 Quarterly Review specific to the restructure.

Other reportings were:

- June 2006 - \$600,000-operational
- September 2006- \$982,638 -combination of operational + budget surplus
- December 2006 - \$1,990,689 (accumulation of all above)
- March 2007 – nil reported.
- June 2007 - \$3,075,000 (cumulative) including approx \$1m built into on-going base line reductions via annual reserve transfer

The abovementioned amounts are a combination of operational savings and budget surpluses (including contribution from waste).

3. DIRECTOR GENERAL'S COMMENT

The Department has been monitoring the performance of Newcastle City Council in view of concerns that have been received by the Department and issues raised during the review.

The Department's concerns have arisen from evidence of significant conflict within the governing body, and between some parts of the governing body and the organisation. The concerns have been brought to Council's attention through the draft review report. I also note that the Department previously tried to assist Newcastle City Council in late 2005 by providing training to councillors on their roles and responsibilities.

I continue to be concerned about the effective use of Council processes by its officials. Council's apparent inability to appropriately use its meetings and its decision making mechanisms seems to continue.

As I have previously made clear to Council, I expect all councillors to be committed to a high standard of conduct expected of persons in local government. I view with great concern councils that do not act in the best interest of the community. The time and efforts of councillors should be directed to this end, rather than to internal disputes with the organisation.

I continue to be concerned that the present governing of Council does not meet the reasonable expectations the community has regarding councillors' strategic role and suggest that Council does not deal with issues in accordance with its charter. The Promoting Better Practice report has highlighted the continuance of processes and conduct that are below the expected standard.

Every councillor must contribute to the corporate effort to set and achieve the organisational goals and to provide community leadership. Without such contribution and leadership, Council staff have no guidance and cannot function effectively in serving the local community.

The level of the lack of support by its corporate body to the organisation is not building confidence in the capacity of the Council to serve its residents. It also undermines the reputation of the local government sector.

I trust that the recommendations in this report will help councillors work well with the organisation in the interests of the community.

I expect Council to demonstrate in its six-monthly progress report to the Department that Council has given due consideration to all report recommendations and to provide evidence of a marked improvement on the part of all councillors in their understanding and discharge of their role in decision making.

4. RECOMMENDATIONS

Ambitions, Priorities and Future Focus

1. Council should formulate a long-term strategic plan. The formulation of the strategic plan should be the responsibility of the elected body, in consultation with the General Manager.
2. The strategic plan should specify the different responsibilities of the elected council and the administration in order to enable the elected body to focus on monitoring Council's performance with a strategic, rather than day-to-day operational focus.
3. The development of the strategic plan for the City should be supported by a documented project plan that is endorsed by the elected council.
4. In the development of the strategic plan, Council should build on the recent sustainability report and the work undertaken by the organisation since then to act on that report.
5. Once a separate strategic plan is developed, the Management Plan needs to be integrated and focussed on operational delivery of strategically aligned programs and strategies.
6. Council should address the comments made in this report about the content of the key performance indicators in the management plan when next developing its management plan.
7. Council should ensure it uses community survey results as a driver of and measure of improvements in key areas of its performance.

Governance

8. All councillors and designated persons required to lodge written returns of interest should do so in a timely manner.
9. Council should examine the option of placing the Internal Auditor within the Executive Management group of Council to support the independence of this role.
10. Council should consider establishing a system of regular reviews of its legislative compliance.
11. Council should revise its delegations register.

12. Council should re-format its policies so they 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.
13. Council should review clause 68 of its code of meeting practice noting the provisions of Clause 241 of the Regulation and Part 1.4 of the Department's Meeting Practice Note No 16 of November 2005.
14. Council should improve meetings management by examining a better system to record the time councillors spend speaking in debate. Council may consider simultaneously projecting onto a screen, for the benefit of councillors and staff and the public, the wording of proposed resolutions of the meeting as part of its minute taking practices.
15. The Lord Mayor as chair of council meetings should set and enforce clear boundaries around the conduct of debate so that councillors maintain focus on what is being discussed at all times and so that meetings are more effective for the organisation and the community.
16. Council needs to respond to the findings of the review into the management of Council committees as a priority to ensure appropriate actions are taken to address the issues identified. As a first step, Council should revisit its resolution to form the management plan advisory committee as a matter of urgency.
17. Council should take steps to improve its annual reporting in response to comments made in this report.

Planning and other regulatory functions

18. The draft Newcastle City Centre Plan should be adopted as soon as possible to guide the revitalisation of the City.
19. Council should articulate formal procedures for dealing with any conflicts of roles in relation to its activities as a developer and for identifying and managing the risks of its commercial/entrepreneurial activities.
20. Council should consider the benefits of reviewing its dispute resolution policy, together with other changes to its planning system.
21. Council should establish better linkages between its environmental management reporting and other reporting requirements.

22. Council should improve its practices in documenting achievements in environmental management.
23. Council should consider the cost and benefits of a pro-active follow up of registrations for unregistered cats and dogs in its area.

Asset and financial management

24. Council's administration should take the key operational role in developing the proposed long-term financial plan, with oversight and endorsement by the elected council.
25. Council should consider the benefits of adopting a more coordinated approach to the current program to pursue operational efficiencies.
26. Council should ensure it has an overarching asset management implementation plan in place to maximise the effectiveness of its increased commitment to asset maintenance and renewal.
27. Council should review existing business plans for its current business activities with a view to ensuring there are current business plans in place for all key Council business activities.
28. Council should put in place plans of management for all community land as soon as practicable.

Community and consultation

29. Council should review its community consultation and community engagement framework in line with the recommendations emerging from the recent UTS committees review.
30. In the preparation of the overarching strategic plan, Council should have regard to the objectives and strategies identified in the Community Plan and other plans, so that all existing elements that contribute to the strategic vision for the City are brought together in an integrated way.
31. Council should articulate the achievements it is making against the strategies and targets identified in the Community Plan in its Annual Report.
32. Council should consider revisiting its priorities for the economic and tourism development for the City in conjunction with the development of the Council strategic plan.

Workforce

33. Council should develop a Workforce Strategy to align with its strategic priorities, and to cope with the identified pressures it will face such as an ageing workforce, succession issues and changing expectations of younger employees.
34. Council should amend the wording of its secondary employment policy by making it clear that approval for secondary employment must be sought in all cases.
35. Council should review its recruitment and selection policy and practices having regard to the comments made in this report.
36. Council should develop and implement action items arising from the results of its recent employee attitude survey.
37. Council should cease the practice of rotating the General Manager's nominee to the Top Value Consultative Committee, and look to review the committee's performance to ensure it continues to focus on the role it must perform as provided in the Award.
38. Council should better coordinate the process of identifying and coordinating training to meet training needs across the organisation, and should ensure that proper training records are kept on the CHRIS system.
39. Council should establish tools and review mechanisms under the management of the Human Resources area to ensure that appropriate group based induction is being provided for all new staff.
40. Council should review the effectiveness of its performance development system and the links between this system and its salary system.
41. Council should ensure proper reporting takes place on an annual basis on the contractual conditions of its senior staff having regard to the provisions of section 339 of the *Local Government Act 1993* and the matters raised in this report.

5. CONTEXT

Newcastle City Council is responsible for the administration of the second largest commercial centre and port in NSW and the sixth largest city in Australia. It has a population of 146,000 residents and is represented by 12 councillors and a popularly elected Lord Mayor. Newcastle City Council was formed in April 1938 with the merger of Adamstown, Carrington, Hamilton, Lambton, Merewether, Newcastle, New Lambton, Stockton, Wallsend, Waratah and Wickham Councils.

Newcastle is the regional centre for the Hunter region. The Council has an area of 182.6 square kilometres and is bordered by Lake Macquarie City Council to the south, Cessnock City Council and Maitland City Council to the west, Port Stephens Council to the north and the Tasman Sea in the east. The city includes the Port of Newcastle, and includes well-known beaches such as Stockton Beach and Nobbys Beach, either side of the entrance to the Hunter River.

The Awabakal and Worimi peoples are recognised and acknowledged as traditional custodians of the land and waters of the Newcastle area. Following European settlement, Newcastle became a penal station, a coal town and then a steel city. Council has emerged from recent setbacks including the 1989 earthquake, which killed 13 people and caused around \$4 billion in damage, and the loss of steelmaking in the 1990s. Newcastle boasts a University, the John Hunter Hospital and a major coal loader servicing the Hunter Valley coal mining industry. In 2005, this coal loader set an international record for the quantity of coal loaded in a single year.

Newcastle also signals its regional status as the location of major teams in the National Rugby League and the A League (Football).

1.77% of the City's population identified themselves as being of Aboriginal and Torres Strait Islander origin in the 2001 census. The census indicated that 6.83% of residents were from culturally and linguistically diverse backgrounds. The top six overseas birthplace countries were United Kingdom, New Zealand, Italy, former Yugoslavian Republic of Macedonia, Germany and Poland.

The population of the City is relatively young compared to other councils in the state. In 2006 young people (0-19 years old) made up 23.7% of the population. At the same census 15.8% people aged 65 years and over lived in the area.

Jackson's NSW Local Government Population Ageing project ^[1] indicates that in 2004 Newcastle City Council was NSW's 49th oldest LGA and that by 2022 it will be the 90th oldest. Aging population is an issue all councils need to be aware of, and is an issue Council is considering through its various policies and planning models.

The LGA has the workforce participation of 66.9%. This is projected to slightly decline to around 65.5%, by 2022 (but increase in actual size by 5.8%). The top five industries providing employment in 2001 were: education, health and community services (22.5%); wholesale and retail trade (20.7%); finance, insurance and business services (13.9%); recreation, personal services, cafes, etc (11.8%); and manufacturing (11.2%).

The Australian Bureau of Statistics analysis of the household income quartile data for 2001 showed that overall Newcastle featured a greater share of households below the income average for New South Wales, with more than 50% of households in the lowest or medium low groups.

Council has an administration consisting of a General Manager, four Group Managers and around 1,015 staff. The General Manager has been in the position for 9 years. Council's organisational structure comprises four divisions headed by group managers, in addition to the Executive Management and Human Resources groups.

1. Corporate Services (Accounting Services, Information Services, Administrative Services, Public Officer, Management Planning, Communications, Internal Audit, Governance, Business Strategy).
2. City Services (Business Services, Infrastructure Services, City Projects, Waste Services, City Works, Parks and Recreation, Asset Management).
3. Strategic Planning and Development (Development and Building Services, Development Policy and Programs, AMEIF/City Energy and Resource Management, Health and Environment Services, Management and Policy, City Direction, Strategic Planning and Corporate Integration, Urban Planning

and Partnerships, Natural Resource Planning, Social Planning, Economic Development and Tourism).

4. Community Development (Library and Cultural Development, Newcastle Region Art Gallery, Newcastle Regional Museum, Human Services, Community Partnerships, Civic Precinct, Facilities Management).
5. Executive Management (Lord Mayor's Office, General Manager's Office, Council Services Team and Human Resources (Industrial Relations, Learning and Development, Occupational Health Safety and Rehabilitation, Remuneration, EEO)).

Council has a total operating budget of \$163 million, making it the sixth largest council in NSW.

In its response to the draft report Council has advised that Policy and Programs, Management and Policy, City Direction, Strategic Planning and Corporate Integration, Urban Planning and Partnerships, Natural Resources Planning and Social Planning no longer exist and that Strategic and Sustainable Planning and Social Planning have been established instead. This is acknowledged. However, at the time of the review, in September 2007, as well as at the time of the preparation of the final review report, in January 2008, Council's web page, which is one of the significant formal interfaces between the organisation and the public, shows the following corporate structure:

Executive Management

Lord Mayor's Office
General Manager's Office
Council Services Team

The Acting Group Manager of Executive Management is [Graham Clarke](#).

Human Resources

Industrial Relations
Learning and Development
Occupational Health Safety and Rehabilitation
Remuneration
EEO

The Executive Manager of Human Resources is [Belinda Clements](#).

Corporate Services

Accounting Services
Information Services
Administrative Services
Public Officer
Management Planning
Communications

Internal Audit
Governance
Business Strategy

The Group Manager of Corporate Services is [Michael McMahon](#).

City Services

Business Services
Infrastructure Services
City Projects
Waste Services
City Works
Parks and Recreation
Asset Management

The Group Manager of City Services is [Janice Walsh](#).

Strategic Planning and Development

Development and Building Services
Development Policy and Programs
AMEIF/ City Energy and Resource Management
Health and Environment Services
Management and Policy
City Direction, Strategic Planning and Corporate Integration
Urban Planning and Partnerships
Natural Resource Planning
Social Planning
Economic Development and Tourism

The Group Manager of Strategic Planning and Development is [Brent Knowles](#).

Community Development

Library and Cultural Development
Newcastle Region Art Gallery
Newcastle Regional Museum
Human Services
Community Partnerships
Civic Precinct
Facilities Management

The Position of Acting Group Manager of Community Development will be filled by Noelle Nelson (26 November - 13 December 2007; 2 January - 25 January; 9 April - 30 May 2008) and Melissa Dial (14 December - 1 January; 28 January - 8 April).

Council should ensure that its structure advertised on the web page reflects the adopted organisational structure.

In the comments on the draft report one Councillor has suggested that Council administration should brief elected councillors on significant changes to the organisational structure or key personnel. If this is not happening already, this suggestion is supported.

6. COUNCIL'S AMBITIONS, PRIORITIES AND FUTURE FOCUS

This part of Council's assessment focussed on: clear ambition; a focus on communities and services; ownership of problems and willingness to change; a 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.

Strategic Planning

Council's medium-term operations are guided by the strategic component of its Management Plan 2007-2010. However, Council does not have a long-term strategic plan. The absence of the long-term plan undermines Council's capacity to achieve a long term vision for the City and leaves the strategic principles that guide the management planning process open to interpretation every time the Management Plan is revisited and reprioritised and every time a specific development or policy of a strategic nature comes before Council.

In the absence of a longer-term strategic planning instrument, the review team observed that Council's decision making process can tend to be ad hoc, without due regard to Council's stated strategic priorities despite it being apparent that decisions are likely to have a longer-term impact on the City.

One example of this inability to make decisions consistent with Council's longer-term strategic framework for the City was the consideration of the Beach Asset Framework, which came before Council for discussion and adoption at its meeting on 4 September 2007. Council prepared this Framework in consultation with the community, local businesses, councillors and Council staff as the instrument to guide the management of beach assets in the lead up to summer 2007 and beyond. The framework is consistent with Council's commitment to manage its assets effectively and efficiently.

Although the Framework was the subject of broad consultation and urgently needed, the discussion surrounding its adoption in the Council meeting appeared long-winded, and involved questioning some of the basic issues that would appear, based on replies provided to councillors by the Lord Mayor, to have been previously

workshopped. Although the Framework was adopted on the night on the basis of a narrow majority of votes, the overall discussion suggested an inability on the part of the Council as a whole to make a commitment to an important policy framework, as well as a propensity to procrastinate over key decisions.

Another example is a notice of motion that came up for discussion in the Council meeting of 4 September 2007. On this occasion one of the councillors proposed the introduction of a bicycle strip in the middle of the existing pedestrian mall, with a certain speed limit. The suggestion was to make the change immediately in order to encourage cycling. The motion did not give or propose to give due consideration to any implications this may have had on other Council policies, on its enforcement capacity, on the budget and especially on the views of stakeholders.

The strategic plan should offer assurance to the community about the leadership capacity of its elected representatives to local communities. It should provide a description of Council's key direction on local and regional issues; identify Council's role in the achievement of community aspirations; provide an overview of Council's strategic resource implications; and be easy to read. The plan would enable Council to articulate where it envisages it would like to see itself in the long-term and how it envisages it should get there.

Developing and having a commitment to the strategic planning process would need to address all areas of Council operations and, in this manner, should assist Council with the integration and necessary adjustments to a number of its existing specific plans, some of which are of good quality in themselves. A strategic plan would also guide the development of any new plans and detailed strategies.

The formulation of the strategic plan should be the responsibility of the elected body, in consultation with the General Manager. (**Recommendation 1**).

Council has accepted this recommendation, responding in the following way:

A process for developing a long-term strategic plan has been developed by the Administration in accordance with Council's resolution to make such a plan following the 2007 Management Plan process. The Department of Local Government is still developing guidelines for Councils in regard to long-term strategic plans and Council intends to work through that commencing early in 2008.

The strategic plan should specify the different responsibilities of the elected and operational bodies. This would enable the elected body to focus its ongoing role on monitoring operational issues in a strategic, rather than day-to-day operational manner. **(Recommendation 2)**

Council has accepted this recommendation, responding in the following way:

The development of the 2008/2009 Management Plan will be aligned to Council's current strategic priorities and the Management Plan for 2009/2010 will be aligned to the new strategic plan which should be approved by the Council elected in September 2008.

The implementation of the plan should be the responsibility of the General Manager and Council staff.

A significant project such as the development of the strategic plan for the City should be supported by a documented project plan that is endorsed by the elected council. **(Recommendation 3)**. The project plan should clearly define the various roles of councillors, Council staff, any consultants and the community in the process. It should clearly describe what outcomes are expected (e.g. a long term strategic plan and possibly a reformatted management plan – see discussion on the management plan in the text below). Given the scope of the project it will be important that the plan specifies milestones. The project plan should form the basis of monthly reporting to Council on such a critically important project.

In making recommendations about the preparation and adoption of the strategic plan, due to the timing of the review and the fact that the next local government election is due in under a year, the review team is aware that it may be appropriate for the newly elected Council to oversee the adoption of a new plan after September 2008. However, it is important that the current Council takes note of this discussion in reflecting on its own approach to issues for the remainder of the council term.

The review team is also mindful of the recent sustainability report and recommends that Council should build on this work and the work undertaken by the organisation since this time should be reflected in the new strategic plan. **(Recommendation 4).**

Council has accepted recommendations 3 and 4, responding in the following way:

A detailed project plan will form the basis of the long term strategic plan and will be available for discussion by Council in early 2008.

The Review Today Report and its findings will be incorporated into the process for developing the strategic plan.

Management Plan

Council's Management Plan operates as its strategic plan, a role that the management plan is not readily suited to perform. This is because the management plan has a life of only three years, whereas existing thinking is that a strategic vision should ideally have a life of at least ten years. Further, the management plan is a highly operational document, and is therefore not well suited to articulate in appropriate detail both the high level strategic direction of a council as well as its detailed programs for the coming year. Consistent with remarks elsewhere about the need for Council to develop a separate strategic plan, the Management Plan needs to take a more operational focus. **(Recommendation 5).**

Council has accepted this recommendation, responding in the following way:

The development of the 2008/2009 Management Plan will be aligned to Council's current strategic priorities and the Management Plan for 2009/2010 will be aligned to the new strategic plan which should be approved by the Council elected in September 2008.

The Management Plan sets out a detailed vision and five strategic priorities. The review team understands that these were determined by the elected council early in its term, but were not reflected in the Management Plan until 2006/2007.

Council's Strategic Priorities are:

- Ecologically sustainable development

- City-wide revitalisation
- Healthy lifestyle
- Compassionate community
- Effective and efficient governance.

Strong aspects of the Management Plan include its outline of service level variations, which give snapshots of changes in services, and the inclusion of strategic framework information.

Within each of the five priorities are a number of key actions and key performance indicators. The review team considers that this area of the Management Plan is not well constructed and requires major attention. Issues for rectification include:

- The lack of key performance indicators for many of the key activities within each strategic priority. For example in ESD Leadership, one priority is to reduce greenhouse gases, but there is no KPI related to this.
- The lack of key performance indicators that measure anything beyond 'busyness' – there are few that could be said to measure effectiveness, efficiency or economy. For example in Healthy Lifestyle, there are only two KPIs and one relates to reporting quarterly on visitors to inland pools, which is in no way related to any of the priorities in the area.
- Failure to use the community survey results as key performance indicators (see below)
- Lack of integration of the Management Plan with other key planning documents such as the State of the Environment Report or the Social and Community Plan
- Very little attention given to the organisation itself in the Management Plan. There are virtually no activities or KPIs under Priority 5 (Effective and Efficient Governance) that could be said to relate to what Council is aspiring to achieve as an organisation. There are no KPIs related to Council's high level financial performance, for example. Many of the KPIs are metrics relating to regulatory activities, thus focussing on what staff are doing not what the organisation wants or aspires to become.

Council has been in the practice of conducting annual community surveys, and reports on aspects of these in its five program areas. However, there does not appear to have been any attempt to build on community survey results as possible key performance indicators. Community survey results can be an effective driver for improvements in key areas, and the review team recommends that Council not only address the comments made above, but gives the use of community surveys results further consideration when next developing its Management Plan. **(Recommendations 6 and 7).**

Council has accepted recommendations 6 and 7, responding in the following way:

Key Performance Indicators will be reviewed and incorporated into the next Management Plan using the Australian Business Excellence Framework.

Hunter Valley Research Foundation Community Survey results have been included in Management Plan discussions over many years. A survey was not commissioned in 2007 due to the amount of information and opinion available about the infrastructure question in particular. A new survey will be commissioned in 2008 for incorporation within the Management Plan discussions.

Council has also asked that the following comment be included in the final report:

NCC considers there are a number of high level internal and external KPIs that warrant consideration in assessing Council's performance:

Internal

- The Executive Overview attached to the Quarterly Management Plan review reports on both high level corporate and financial KPIs, as well as working capital and reserve adequacy. Qualitative and quantitative support is also reference in the financial and strategic overviews.

- Local Government Financial Health check is presented to Council in concert with the external audit presentation. Council receives the "green light" for the majority of indicators.
- Application for Special Rate Variation (SV1) - Ministerial approval suggests that Council satisfied Departmental requirements in assessing Council's detailed application.

External

- Standard and Poor's - the reassigning of Council's AA+ rating which attaches a very strong capacity on the organisation to meet its financial obligations.
- External Audit Report - Unqualified interim and final reports. References strong unrestricted current rates and cash holdings. The presentation to Council referenced a strong financial platform from which to address the infrastructure backlog.
- The Review Today Report - referred to Council's very strong balance sheet and Access Economics referred to Council's financial governance as sound.
- Council received solid sustainability rating in the recently published Fiscalstar financial assessment on NSW councils.

7. 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.

Overview

7.1 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*
- *Monitoring and review*
- *Access to information*

Ethics and Values

Code of Conduct

Following consultation with councillors and staff, in January 2005 Council adopted as its code of conduct the Model Code of Conduct released by the Department of Local Government. The code's values are conveyed to staff and councillors in induction

training, by placing it on its intranet site (the Novo Pulse) and to members of the public by having the Code placed on Council's website.

Council has several policies that support the model code by defining appropriate and transparent conduct by its officials and that guide relationships among employees, between Council officials and members of the public and between employees and elected members.

The code of conduct is also made available to tenderers and contractors, together with a Statement of Business Ethics. The review team encourages Council to make the full use of the provisions of the Code of Conduct in dealing with any instances of inappropriate or unsatisfactory conduct.

Management of pecuniary interest

The *Local Government Act 1993* sets out the parameters 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.

Newcastle City Council maintains a register of disclosure of interests returns by councillors and designated persons, as prescribed by section 449 of the Act. Council's code of conduct outlines a process for disclosures in Council and committee meetings. This provides the foundation for managing conflicts of interest and pecuniary interest by council officials.

The review team conducted a review of the 2005/06 written returns of councillors and designated officers. While most returns were completed correctly, we identified a number of minor non-compliances in some councillors' returns. Some of the non-compliances included property interests not declared correctly. Of greater concern was the fact that three returns had been lodged late and one of those being late by a considerable period. The review team will be referring this matter to the Director General to consider administrative action against the Councillors in question.

In summary, while the return forms appear to always give a transparent and complete statement of the interests and other matters as prescribed by Part 8 of the Regulation, persons required to lodge a written return of interest should make sure they do so in a timely manner. **(Recommendation 8).**

Council has accepted this recommendation, responding in the following way:

The administration will issue reminders as usual and all Councillors and senior staff are aware of their responsibilities in this matter.

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 is about systematic identification, analysis, evaluation, control and monitoring of risks.

While risk cannot be entirely eliminated, councils should aim to establish a risk aware culture and to continually work towards establishing structures, processes and controls that cost effectively reduce the council'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 team examined the way council seeks to manage risk. Our discussions with various senior staff and Council's Internal Auditor disclosed a high level of risk awareness, both insurable and uninsurable, at the business enterprise and operational levels. We saw evidence of recent exercises that identified various project and operational risks, and subsequent work on risk analysis and controls. Council is using the risk-e-map matrix, which is a Statewide Mutual product. On the basis of the identified number of hazards, risk likelihood and consequence, risks in different areas are ranked as extreme (i.e., requiring immediate action), through high, moderate, to low (managed by routine procedures).

Broader organisational risks are identified and managed by individual sections of Council, with assistance and guidance by the Internal Auditor, and not reported at the corporate level. We have been informed that a similar exercise to that conducted on operational risks is planned at the strategic planning level. We suggest that Council could use the strategic planning process to identify organisational level risks as well as to consider the risk management strategies. This would allow for the establishment of trends and treatment strategies that would be subject to review and control at the executive level.

Overall, the review team was satisfied with the level of risk awareness and actions being taken by the Council in this area and would recommend Council's risk management framework to those councils that are deficient in this area. We were concerned about the quality of some of the data, however, we noted that Council was dealing with this by working with the operational areas to provide assistance in the form of training and ongoing consultation and refinement of data to overcome quality problems.

Internal audit

Internal audit and control provides for 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 being followed.

Council's Internal Auditor has been in the position for eight years now and in that time has made a considerable contribution to the establishment of controls of Council systems. The Auditor conducts three types of audit work: assurance, advisory and investigative.

Council has an Audit Committee. The Committee is comprised of the Lord Mayor, three councillors, two independent members, Council's External Auditor, the General Manager and Group Manager Corporate Services. The Lord Mayor is the Chair of the Committee. The Committee has key responsibilities for the oversight of Council's internal controls, governance, risk management, internal audit and external audit. The Committee meets five times a year - four times to consider various planned

audit activities, and once a year to consider Council financial statements. This is good practice.

Audit planning is based on the objectives of efficiency and effectiveness of Council operations and resources, reliability of information, compliance and safeguarding of assets, including financial assurance (this is the role of the external auditor). Audit planning process is guided by the Council's strategic priorities, management plan objectives and community and staff surveys. The plan has identified and risk analysed 170 auditable areas. The review team found Council's practices with respect to internal control commendable.

While the Internal Auditor informed the review team that the position reports directly to the General Manager, we have noted that the organisational chart does not reflect such independence. It shows the Internal Auditor's position reporting to the Group Manager Corporate Services, as one of the corporate services sections. We suggest that this be corrected, as it is good practice for the Internal Auditor's position to report to the General Manager directly, as well as to the Audit Committee. If the position is located in any of the Council divisions, the independence of advice regarding the operations of that division is compromised. In this area perceptions can be as important as reality. **(Recommendation 9)**.

Council has accepted this recommendation, responding in the following way:

The Internal Auditor has always had direct access to the General Manager and the Lord Mayor if necessary. The current reporting arrangements are for administrative convenience and were put in place when the number of direct reports to the General Manager were eight in number. In the last 18 months senior manager numbers have been reduced by 25% and it is now feasible and practical to have the Internal Auditor reporting directly to the General Manager. This is a matter for the new General Manager to take up.

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 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 draft fraud control and corruption resistance policy which, at the time of the review, was due to be workshopped with the elected council before adoption, as well as the accompanying more detailed fraud control and corruption resistance plan and procedures for staff to use. We commend Council's commitment to internal controls and recommend that the policy and procedures be workshopped and adopted.

Protected Disclosures

Protected disclosures are an important means by which councils can signal 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.

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.

Council does not have a formal protocol for systematically identifying and reviewing its compliance obligations, but 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 should examine the rigour of its existing practices to ensure regulatory and legislative compliance and consider establishing a system of regular reviews of its compliance in this area. **(Recommendation 10).**

In response to the draft review report Council has indicated it would consider this recommendation in the future, as the resources may be an issue.

Discussions have been held internally with regard to general governance requirements involving the Legal Services Co-ordinator, the Internal Auditor, the Risk Manager and the Governance Officer. This matter will be further discussed and recommendations reported to Council if resourcing is an issue. Council needs to balance the requirement for reviewing legislative compliance with an outcome focus on service delivery.

The Department encourages Council to give serious consideration to the long-term savings in resource utilisation if a system for ensuring legislative compliance was established, possibly from within the existing resources. Council may wish to consult with other councils that have such systems in place.

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.

Council has an electronic register of delegations which is available on Council's intranet site where each staff member can check the delegations relevant to her or his position. The review team observed that the register is static, is in a table form, and lacked some useful features such as enquiry and reporting systems as well as a system for regular updating of the register. We have been informed that Council is looking at overhauling the system currently used. We recommend that Council proceed with the revision of the delegations register having regard to the aforementioned issues. (**Recommendation 11**).

Council has accepted this recommendation, responding in the following way:

This is already under way in the Risk Management section of Council. |

Policies/protocols/strategies

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

Council has a comprehensive suite of policies, which are available on the intranet site as well as on the Council website, which is available to the public. Some of the policies and protocols the review team was impressed with are the complaints handling policy; affordable housing strategy; economic development strategy; the greenhouse action in Newcastle plan; and the suite of human resources policies. Some of these policies and strategies are discussed elsewhere in this report.

However, in order to promote a better understanding by all elected members of their overarching strategic and policy making role, the review team recommends that Council consider the benefits of reviewing and re-formatting its policy suite so that relevant Council 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. (**Recommendation 12**).

Council has accepted this recommendation, responding in the following way:

Discussions with regard to clarity of Policies, Committee responsibilities and other pertinent issues are a priority for the Manager of Strategic and Sustainable Planning in the Strategic Planning & Development Group. The number of policies within Council requires rationalization and review to ensure implementation capacity and priorities are clear and in line with Council wishes. Officers will request the Department to highlight some best practice models for the administration to investigate and present to Council.

The Department will be pleased to refer Council to good existing best practice in this area.

Decision making processes

Council meetings

A key document covering Council's decision-making is its code of meeting practice. Council's code of meeting practice was last reviewed in December 2004. Council's code of meeting practice incorporates the provisions of the Local Government Act, and the Regulation relevant at the time the code was last reviewed, as well as having supplementary provisions that relate to Council's own circumstances.

The review team observed that, in addition to the list of items to be dealt with in a meeting and notices of motion, the meeting business paper contains a 'general business' section that provides for questions without notice. This is supported by clause 68 of Council's code of meeting practice. Clause 68 allows for items of significant public interest, councillor public statements on matters considered of high importance and urgent requests for information from Council staff to be considered under general business.

The provisions of clause 68 of the Council's code of meeting practice appear to be inconsistent with Clause 241 of the Local Government (General) Regulation 2005, which allows only for the following business to be transacted at a meeting of the Council:

- *“business that a councillor has given written notice of within the required time before the meeting (clause 241(1)(a)) and of which notice has been given to councillors (section 367 of the Local Government Act 1993)*
- *business that is already before the Council or directly relates to a matter that is before the Council (clause 241(2)(a)). For example, business that was discussed at the last Council meeting or business in a report made by Council staff in response to an earlier Council request for a report*
- *the election of a chairperson for the meeting (clause 241(2)(b))*
- *a matter raised in a mayoral minute (clause 241(2)(c))*
- *a motion to adopt committee recommendations (clause 241(2)(d))*
- *business ruled by the chairperson to be of great urgency (clause 241(3)) but only after a motion is passed to allow this particular business to be dealt with. This motion can be moved without notice.”*

The provisions of clause 241 of the Regulation make clause 68 of the Council’s Code of Meeting practice outside the provisions of the legislation.

We recommend that Council review clause 68 of its code of meeting practice so that it complies with the provisions of Clause 241 of the Regulation and Part 1.4 of the Department’s Meeting Practice Note No 16 of November 2005. **(Recommendation 13).**

Council has commented on this recommendation in the following manner:

Council will discuss this review in accordance with a report to Council on the Code of Meeting Practice “and add the details of Clause 241 and Part 1.4”.

As the legislation uses the language to the effect that “a council must not transact business at a meeting of the council”, except for the business described in clause 241, the Department suggests that Council should amend clause 68 of its Code, rather than keeping the clause that is contrary to the legislation and adding the provisions that are consistent with the legislation.

In the meeting we attended on 4 September 2007 we observed some confusion around the application of the five-minute time limit for councillor contributions to debate arising from the microphone request system. It seems that the time allocated

to a councillor begins to elapse from the moment the person presses the request button, rather than from the time the person actually starts speaking. Council should look at resolving this problem by employing a better timing system. Council may consider to simultaneously project onto a screen, for the benefit of councillors and staff and the public, the wording of proposed resolutions of the meeting. **(Recommendation 14).**

Council has offered several comments on this recommendation, which have all been accepted and appropriate modifications made in the final report. Council has commented as follows:

Council Services Unit is investigating alternative systems and costs for improving meetings management in the Council Chamber “including simultaneous projection of resolutions”.

All Council Minutes are currently available on the website. A check will be done to ensure that these are clearly posted to avoid any confusion.

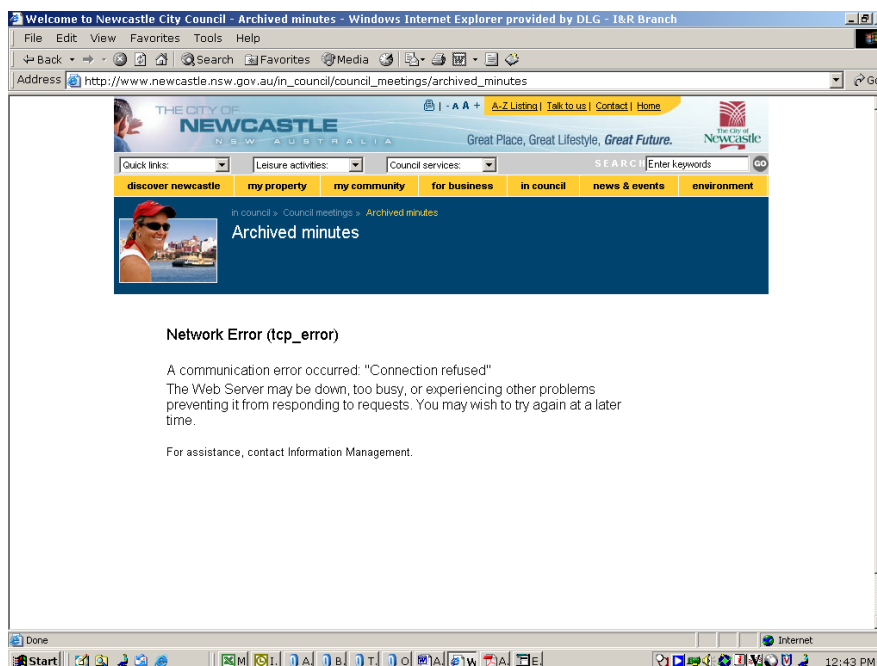
Regarding the time for address, Council has commented with section 39 of its Code of Meeting Practice and concluded that Council has mechanisms in place to properly manage and observe councillors’ addresses at Council meetings.

The departmental comment was about a possible ‘glitch’ in the otherwise well thought mechanism that projects the time of a person who is supposed to speak from the moment the person registers the intention to speak, rather than from the time the person actually starts talking. This may disadvantage some speakers.

The Department accepts the suggestion by one Councillor that it may wish to explore the cost of the simultaneous projection of resolutions onto a big screen. The recommendation in the final report has been modified.

The Department accepts the correction suggested by Council that minutes of past Council meetings are available on its website. This part of recommendation 14 has removed from the final report. However, the Department acknowledges the observation by some councillors that minutes of the past meeting should be made

easier to access. In addition, the review team experienced repeated difficulty in accessing archived minutes.



This is something Council may wish to consider improving.

Council held 19 ordinary and 9 extraordinary meetings in 2005/06. The number of extraordinary meetings is high, and this appears to be a cause for concern. We note that some extraordinary meetings related to urgent development and other matters. However, business papers of the nine extraordinary meetings indicate that at least three of those meetings were called because Council was unable to complete its business in the course of the ordinary meeting. Two additional extraordinary meetings were called because Council could not make a decision in previous ordinary meetings about awarding tenders (tenders are discussed further elsewhere in this report).

This goes to the strongest criticism of Council as an elected body made to the review team: the propensity not to use the meeting time effectively, and to fail to resolve issues in order to enable the organisation to move forward. This appears to be due to the elected council's preoccupation with minor and procedural matters and due to lack of focus in the debate.

In the meetings we observed, the Chair went to some lengths to facilitate consensus among participants. While we appreciate this is a difficult area to regulate, we suggest that this style of chairing may not be the most appropriate method for managing meetings. Where all participants do not seek consensus, a more rigorous approach to enforcing good behaviour standards and the rules of debate is required. While we observed some good practices, including going through the agenda quickly and noting matters where debate is not required, we suggest that some firm conduct and debate boundaries should be set so that clarity about what is being discussed is maintained at all times and so that meetings are more effective for the organisation and the community. **(Recommendation 15).**

Council has accepted this recommendation, responding in the following way:

Councillors have discussed this aspect and agreed that chairing of meetings should be formalized and Councillors should act accordingly.

Committees of Council

Section 355 committees are an important way in which Council exercises its functions. Council has 23 section 355 committees and 24 other advisory committees in place.

Various Council internal audits and discussions with Council staff reveal evidence that there have been instances of a lack of understanding of the legislative provisions for the management of pecuniary and non-pecuniary interests by committee members, in spite of the training provided by the Council.

Some Council staff expressed frustration with what was described as committees trying to dictate Council's operations, which may be contrary to the Management Plan. Issues of overlaps and duplications between the various committees were also raised. Some committees have an unknown status. There were also concerns expressed to the review team that some committees are not truly representative of the community they purport to represent but comprise the most vocal community members.

In response to these and other problems, Council engaged an independent consultant to review the roles, responsibilities, operating framework and practices of its advisory committees, recommend steps for improvement and explore possible alternative approaches to community engagement. In particular, the review was to:

- clarify the rationale for advisory/section 355 committees and their purpose (expert advice, communication, consultation, functions under the Act, etc)
- consider whether there is a better model to achieve the desired purpose of committees
- determine the model which best suits Newcastle City Council and the impact of keeping/changing current practice in relation to committees.

The review made a number of immediate and longer-term recommendations that were presented to the elected council on several occasions.

We commend Council for conducting the review of its committees and of its committee management. Council needs to respond to the findings of the review as a priority to ensure appropriate actions are taken to address the issues identified. **(Recommendation 16).**

Council has accepted this recommendation, responding in the following way:

A report to Council is scheduled for 27 November 2007.

Since the draft review report was submitted to Council, the Department was made aware of the previous Council resolution to establish a management plan advisory committee made up of interested councillors and community members chosen by the elected council. This new advisory committee is expected to:

- *“develop, monitor and review the annual management plan, budget and all budget centres;*
- *prioritise areas for continual improvement, including suggestions from individuals, all community forums and the business chamber and other groups;*
- *be actively involved and provide direction for the quarterly budget reviews;*

- *evaluating the effectiveness and efficiency of agreed key aspects of council operations and giving feedback;*
- *report back to the elected council as required with recommendations for Council's direction."*

The Department is concerned with both the strategic aspect and operational nature of the terms of reference for this proposed committee.

In terms of strategic management, some of the roles of the elected council are to:

- direct and control the affairs of the council in accordance with the Act;
- participate in the optimum allocation of council resources for the benefit of the area
- play a key role in the creation and review of council's policies and objectives;
- review the performance of the council and its delivery of services, and the management plans and revenue policies of the council.

The above council resolution seems to duplicate the role of the elected council making the committee more executive than advisory.

On the operational level, the review of the performance of specific budget centres and review of council operations may give that role to persons who are neither elected nor appointed and may not be entitled to full access to business and personnel information in Council's possession.

Some of the terms of reference also appear to duplicate the responsibilities of Council's audit committee.

Finally, one of the recommendations of the draft review report has been for Council to respond to the findings of the review of its committee structure conducted by the UTS Centre for Local Government as a priority to ensure appropriate actions are taken to address the issues identified. This review should revisit the proposal to form yet another committee. I therefore expand the above recommendation (16) to read:

“Council needs to respond to the findings of the review as a priority to ensure appropriate actions are taken to address the issues identified. As a first step, Council

should revisit its resolution to form the management plan advisory committee as a matter of urgency.”

The Department notes the comments by one Councillor that the committee review and the departmental report are the opportune time to align the committees with what the Council has been trying to achieve.

Councillors/staff interaction

We have already mentioned the comprehensiveness of Council's policy for the interaction between councillors and staff and detailed guidelines for this interaction.

Council policy appears to be in the spirit of the *Local Government Act 1993*, addressing issues such as public interest, reasons for decisions to refuse access to information and the possibility of the review of decisions. The policy also clearly defines the concepts of ‘advice’, ‘record’ and ‘official duties’.

The accompanying guidelines specify contact persons (mainly senior staff of the Council) to whom councillors may direct specific enquiries and requests. Council records inspected by the review team and discussions with councillors and Council staff have not revealed any alarming number of actions by either councillors or staff that would be contrary to these policies and guidelines.

Most councillors and all council staff interviewed during the review demonstrated an understanding of the delineation between the roles of elected councillors in strategic management of the organisation, and the day-to-day management responsibilities of the General Manager and Council staff. However, the review team was also made aware of the frustration felt by some Council staff with some councillors’ efforts to bypass the designated channels of communication, resulting in duplication of efforts to respond to some issues. This is something that should be monitored and dealt with should it become a cause for inefficiency, especially at a time when the organisation’s operations are guided by the need to function in an as ‘lean’ as possible manner in order to achieve efficiencies in every area.

Formal tenders

Councils' obligations in relation to formal tenders are regulated under section 55 of the *Local Government Act 1993* and Part 7 of the *Local Government (General) Regulation 2005*. These provisions apply to contracts with a value of \$150,000 or more. Tendering, procurement, contract management and asset disposal activities should be governed by considerations of probity, transparency and accountability in the expenditure of public funds for public purposes.

The review team assessed two randomly selected tendering files, and this revealed that Council policies, practices and procedures meet good practice standards and a high level of public accountability. The files assessed demonstrate proper documentation of the process and demonstrate the application of ethical principles for the selection and evaluation of tenders and communication with tenderers.

The files assessed highlight the ethical principles the Council has followed for the selection and evaluation of and communication with tenderers, as well as for documentation of the process.

However, the review team is concerned with two recent instances of the elected council seeking to extend the tender selection criteria at the time of approval. For example, following the due tender process, in its meeting of 6 March 2007 Council resolved to award a contract for the supply of unleaded petrol and diesel fuels for its plants and vehicles operation to Shell Australia, through a company by the name of Strategic Purchasing. The tender was based on the criteria of price, quality assurance, service coverage and experience. The proposed provider's environmental standards were also considered. The resolution reached a tied vote, with the Lord Mayor exercising his casting vote for the resolution.

Subsequently, Council received a rescission motion from a group of councillors on the basis of inappropriate action with respect to human rights by the management of Shell Nigeria during the protests in that country in the early 1990s. Councillors requested that Council form a sunset committee of interested councillors to review the environmentally sustainable development provisions of the Council's procurement policy and incorporate in that policy considerations of tenderers' ethics

and social responsibility, including tenderers' history as responsible and ethical employers.

At the meeting of Council of 3 April 2007 the motion was deferred to allow for all councillors to be present. In the meantime, Council continued with a less favourable purchasing scheme by extending the existing contract. This matter was deferred again at the Council meeting of 13 April 2007 and again at the Committee meeting of 1 May 2007. The rescission motion was discussed in a Council meeting of 15 May 2007 and defeated, with Council's decision of 6 March 2007 being upheld.

The main criticism we have in relation to this exercise is the attempt by some members of the elected body to change Council policy by including additional tender criteria at the back end of the process when the matter was presented for adoption, while there was plenty of opportunity to request a review of Council policies between 2004 when the new Council was elected and 2007 when this particular tender was voted on. We also note that the tender criteria requested by the rescission motion were not asked for during the consideration of the tender proposals considered by the Council between 2004 and 2007. This is another example of the elected council becoming bogged down in ad-hoc decisions due to an apparent lack of strategic orientation.

Statement of business ethics and management of contractors

A statement of business ethics is a form of statement aimed at raising private sector awareness to public sector values. This is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector.

Council has a statement of business ethics that covers key issues around the values Council stands by and what contractors need to be aware of in doing business with Council. The review team was assured that this statement, together with a copy of the Council's code of conduct, is provided to all persons conducting business on behalf of Council.

Council has a policy for the management of contractors. The policy identifies acceptable standards of ethics, emphasises value for public money, Council's image,

conflict of interest, safety and other contract performance criteria. Council also has a procedure for monitoring and evaluation of contractors' performance. The assessment criteria include issues such as time management, standard of work, quality systems, communication and reporting, OHS&R management, as well as, if applicable, management of subcontractors, management and suitability to site personnel, management of industrial relations and environmental management. The review team commends this practice.

Monitoring and review

Annual & Quarterly Reporting

The review team examined Council's annual report for 2005/2006 and found that it generally complies with the statutory requirements.

However, we found that Council provided limited information on the comparison of the actual performance against projected performance of its principal activities measured in accordance with the Management Plan (in accordance with section 428(2)(b) of the *Local Government Act 1993*). The annual report merely refers the readers to the June 2006 quarterly report (which it wrongly states is annexed to the annual report). This only partially meets the requirements, given quarterly reports are more of a management than public accountability tool.

We also found only limited information was provided in relation to the total amount of bonus payments, performance or other payments that do not form part of the salary component (clause 217(1)(b)(ii) of the Regulation).

There is evidence that Council is receiving the required quarterly reports in relation to the implementation of the management plan. It receives monthly financial reports on the budget.

While Council is generally meeting its statutory reporting obligations, changes to the management plan discussed elsewhere in this report provide Council and the community with the opportunity for much improved reporting. They should be matched by improvements to annual reporting to address the issues outlined above.

(Recommendation 17).

Council has accepted this recommendation, responding in the following way:

Production improvements to the Annual Report are underway and will be in place for the 2008 Report.

Access to information

Access to information by members of the public

Councils are required to make certain documents available for inspection free of charge under section 12 of the *Local Government Act 1993* 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 three months of access being refused.

Newcastle City Council has a commendable 'open access' policy for public access to Council information. The policy has broad application and is supported by a procedure that assists Council staff, especially front counter staff, to locate all documents that are to be publicly available pursuant to section 12(1) of the Local Government Act.

As a matter of principle, all 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.

Management of private and personal information

Council has a commendable policy on the management of private and personal information in all areas of its operations. Following the commencement of the *Privacy*

and Personal Information Protection Act 1998, Council has considered the application of the new legislation to the collection, storage, access, use and disclosure of relevant information contained on public and other registers. Council wrote to all residents informing them of the commencement of the new legislation. It has also participated in the development of the Hunter Councils Personal and Privacy Information Management Procedures. Council staff received relevant training in privacy provision as well as ongoing advice as the need arises.

We found plenty of evidence of Council's continued compliance with legislative requirements with respect to management of documents containing private information. For example, Council makes available to the public the brochure titled "Protecting Your Privacy". In addition, there is a 'Privacy Notice' on display at all community visit points. Advice on why personal information is required and how it is going to be managed is contained on a number of relevant forms, such as the development and construction certificate application and appointment of a principal certifying authority.

Record keeping and management

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.

Council uses DataWorks as an electronic records and document management system. The system is integrated with Microsoft Word and Outlook and has the ability to easily accept all kinds of electronic files. Paper records are scanned and recorded in the system.

Council also has a comprehensive policy framework for indexing and filing documents, document registration, tracking, disposal of records, records security and periodic file census. However, the review team observed that inconsistent file naming protocols have made some Council records difficult to locate.

However, an internal audit exercise found that the implementation of the Council's record keeping policies is not standardised and recommended that management

take appropriate steps to ensure compliance by individual staff with the requirements of the State Records Act and Council policies.

7.2 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 regulatory practices including:

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

Council's planning section is headed by a group manager and is functionally divided into sections dealing with development and building services, development policy and programs, AMEIF/City Energy and resource management, health and environment services, management and policy, city direction, strategic planning and corporate integration, urban planning and partnerships, natural resource planning, social planning and economic development and tourism. Although Council's social planning function sits in the Strategic Planning area, it is discussed in the Community and Consultation module of this report due to the thematic nature of the review report.

There are several vacancies across all sections in the strategic planning area. Some management level vacancies occurred due to the recent Council restructuring that affected the strategic planning section.

Council 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 (LEP) and development control plans (DCPs), under regular and periodic review.

As discussed earlier in this report, the strategic aspect of Council's Management Plan does not currently provide for a good integration of its various plans. Forward land use strategic planning is a critical part of this process.

The lack of this orientation towards strategic development in Council places more importance on Council's planning instruments. In practice, this means that Council's LEP becomes not only an underpinning component of the organisation's strategic planning regime, but the key strategy in itself. To this effect Council participates in the City Centres program, together with Penrith, Parramatta, Liverpool and Wollongong Councils. The draft Newcastle City Centre Plan is the result of this joint planning work between the State and the City of Newcastle. This plan should be adopted as soon as possible to guide the revitalisation of the City. **(Recommendation 18)**. City-wide revitalisation has been identified as one of the key strategic priorities for the Council.

Council has advised the Department that this plan was adopted on 9 October 2007. This should be reported as a completed item in the action plan that Council will be required to submit to the Department after the final report has been tabled.

The review team encourages Council to continue with the review of its strategic planning instruments and policies so that the organisation is positioned in a way that it will enable it to respond to any future scenarios.

Council's current Local Environmental Plan was gazetted in 2003. Council is in the 5 year category for the development of a new template LEP and seems to be progressing well towards this framework.

A significant component of this review process is the move towards e-planning, which Council is considering at the moment. This will provide customers with site and use-specific planning information. The review team encourages the Council to continue its work in this area.

Council as developer

As landholders, councils should be mindful that they may have a conflict of roles when dealing with planning and development matters that may impact on their own holdings and those of parties with which they engage in commercial land dealings. Councils should ensure that they manage the risk inherent in undertaking developments that have commercial objectives/components.

While we do not suggest Council has not followed a transparent process in the past when such issues have arisen, we recommend that it articulates formal procedures for dealing with any role conflicts in relation to its activities as a developer and for identifying and managing the risks of its commercial/entrepreneurial activities. **(Recommendation 19)**. Such processes would help ensure that such matters are dealt with consistently and appropriately.

Council has advised that it has adopted this recommendation.

Defined procedures for guiding Council's decision making in relation to its entrepreneurial activities would assist in differentiating between its entrepreneurial and operational activities, provide for the identification of relevant risks and document the key decision points, which may include:

- the initial decision to undertake development on council owned land
- the decision to rezone land
- the decision to subdivide land
- the assessment of development application/applying conditions of consent
- the decision to sell land
- the valuation of land
- enforcing conditions of consent/certification of development
- calculating and applying developer contributions and levies and providing infrastructure.

Where Council is the developer, Council should consider adopting a policy that provides for independent assessment or peer review as a minimum response.

Development assessment

Council handles a considerable number of development applications (DAs) – 3,016 in 2004/05 and 2,228 in 2005/06, compared to the NSW average of 789 (2004/05) and 705 (2005/06). The average development application processing time is 51.1 calendar days (52.9 in 2004/05); the median processing time is 23 calendar days.

Council provides comprehensive and easy to understand advice to the public about the development application process (“Six step guide for preparing a development application”) as well as pre-lodgement advice to applicants.

Council’s application of the ‘stop the clock’ provisions of the Environment Planning and Assessment Regulation (clauses 109-112) is consistent with the legislative provisions.

Council has a system for monitoring progress and turnaround times for DAs. Reports on processing times are reviewed monthly. According to Council, 97% of development applications are determined under delegated authority.

Council has a dispute resolution policy, which is dated 1999. Council may wish to consider the benefits of reviewing this policy, together with other changes to its planning system. (***Recommendation 20***).

Council has accepted this recommendation:

The review is to be scheduled in 2008 as part of the performance requirements of the Group Manager Strategic Planning & Development. A review of all planning procedures is targeted and will be done in the context of State legislative change by an independent consultant.

Environmental management

The review looked at the 2003 Newcastle Environment Management Plan and the 2005/06 State of the Environment Report (SOE). Both documents were found to be detailed, addressing environmental sectors required by the legislation. In addition, Council has expanded the mandated section with the following:

- Community based natural resource management

- Weeds and feral animals
- Coast
- Estuary
- Energy and Greenhouse
- Bushfire
- Land contamination
- Transport.

The report uses an innovative format comprising:

- Current situation
- Issues
- Indicators
- Actions
- Future directions.

This is considered to be a useful format that facilitates the understanding of those matters that Council considers to be the key issues in environmental management. Such format could easily be adopted by smaller councils with limited resources. The only weakness of this reporting format is that in some areas it is not readily apparent what progress has been made over the previous years.

The linkages of the State of the Environment (SOE) Report and Council's Annual Report are by way of a simple referral in the Annual Report to the requirement for an SOE. The Annual Report does not list environmental achievements.

The linkages with the Management Plan could also be improved. While the Management Plan is clear about a generic range of environment projects under the section Ecological Sustainable Development, it is again necessary to go to the SOE for the detail. This linkage is not clear.

Overall, the review found evidence that Council contributes significant resources to environmental management.

Areas for improvement include better linkages with other reporting requirements **(Recommendation 21)** and better documentation of achievements. **(Recommendation 22)**.

Council has accepted this recommendation:

It is acknowledged that a better outcome focus could be developed and linkages specified. This will be incorporated into the continuous improvement program already underway.

Support by some councillors for these recommendations is noted.

In the area of environmental management, the Department notes the comments by one Councillor about the long time it has taken for the administration to develop the urban forest policy and that nothing has happened with the strategic review of the waste management services which council resolved to conduct two years ago. The Councillor claims that these matters were raised with the departmental representatives but were excluded from the draft report.

The departmental records of the review contain no record of these criticisms which would have been raised with the administration at the time of the review. When asked about the issues that Council could do better, the Councillor had a couple of general criticisms, but no specific issues to raise. Some of the general issues raised include:

- resistance to ideas for change;
- first response by the administration seems to be to deny;
- poor strategic direction by elected council'
- good guidelines that tend not to work if people are not committed;
- poor public image of Council some 8 years ago.

Enforcement

In the exercise of their functions under the *Local Government Act 1993* and other relevant legislation, councils are required to ensure compliance and, where necessary, take enforcement action.

Councils must deal with allegations of unlawful and non-compliant activities in an appropriate manner. This includes dealing with prohibited or unauthorised activities; and activities that are contrary to the terms of a consent, licence, 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 perception of councils.

The enforcement practices of councils must be resolute and demonstrate fairness and transparency. They must reflect the position taken by the council regarding particular issues. An enforcement policy must deal with the manner in which the council will carry out its functions, the procedural steps that may be involved, the circumstances in which council will institute court proceedings and the manner and circumstances when discretion may be exercised.

Newcastle City Council has a good enforcement and prosecutions policy. The policy follows the enforcement guidelines prepared by the NSW Ombudsman and appropriately provides a number of tests in the determination process to guide enforcement personnel's decision making. This practice is commended.

Council takes a risk approach to determining its enforcement priorities. There are regular, pro-active monitoring programs for areas identified as higher risk (e.g. septic systems). Other areas are addressed in a responsive manner (e.g. food premises, where the regulatory monitoring is in the process of being returned to the NSW Food Authority).

There is evidence of information sharing between various sections of Council around specific issues. For example, one of the major compliance problems Council is facing at present is the unauthorised use of trail bikes in the reserves around the Summerhill Waste Management Facility. Council's enforcement section has been addressing this problem in cooperation with the facility staff and the reserve management section. The outcomes of the compliance section work are informing relevant Council educational programs.

The review team was advised that elected councillors refrain from getting involved in enforcement matters.

Swimming Pools

Private swimming pool safety is managed well for new developments, but reactively for older pools. In this regard, Council has adopted the risk management approach and relies on information received on suspected non-compliance with 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 consider the benefits of establishing a planned swimming pool inspection program, with the associated shift of resources to this area.

Companion Animals

Newcastle City Council was one of the first councils in NSW to develop a companion animals management plan. Council also has a companion animals management committee.

Seized animals are handed over to the RSPCA who are bound by the *Companion Animals Act 1998* in terms of the regulatory provisions for the minimum holding period and for trying to find alternatives to euthanasia of unwanted animals.

The review team notes the report generated by the NSW Companion Animals Register shows that there are 7112 cats and 9754 dogs in the Council area that are identified only (microchipped) and not registered. We understand that the data contained on the Register are not perfectly accurate. However, this is still a large number of unregistered animals and a potential source of income for the Council to conduct its companion animals management activities, considering that the current lifetime registration fee for an entire animal is \$150. Section 10B of the Act provides that if a companion animal that is required to be registered is not registered, the council of the area in which the animal is ordinarily kept may give the owner of the animal a notice, in the approved form, requiring the owner to register the animal within 28 days after the date the notice is given.

While we understand that Council currently dedicates its companion animal management resources to areas of the highest risk, such as dangerous dogs and management of restricted breeds, we recommend that Council consider the cost and benefits of a pro-active follow up of registrations for unregistered cats and dogs in its area. (**Recommendation 23**).

Council has advised that this recommendation has been accepted.

7.3 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 aspects of Council's practices in the areas of:

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

Overview of financial position

Council is in a satisfactory financial position. It has a strong balance sheet, with low debt and other financial liabilities and low interest payments.

Council has reported deficits before capital but surpluses after all activities for the last three years. In 2005/2006, Council reported a deficit before capital of \$1.567M but a surplus after all activities of \$4.513M. The main reasons cited by Council's auditor for the reduced surplus (down from \$6.353M the preceding year) were increased employee costs, borrowing costs and materials and contracts costs, and a decrease in grants and contributions.

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 2005/2006 financial year the UCR was 2.64 whereas for 2004/2005 and 2003/2004 it was 2.27 and 2.24 respectively. This ratio is considered to be satisfactory. A good UCR is greater than 2, whereas a ratio of 1.5 to 2 could be of concern if other indicators are not adequate.

The Debt Service Ratio (DSR) in 2005/2006 was 1.80%. This is down from 3.09% in 2003/04. 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 good.

The Rates & Annual Charges Outstanding Percentage (RACO%) in 2005/2006 was 5.11%, a decrease from 5.22% in 2004/2005 and 5.55% in 2003/2004. 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 29% of requirements in 2005/2006, up from just 18% in 2003/2004, and is a direct and appropriate response to Council's awareness of the impact of its ageing workforce.

Council was granted a 9.95% ongoing special variation to its rates income in 2007/2008 for infrastructure rehabilitation and renewal. This is intended to fund about 25% of the program (which is discussed in greater detail below). Council has also this year introduced a stormwater charge in line with recent amendments to allow councils to fund works in this area by adopting such a charge.

Financial Planning

Council does not have a current financial plan, but does use a 10 year financial model as part of its management planning process. For the purposes of demonstrating Council's long term financial thinking, the model is acknowledged as a valuable tool. However, it is not a user friendly tool and it is difficult for anyone other than a financially literate reader to establish the assumptions that underpin the model. It has the look and feel of an internal working document.

As noted earlier, Council has already determined to develop a long term financial plan, and the review team supports and endorses this decision. Council's resolution states that the councillors will lead this process. It is of course the elected council that must review and endorse the plan, but at this stage, Council staff should be charged with developing a plan consistent with the direction implicit in the decisions Council has already taken about its priorities. ***(Recommendation 24)***.

Council has advised that this recommendation would be undertaken as part of the long-term strategic planning (recommendations 1-5 above).

Asset Management – Context

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.

Council's condition of assets as reported in its last financial statements (2005/2006) is as follows:

- Written down values – roads bridges and footpaths 58%
- Written down values – stormwater and drainage 53%
- Cost to bring to satisfactory standard \$105,000,000
- Shortfall between estimated and actual maintenance \$375,000

Council's understanding of and commitment to resolving the issues associated with the effective management of its assets is substantial and ongoing. It was already reflected clearly in the strategic priorities identified by the current Council in 2004 and reflected in Council's Management Plan. Council also has an established Major Asset Preservation Program.

In 2006, it commissioned Review Today Pty Limited to conduct a review and to report on Council's financial sustainability. The terms of reference for the review were to assess the state of Council's infrastructure, estimate the cost of fixing and renewing that infrastructure, explore expansion of infrastructure and services under different spending and revenue scenarios, and to identify non- revenue raising measures that might assist in this work.

In summary, the review found that Council faces a \$134 million infrastructure backlog and faces a \$630 million bill for infrastructure renewal over the next 20 years. The review found the community wants better footpaths, nature strips, roads, parks, gardens and the like, but only 39% are prepared to pay more for it.

The review found that Council's existing spending on infrastructure could be funded under the three revenue raising options examined, but that this would worsen the

backlog and not fully meet future renewal needs. The review noted that increased borrowings are an option to meet the backlog.

The review recommended that Council should develop an appropriate long term spending, revenue, savings and borrowings strategy using Review Today's findings to overcome the city's infrastructure crisis. The review recommended that Council should review and update its 10 year financial plan.

As a consequence of this report, Council sought and obtained the special rates variation outlined above, as well as resolving on 12 June 2007 to proceed with the development of a long term financial plan as recommended in the report. Council has also continued to work on identifying savings to support an increased commitment to spending on infrastructure. Council has also recently resolved to borrow \$10 million to support its infrastructure program.

The Review Today report included four independent benchmarking exercises on Council's overall work practices and performance, and these resulted in a conclusion that Council was "reasonably efficient and effective". An Overheads Analysis showed Council at below the average for other councils and other entities of this size. Council is nevertheless seeking to identify ongoing savings. This year's budget identified savings from the areas of training, back office costs, overheads and through staff restructuring.

Council is pursuing the approach of seeking efficiencies by establishing a Continuous Improvement Schedule to list and track initiatives to reduce administrative costs. Savings from these initiatives are directed into a special reserve to assist with the asset renewal program. This has identified savings in short-term areas such as printing, and in the medium term through the conduct of service reviews and new service delivery models for pools, libraries and beach facilities. Council should look to maximise the effectiveness of this process by considering whether its existing approach, which is commendable, should be made less ad hoc, and more coordinated (by for example setting targets across groups and divisions, developing incentives for savings etc). **(Recommendation 25).**

Council has advised that this recommendation would be undertaken as part of the long-term strategic planning. Specifically:

This will also be incorporated in the development of the long-term strategic plan and will be carried out within the Australian Business Excellence Framework so that links between strategic intent and delivery outcomes are clear and aligned. Resources within the Organisational Performance and Business Strategy section have already been adjusted to ensure adequate focus and advice is available to Council as it develops its strategic plan.

Asset Management System

Council is moving to fully realise a comprehensive asset management system and framework, but makes it clear that this will not of itself make up for what the Lord Mayor describes as “a hundred years of neglect”. The review closely examined Council’s arrangements in this area. Council devotes significant resources to maintaining a strong asset management system. Key features include:

- Oversight by an Assets Advisory Board, with councillors and senior staff overseeing decisions in relation to asset strategy, asset acquisitions and disposals, infrastructure renewal and maintenance issues
- Up to date registers of assets including asset identification, valuation and condition assessments and links to mapping information for ease of identification
- A program of regular condition assessments of assets
- A system for identifying and prioritising works identified as a result of condition assessments inspections.

As part of the Review Today review, there was an Asset Management Review conducted by GHD. This found that Council’s system was close to best practice, identifying scope to improve in some areas including:

- Asset data requirement definition
- Realignment of management information
- People strategy
- Managing service levels and customer expectation
- Asset management planning.

Council considers that it is already moving to address a number of these areas. For example there is work underway on rationalising condition ratings. Others would only be adopted if there was a satisfactory business case for them.

While there is no single comprehensive plan in place that Newcastle City Council can point to as evidence of an 'Asset Management Plan', it has a clear understanding of the scope of its asset management challenge and an emerging and integrated strategy to respond to that challenge.

The review team commends Council for its fulsome attention to the issue and its commitment to deal with the issue. What Council must be mindful of in implementing its increased commitment to asset issues is to effectively plan the reallocation of resources in this direction. What Council has decided to do will require careful implementation to ensure that Council's increased funding to assets is spent efficiently. Council should ensure it has an overarching implementation plan in place to deal with this risk. (**Recommendation 26**).

Council has adopted this recommendation and advised that the plan should be commenced in early 2008.

Council business activities

For Council to effectively plan and monitor its business activities, it is important that Council invest time and effort into systems to promote good risk management and control. Councils should ideally ensure they have for each business activity:

- performance indicators
- investment hurdles and cost/benefit analyses
- regular risk management reviews and
- probity checks to ensure appropriate balance between Council's role as business owner/operator and any regulatory or other roles.

Councils should develop business plans for all of their business activities that incorporate and build on this information.

The review examined a number of Council businesses, and it was apparent that Council has some level of business planning in place for its various business

activities. Council has also developed a number of service delivery models to assist it in managing key assets. Council advised it has a plan or strategy either in place or being developed for each of its key strategic property holdings.

However, it appears that some of these have been developed to respond to specific issues and challenges, rather than as a part of a broader commitment to business planning. For example, the Summerhill Waste Facility Business Strategy was developed some time ago in responding to a new regional waste facility. The Stockton Beach Tourist Park Business Plan is also several years out of date. Both documents as planning tools have many good elements, but are of questionable relevance on an ongoing basis.

The review team recommends that Council ensures there are current business plans for all key Council business activities. **(Recommendation 27).**

Council has adopted this recommendation:

Business Plans for Category 1 and 2 businesses will be updated during 2008. These include Summerhill Waste Management Centre, Stockton Caravan Park, Beresfield Golf Course and Parking Stations.

Council Investments

With current fluctuations on international capital markets, there has been recent attention on the exposure of councils to losses arising from some investment products. We sought to clarify Council's exposure. Council advised that it has some exposure to Collateralised Debt Obligations, including \$2.5 million in holdings of Federation CDO. Council is of the view that despite paper valuations of this holding currently showing a return of 0.39c in the \$, the security is an AAA rated investment supported by insurance protection. It has a maturity date of 2012, which Council considers reassuring given current instability in the markets. Council is continuing to monitor this exposure on a weekly basis. There is no suggestion that this investment is at odds with Council's investment policy.

Rates hardship issues

Council has an established policy for assisting ratepayers having difficulty meeting their rates obligations. Council has a rates assistance panel to oversee this policy.

Council has made provision for potential increased demand for rates assistance following the significant increases in land values coming into effect in the 2007/2008 rates year. Of note is the option of Welfare Agency Support, which is an innovative option arising from negotiations between Council and a number of agencies to redirect ratepayers to support services. The assistance option involves up to \$200 per annum in vouchers issued by Council and redeemable against rates liability.

Newcastle Airport

Council has achieved significant success through its investment as a joint partner with Port Stephens Council in Newcastle Airport. The Airport has proven to be a profitable enterprise, returning Council a profit of \$1.7 million last year. Council has a policy of reinvesting all profits, which is appropriate for a capital-intensive operation of this kind. Aircraft movements have grown considerably, and Council's main income stream has been from parking fees.

Self insurance

Council self insures for workers compensation, a move that has allowed Council to achieve significant savings on insurance premiums. However, as a self insurer, Council is subject to rigorous audits by the NSW WorkCover Authority, and was found to have failed the recent self insurer audit. As a result, Council has had to undertake a significant project to consolidate its systems for OH&S management, which is discussed in greater detail in the following section of this report.

Community Land

The *Local Government Act 1993* requires that councils classify public land under their control as either community land or operational land. Councils cannot sell community land, and cannot lease, license or grant any other estate over it for more than 21 years. Councils must manage community land in accordance with a plan of management adopted by the Council.

Councils do not have to prepare a plan of management for operational land. Nor are there any restrictions on councils selling or granting leases, licences or other estates over operational land.

The review team notes that Council does not have plans of management for all of its community land. Council has identified about 15 parcels of land that fit into various sub categories of the natural area category and is working to put plans of management in place for these parcels. Council should put these plans of management in place as soon as practicable. (**Recommendation 28**).

Council has accepted this recommendation:

All plans of management for community land were completed when the legislation was first introduced. A progressive review has been put in place but it should be noted that there are generic plans of management for certain issues which cover all areas of community land such Heritage, Sportslands, Playgrounds, Neighbourhood, Bushland.

7.4 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 methods Council uses to involve and determine the views of its community*
- *Social and community functions of Council*
- *Cultural planning*
- *Principles of multiculturalism*
- *Reporting to the community and keeping the State government informed about its activities.*

Community consultation and engagement

Under section 8 of the *Local Government Act 1993*, a council has the charter to facilitate 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.

There are a number of processes by which Council can work with its community to provide the best possible services and facilities using available resources in the most efficient and cost effective manner. These include meetings of Council and of community consultative committees, the management planning process, inviting submissions and comments and placing material on exhibition and inviting public

comment. Councils must appropriately engage their communities and, where necessary, comply with specific statutory consultation measures.

Ultimately, however, as a locally elected body, Council represents the overall views of its local community, and is the appropriate body to make decisions on behalf of the community on important local issues. In this sense, consultation and engagement are related to processes designed to increase the quality of Council decisions.

Community consultation and engagement issues appear to be significant issues at Newcastle City Council. It was apparent that a number of issues before the elected Council were vigorously debated, largely around the question of whether consultation with the public had been adequate.

For example, in the Council meeting the review team attended on 4 September 2007, one of the items on the agenda was the adoption of the draft Newcastle City Centre Plan. The business paper submitted to the elected council and to members of the public contained, among other things, an attachment summarising all consultation undertaken by Council with respect to this project (23 instances of consultation, including workshops with councillors, exhibition, reference panel meetings, community forums, and a public workshop). Yet the discussion in the Council meeting evolved around the feeling by some councillors that there had been insufficient public consultation. The resolution reached was to conduct a further series of public workshops before the plan could be discussed by Council again for possible adoption. This suggests elected Councillors felt that 23 consultation events were insufficient to lead to the planned outcome.

In the absence of a strategic commitment to the development of the City Centre by the elected council, or to the consultation strategy that would specify the minimum number and the form of consultation, the fact that the Plan presented to Council for adoption was the result of comprehensive work between the Council and the State, as part of the City Centres program, that it attempts to respond to at least three of Council's espoused strategic priorities, and that the community was involved to a certain extent in the development of this plan, had little bearing on the decision made on the night of the Council meeting.

Community engagement in Council decision making is also apparently an area where the community consistently does not rate Council's performance very highly. In the October 2006 Community Survey, Council has a rating of 3.0 for Community involvement in Council decision making, its third lowest score in this segment of the survey. Similar returns were recorded in the 2005 and 2004 surveys.

Despite evidence this is an area where Council's performance is seen as lacking, there appears to be a somewhat ad hoc approach to addressing the issue. We asked about whether Council's existing Consultation Policy and Guidelines (last reviewed in 2000) were being reviewed, or whether other action was being taken. We understand a review was to occur in 2004, but this has not taken place as yet.

Evidence gathered during the review suggests that while the policy is of a good standard, application of the policy is somewhat sporadic. There are limited resources available to Council to support the policy through training, and there appears to be no clear system to ensure that the relevant officer responsible for community consultation is routinely involved in ensuring that it is adhered to in the planning and implementation of all relevant projects.

Council appears to have made a number of so far inconclusive steps to review this area, including a decision to review community engagement, which became a service review of community forums, which itself was not completed. Council has recently commissioned a report by the University of Technology, Sydney (UTS) into its committee structure, and this, we understand, includes several recommendations to revisit Council's community consultation and engagement.

The review team recommends that Council review its community consultation and community engagement framework in line with the recommendations emerging from the recent UTS committees review. The review should include:

- Review of Council's policy
- Training for councillors and staff on its terms
- Establishment of a system to ensure that the policy is considered and applied for all relevant projects where consultation/engagement mechanisms are appropriate

- Provision for ongoing monitoring for compliance. (**Recommendation 29**).

Council has advised that it has specifically discussed and adopted the response to the effect that this work has been underway for some time and that a report to Council has been scheduled for the second quarter of 2008. One of the key issues Council has identified in its whole consultative framework is the need to get a truly representative consultation. Council is currently analysis other successful consultative models applied in other councils.

Community and social planning

Council's current *Community Plan 2006-2010* meets the legislative requirements for social/community plans. The plan is well structured, readable and meaningful. However, as with Council's other plans, it is difficult to directly link the actions in the Community Plan with broad strategic directions contained in the Management Plan.

The Plan contains information concerning extensive consultation undertaken in its development. The plan also includes additional target groups, including men. The Plan is reviewed annually. There are appropriate committee structures in place to do this.

As for the integration of the Community Plan with the Management Plan, there are no clear linkages between the strategies contained the Community Plan and the delivery of those strategies or the key performance indicators formulated through the Management Plan. As Council completes its overarching Strategic plan, it should have regard to the objectives and strategies identified in its Community Plan (and other plans), so that all existing elements that contribute to the strategic vision for the City are brought together in an integrated way. (**Recommendation 30**).

Council has advised that it accepts this recommendation and that extensive work has already been done in this area following the creation of the Strategic Planning & Development Group.

Council's Annual Report does not include an access and equity statement. Council reports on community related activities in a narrative form, without references to the Community Plan and with no references to the achievements against the Plan.

Council would benefit from articulating the achievements it is making against the strategies and targets identified in the Community Plan in its Annual Report. ***(Recommendation 31).***

Council has advised that it agrees with this recommendation and that it will be implemented from 2008.

In addition to the Community Plan, Council has in place several other plans, such as the Disability Action Plan and Cultural Framework 2005-2010.

The Framework identifies a number of objectives linked to the strategic principles in the Management Plan, and strategies for achieving those objectives in the form of programs and services. The Framework recognises that cultural objectives can only be achieved in partnership with the community and other levels of government.

One criticism we have is that the reporting against the Framework objectives in the Annual Report is vague and does not readily allow the reader to make a comparison between the different programs and services targets and the achievements against those targets. This should be addressed as part of efforts to improve the annual report.

Council has a Senior Novocastrian policy that demonstrates a planned corporate approach to the expanding numbers and the diverse capacity of future senior citizens. The policy provides guidance in the provision of services and facilities by Council. The implementation of the services is considered through the management planning process. The review team commends this Council practice.

Housing framework

As part of its commitment to the city-wide revitalisation, healthy lifestyle and compassionate community, Council has an impressive housing framework. The framework, while realising that housing is mainly a State Government responsibility, addressed Council's role and opportunities in housing planning, research, education, advocacy and consideration of innovative housing responses.

The scope of Council's housing framework is defined in several other planning documents, such as the Newcastle Urban Strategy 1998, Newcastle Environmental Management Plan 2003 and Newcastle Community Plan 2006-2010. The key principles of the housing framework are: liveable (safe, friendly, attractive, efficient); ecologically sustainable (optimised land use, waste minimisation, energy efficiency); accessible (higher density, consideration of special needs housing and availability of public transport); and adaptable housing.

The adaptable housing principle is one of the innovative responses, at the Council level, to the issue of an ageing population. While the forecast for Newcastle City Council with respect to an ageing population is more favourable than the remainder of the State, it is commendable that Council is considering the issue.

Adaptable housing encourages the development of properties (owned or rented) that can be easily modified or retrofitted, at a lower cost, as the occupants age, without the need for them to relocate. This may entail issues such as:

- house elevation to allow for an easy addition of ramp access
- issues of manoeuvrability (e.g. the construction of wider doorways to enable the passage of wheelchairs, having the toilet far enough from the wall)
- the construction of stronger bathroom walls in case a rail would need to be added at a later stage.

Council's activities in the promotion of adaptable housing have been in the areas of developer and community education and the encouragement of the development of a framework for the provision of such housing in partnership with a number of other agencies and organisations. At present, the concept of adaptability features in Council's Newcastle Development Control Plan 2005, and in the Royal Newcastle Hospital Site. In addition, the Council advises that the Building Better Cities Housing Management and Development Committee is exploring the feasibility of reducing Council charges where development applications relate to the modification of a structure for adaptable housing.

Newcastle City Council was one of the first councils in NSW to have developed an affordable housing strategy. In this strategy Council does not see itself as the agency that is primarily responsible for the provision of affordable housing, but considers a range of housing solutions and Council's role, as well as constraints, in the provision of affordable housing. Some of the roles Council has considered in the provision of affordable housing are: direct provision, placing requirements on developers and providing incentives to developers.

In the consideration of various approaches to affordable housing, Council has considered the appropriate legislative framework (for example, State Environmental Planning Policy No 70); its possible roles in research and advocacy; incorporation of affordable housing into Council's system and decision making practices; provision of infrastructure and services that create an environment that encourages affordable housing development and opportunities; lobbying other levels of Government to develop and implement policies that would facilitate the provision of additional affordable housing by developers.

Council employs a housing officer and prepares an annual housing report to the community. The report addresses issues such as housing occupancy and ownership, residential land supply, access to services, adaptable housing, housing cost and stress, as well as homelessness data.

Crime prevention initiatives

As part of the Safer Towns and Cities program, an initiative of the Crime Prevention Division of the Attorney General's Department, Council has developed a Crime Prevention Plan for the City. The plan has been developed in consultation with and under the guidance of relevant stakeholders, including Police Local Area Commands, other relevant Government and non-Government agencies, schools, youth council, Indigenous and CALD organisations, mainstreet committees, the Chamber of Commerce and Council officers. The Plan identifies and prioritises a number of relevant crime-related issues, such as alcohol and drug related crime, personal safety in public places and vandalism.

In response to identified issues, Council has developed some strategies for preventing the causes of crime. One such strategy is the recently adopted liquor serving curfew after a certain hour in Newcastle CBD. In connection with the limits on liquor serving hours in licensed premises, Council is working on the integrated transport strategy for the CBD, including additional train and bus services and a supervised taxi rank in the area. The review team commends Council for its crime prevention initiatives.

Council as a provider of community services

Council provides a range of community services. It owns and operates one long-day care service; two family day-care services are coordinated by the Council but operated by contracted agencies. Council also owns nine long-day care facilities operated by other providers. Further, Council owns and operates a number of community and neighbourhood centres. Some smaller halls are managed by Council committees.

Council encourages multi-use and intergenerational approach to the way its facilities are used.

Council is constantly evaluating the adequacy of the services provided and conducting regular needs analyses.

Council's role in economic development

Council has identified that it has a role in facilitating economic development for the City. In 2000, as part of the Hunter Region Economic Development Strategy (Hunter Advantage), Council developed a comprehensive Economic Development Strategy following an extensive consultation process. Similarly to other well considered Council plans and strategies, the Economic Development Strategy only considers those matters where Council can add value and where it is appropriate for the local government agency to make a contribution to the economic development of the city and the region. Tourism has been seen as a driver for the broader economic development.

Since the development of the Strategy, in light of the changes in the industrial environment in the region, changed organisational priorities and the resulting organisational restructuring, Council may wish to revisit its priorities for the economic and tourism development for the City in conjunction with the development of the Council's overall strategic plan. **(Recommendation 32.)** Should Council decide to articulate its strategic approach as a 'triple' or 'quadruple' bottom line (Council strategic priorities reflect this approach without making specific reference to it), it may wish to consider including the economic perspective to its strategic framework.

Council has advised that it accepts this recommendation and that it will be implemented together with recommendation 30 above.

Council's Economic and Tourism Development Manager is also clearly aware of the need for his team to work closely with other sections of Council.

7.5 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:

- *Human resources strategy*
- *Consultative committee processes*
- *Recruitment and selection processes*
- *Staff development*
- *Grievance management*
- *Occupational health and safety*
- *Secondary employment*

Overview of the organisation

Newcastle City Council currently employs 1015 full time equivalent staff. Council is organised around the General Manager (to whom the Human Resources area directly reports), and four Group Managers in the areas of Corporate Services, City Services, Community Development and Strategic Planning and Development. About half of Council employees work in the City Services Group.

Council operates under its own award, the Newcastle City Council Award 2006. Under Commonwealth workplace legislation, this award constitutes a Notional Agreement Preserving a State Award, or NAPSA. The NAPSA has a life of three years.

Council has an ageing workforce, with 481 employees (headcount) aged over 44 and only 64 employees aged under 25.

Council has recently restructured by amalgamating its City Strategy Group into the Development and Environment Group. Council has also recently restructured its Human Resources area. The restructure in Human Resources followed recognition that it was not delivering the services needed by the Groups. The restructure has

focussed on moving away from a compliance-based approach to servicing operational needs. Business partners now service the needs of the Groups.

This review has identified a significant range of challenges in this area of Council's operations. However it is apparent that in many cases these issues have already been identified and are being addressed by Council, including by its current Acting Executive Manager Human Resources. What is also important to recall is the need for Council to establish some clearer outcomes and some better measures for the progress of the organisation within its management plan, having regard to criticisms of this earlier in this report.

Council comments on the workforce module in the draft report

In relation to the recommendations in this module (recommendations 33-41), Council has agreed to seek the Department's clarification as to whether the elected council or the administration should implement the recommendations.

The Department reiterates the advice provided to council by the Acting General Manager at the extraordinary meeting when the adoption of the report was discussed. 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 councils 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 would therefore be inappropriate for elected councillors to make decisions regarding staff appointment, working conditions, or have access to specific employee details or information.

The Department assumes that, in light of the above distinction and some minor changes made to the factual information in the Occupational Health and Safety chapter, Council accepts the recommendation made in this module.

Workforce planning

All councils are exposed to a number of workforce issues, such as:

- the shortage of specialised skills in certain areas, such as in the area of planning
- an ageing workforce
- a change in workload for certain sections as Council's and government priorities change (such as the shift at Newcastle City Council towards increased focus on asset management)
- increases in career opportunities outside the area.

All councils should develop a long-term workforce plan that looks at the staffing needs of each section of Council and allocates staff according to workload and priorities. The long-term plan should also address the issues of:

- Council's ageing workforce
- the provision of a plan of succession for key positions, and
- increase opportunities for apprenticeships, cadetships and traineeships to address these concerns.

A workforce plan can integrate and guide Council's overall human resources effort, particularly in the areas of recruitment and retention and staff training and development. The key is to ensure that, consistent with the Council's view on the future direction of the organisation, planning is underway to support that direction at the human resources level. Such a strategy is a key part of effective modern strategic management. Its importance is underlined by the requirement to report annually in the management plan on Council's human resource activities (section 403(2)).

Council does not have a current workforce strategic plan. Council's most recent workforce plan was for 2003 – 2005 and was described as "under review". This plan was not strategic in intent, but constituted a workplan for the Human Resources area of Council, outlining operational targets in the HR area. The plan referred to a People Plan adopted in 2002, but the status of this plan could not be determined by the review team.

Council has two current workforce planning strategies, the Ageing Workforce Strategy and the Aboriginal Employment Strategy. However, this is clearly not

enough. Again, the Ageing Workforce Strategy, while containing a worthwhile set of actions, is more of a workplan and contains no actions the due date for which is later than 2006. As such, it has seemingly expired.

As noted in the discussion on asset management issues, Council is in the process of change and it must ensure that it is working to cope with and maximise the benefit of this change. Council should develop a Workforce Strategy to align with its strategic priorities, and to cope with the identified pressures it will face such as an ageing workforce, succession issues and changing expectations of younger employees. **(Recommendation 33).**

Human Resources Policies

Council has an extensive suite of human resources policies. Of the 45 policies sighted, 5 were under review. The policies are on the whole up to date, with most dating from between 2003 and 2006. Some are, however, dated from 1998 – 1999 and are therefore out of date. The general layout of policies is simple and includes a date of adoption, line of authority and reference to associated forms.

The review team did not review all policies, but closely examined several. While the range of policies is commendable, some confusing overlap was apparent. For example, Council has an Eliminating Workplace Harassment Policy and an Equity Diversity Respect Complaint Resolution Procedures document. Both cover the same issue and the fact that the former, older policy has not been withdrawn creates a risk of confusion. The separate but related Respect Policy cross-references the later policy document but not the former. This is something Council should rectify.

Council's secondary employment policy was also somewhat confusing in its wording. It states the employee's obligation is to *give notice* (rather than apply for consent) to the General Manager where proposed secondary employment conflicts with Council business or might conflict with the person's Council duties. However, the General Manager clearly has the right to refuse consent, where the General Manager determines the employment conflicts with Council business, or might directly or indirectly conflict with the employee's Council duties, or with the employee's function, duties or responsibilities at Council. This is a different test to the one applied to the employee when determining whether to give notice. Again, this inconsistency is best

rectified by making it clear that consent must be sought (rather than notice given) and ensuring that approval must be sought in all cases. **(Recommendation 34)**. Notwithstanding this, the Secondary Employment Policy commendably provides some questions for the employee to ask about what issues can arise in assessing conflicts. This is good practice.

Recruitment and Selection

Council clearly has some issues in the area of recruitment, based on the results of the EEO survey that revealed only 54% of staff surveyed felt that recruitment processes were fair. This is a very worrying outcome and calls for prompt attention.

Council's recruitment policy is out of date and in need of review, and this has been identified as a key task. The broad policy is to fill vacancies using existing employees wherever suitable. The Department accepts the right of councils to give some degree of preference to existing staff. However, selection must be based on merit and merit is much easier to determine where a competitive field is available. Council's new policy should make it clear what "wherever suitable" means. It does not mean, for example, that a single potentially suitable internal applicant constitutes a suitable 'pool' such that external advertising is not necessary.

Council's new policy should also make it clear that unless acceptable reasons exist to explain why it should not do so, panels should seek a reference from an applicant's recent supervisor. **(Recommendation 35)**.

The review included an examination of two recruitment processes. Both involved positions that were advertised externally. The general standard of the files was fair. Records exist that go some way to establishing merit based decisions. But several gaps were apparent:

- There was no record on either file to make it clear why some candidates were called for interview and others culled other than scoring on matrix tables.
- Not all selection committee members' cull matrix tables were on file and on both files, the panel members' details were not located on the sheets.

- There were no records on either file to support the selection of preferred candidates, and on one file, the notes made during the interview of the preferred candidate could not be located.
- In one case, there was no evidence of reference checks being made.

Council's review of recruitment and selection should include a review of recruitment record keeping and sample reviews of files by Human Resources to ensure record keeping is adequate to support decisions.

Employee Attitude Survey

Council most recently conducted an employee attitude survey in May/June 2007. The survey covered a range of issues including understanding of Council direction, understanding of role, support in role and understanding of role in overall context, communication, sense of purpose and security in role. Results are only now being finalised. Council is yet to reach the point of prioritising actions arising from the findings of the employee attitude survey, but this is planned to occur over coming months, and the review team strongly recommends this occur. (***Recommendation 36***).

Consultative Committee

Where 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 his/her nominee/s) should represent Council on this committee.

Newcastle City Council has a Top Value Consultative Committee. The name refers to a previous management improvement initiative, "Top Value", which has long since ended. Perhaps it is time the name of the consultative committee changed to reflect this.

The Committee meets monthly and is chaired by a Group Manager as the General Manager's nominee. The chair rotates among the Group Managers. The recently commenced chair is Ms Janice Walsh, Group Manager City Services.

The review team spoke to management and staff representatives on the committee, and there was a common view that the TVCC is not working particularly well. Comments made suggested that the agendas tend to reflect individual staff issues rather than broader issues. There were claims of delays in 'getting things done' due to the General Manager's lack of direct involvement.

There appears to be a case for changes to the operation of the TVCC. The role of the General Manager's delegate is a key role, and the review team is not convinced that rotating this role is consistent with the need to develop and maintain an effective decision making culture and a consistent approach to issues. Either the General Manager should join the committee, or her nominee should cease to rotate on a six monthly basis. Noting this was last done about 2 years ago, Council should also again review the constitution and agenda of the TVCC to ensure it continues to focus on the role it must perform as provided in the Award. **(Recommendation 37)**.

Training

Councils have learning and development obligations to staff. Councils cannot achieve their objectives without a properly trained workforce. Council staff in specialised roles are often required to maintain certain qualifications/complete refresher training in order to be allowed to carry out their work. Ensuring staff are appropriately trained is a key requirement in any OH&S system. Councils need to ensure staff have the required qualifications/training.

Newcastle City Council makes provision for learning and development in its Award, with a focus on this through the performance development system. Council was in the process of developing a broader organisational training plan at the time of the review. Key priorities for corporate training include OH&S, a program on developing managers and refresher training on the roles of each of the groups. It is important that the corporate training program is also consistent with training priorities identified in other corporate initiatives, such as the EEO Management Plan.

Council has a training course guide that provides information on a broad range of learning and development opportunities. Nevertheless, equitable access to training was identified as an issue in the recent employee attitude survey. There appears to be a weakness in current arrangements for managing learning and development. Having placed reliance on the performance development system, it is not apparent that the Human Resources area is necessarily able to act on the outcomes of performance development system reviews. Hence, opportunities to identify training needs that exist across the organisation can be missed. This is an issue Council should address. Council should also ensure that proper training records are kept on the CHRIS system. **(Recommendation 38).**

It is pleasing to note that Council provides centralised corporate induction. This is done over two sessions and covers issues such as:

- Councillors and organisational elements
- HR Business Partners
- Award and conditions
- Novopulse Intranet
- Performance management
- Key communication issues.

The induction process is currently under review. While the review team did not specifically examine the induction offered in specific Group locations, it is apparent that there is not a coordinated approach to this job specific induction. The review team recommends that Council establish some tools and review mechanisms under the management of the Human Resources area to ensure that appropriate workplace induction is occurring. **(Recommendation 39).**

Employee remuneration

The Newcastle City Council Award 2006 requires that Council have a salary system that determines how employees are paid. Council also has a Salary Policy dated October 2006. The Council's performance development system, which, if working effectively is clearly a relevant basis or component of salary progression, is not

currently linked to the salary system. This is a position that Council should review. **(Recommendation 40).**

Annual reporting of senior staff contract conditions

Section 339 of the *Local Government Act 1993* requires a council's general manager to report to council on the contractual conditions of senior staff. Better practice in this area is for the General Manager 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 ensuring 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 s/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.

Council advised that this reporting was not occurring as provided, but was to commence. The review team recommends that this action occur, and that reporting have regard to the comments outlined above. **(Recommendation 41).**

Equal employment opportunity

Section 345 of the *Local Government Act* outlines what a council's EEO plan is to include. Of particular significance are the requirements related to collection and recording of appropriate information and the setting of goals and targets (see comments throughout this report regarding the importance of determining KPIs, setting targets and monitoring/analysing performance).

Newcastle City Council has a current EEO Management Plan, which is of a good standard. It includes useful information on the outcomes of the previous plan, including policy development. The plan indicates that Council has done significant and commendable work in the Aboriginal employment area, including engaging an Aboriginal Employment Coordinator, establishing a strategy in this area and undertaking some recruitment of Aboriginal staff. Council has also commenced providing Aboriginal Cultural Awareness training.

The plan uses a staff survey as a basis for future initiatives. The survey results showed a good level of awareness of EEO issues, but some concerns about management commitment to EEO. Only 67% felt management was supportive of EEO. Further, only 54% of respondents thought recruitment processes were fair.

The plan includes strategies to:

- Review recruitment and selection (which in view of the survey results is clearly needed)
- Provide training in recruitment and selection, and
- Provide training in disability issues and complete Aboriginal Cultural Awareness training already commenced.

One point noted by the review team is that one of the claimed achievements under the previous plan related to interview panels having male and female members and someone from an independent area. The review team noted this was in fact provided in Council's recruitment policy dated 1999, before the previous plan operated. Care should be taken in claiming verifiable achievements only, failing which the validity of plans of this kind can be undermined.

Occupational Health and Safety

All employers have important occupational health and safety obligations to their employees under law. Newcastle City Council, like all councils, has a diverse workforce, and is subject to a significant range of occupational health and safety risks.

Newcastle City Council is a self insurer for Workers' Compensation under the NSW WorkCover Self Insurers Model 2005. This model represents for councils an opportunity to more efficiently meet their OH&S responsibilities. However, participants are subject to close monitoring by WorkCover. Under this regime, Council was subject to an audit by WorkCover in May 2007. Council failed the audit (scoring 2.5 out of 7) and is subject to a further audit in May 2008, failing which it would become subject to six monthly audits and possibly the loss of its self insurer licence.

As a result, Council has commenced an OH&S Consolidation Project to align Council's existing OH&S management system to the thirteen elements of the self insurer model. The audit conducted by WorkCover identified a number of shortcomings in the areas of risk management, purchasing, management responsibilities and training. The current phase due for completion by December 2008 involves a budget for 2007/07 of \$614,000. There are currently 9 systems operated by Council with OH&S information, and the project will rationalise this situation.

Council has a solid policy framework for its OH&S system, but the consolidation project will focus on streamlining this framework and making it more logical and hierarchical. It will result in a Strategic Framework, Policies, Systems Procedures and Safe Work Method Statements/Safe Operating Procedures.

Council currently has an OH&S Committee, which meets monthly. The consolidation project may result in a more operational focus with committees for Civic Services, Community and Head Office.

8. COUNCIL'S RESPONSE

Enclosed are relevant parts of Council's response to the draft review report. All comments have been addressed throughout the body of the report.

CONFIDENTIAL

GM.GC.CM
Phone 02 4974 2208

26 November 2007

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

Dear Mr Payne

PROMOTING BETTER PRACTICE REVIEW DRAFT REPORT

Council, at an Extraordinary Confidential Council Meeting on 20 November 2007, considered a confidential report on the Department of Local Government's Draft Promoting Better Practice Review Draft Report. Council endorsed the report for sending to the Department of Local Government as its response to the Promoting Better Practice Review Draft Report.

Attached is a copy of the report presented to Council (Attachment A) with notation made to relevant recommendations of the Department's Report where Council made specific comment or amended the response. (Items 1 – 41). A copy of the minutes from the Extraordinary Council Meeting is also attached as Attachment B.

There are some minor issues in the Draft Report that Council wishes to draw your attention to. This document details slight amendment etc and is attached as Attachment C.

Should you have any queries please do not hesitate to contact me on 4974 2208. I look forward to receipt of the Department's final report for tabling at Council.

Yours sincerely


Graham Clarke
ACTING GENERAL MANAGER



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b) The closed session involves

- the Council or Committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

The Department of Local Government has specified that the document has been forwarded as a draft report on a confidential basis.

PRÉCIS

This report provides comments in response to the Department of Local Government Report on Newcastle City Council in order to enable the Department to finalise its conclusions.

RECOMMENDATION

1. That Council endorses the report for sending to the Department of Local Government as its response to the draft Promoting Better Practice Review Report October 2007.
2. Confidentiality to remain on this item until the final Department of Local Government Report is tabled at an open Council Meeting.

BACKGROUND

Council resolved on 26 June 2007 to ask the Department of Local Government to conduct a Promoting Better Practice Review following this year's Management Plan adoption. The Promoting Better Practice program is an initiative of the Department that has involved nearly 70 councils being assessed in recent years. The review of Newcastle City Council was conducted during August and September with a process that involved forwarding documents to the Department in advance of an on-site visit during early September by the investigating officers.

All Councillors and senior staff had the opportunity to meet with the Department representatives.

The overall theme of the report is focused on improved governance, focused strategic planning and understanding of roles and responsibilities.

The Department's draft report made 41 recommendations and this report will go through each one in turn.

AMBITIONS, PRIORITIES AND FUTURE FOCUS

1. Council should formulate a long-term strategic plan. The formulation of the strategic plan should be the responsibility of the elected body, in consultation with the General Manager.

RESPONSE

A process for developing a long-term strategic plan has been developed by the Administration in accordance with Council's resolution to make such a plan following the 2007 Management Plan process. The Department of Local Government is still developing guidelines for Councils in regard to long-term strategic plans and Council intends to work through that commencing early in 2008.

2. The strategic plan should specify the different responsibilities of the elected council and the administration in order to enable the elected body to focus on monitoring Council's performance with a strategic, rather than day-to-day operational focus.

RESPONSE

The process for developing the strategic plan will include discussions and agreement about relative responsibilities in accordance with Department guidelines identified in recommendation 1.

3. The development of the strategic plan for the City should be supported by a documented project plan that is endorsed by the elected council.

RESPONSE

A detailed project plan will form the basis of the long term strategic plan and will be available for discussion by Council in early 2008.

4. In the development of the strategic plan, Council should build on the recent sustainability report and the work undertaken by the organisation since then to act on that report.

RESPONSE

The Review Today Report and its findings will be incorporated into the process for developing the strategic plan.

5. Once a separate strategic plan is developed, the Management Plan needs to be integrated and focused on operational delivery of strategically aligned programs and strategies.

RESPONSE

The development of the 2008/2009 Management Plan will be aligned to Council's current strategic priorities and the Management Plan for 2009/2010 will be aligned to the new strategic plan which should be approved by the Council elected in September 2008.

6. Council should address the comments made in this report about the content of the key performance indicators in the management plan when next developing its management plan.

RESPONSE

Key Performance Indicators will be reviewed and incorporated into the next Management Plan using the Australian Business Excellence Framework.

7. Council should ensure it uses community survey results as a driver of and measure of improvements in key areas of its performance.

RESPONSE

Hunter Valley Research Foundation Community Survey results have been included in Management Plan discussions over many years. A survey was not commissioned in 2007 due to the amount of information and opinion available about the infrastructure question in particular. A new survey will be commissioned in 2008 for incorporation within the Management Plan discussions.

GOVERNANCE

8. All councillors and designated persons required to lodge written returns of interest should do so in a timely manner.

RESPONSE

The administration will issue reminders as usual and all Councillors and senior staff are aware of their responsibilities in this matter.

9. Council should examine the option of placing the Internal Auditor within the Executive Management group of Council to support the independence of this role.

RESPONSE

The Internal Auditor has always had direct access to the General Manager and the Lord Mayor if necessary. The current reporting arrangements are for administrative convenience and were put in place when the number of direct reports to the General Manager were eight in number. In the last 18 months senior manager numbers have been reduced by 25% and it is now feasible and practical to have the Internal Auditor reporting directly to the General Manager. This is a matter for the new General Manager to take up.

10. Council should consider establishing a system of regular reviews of its legislative compliance.

RESPONSE

Discussions have been held internally with regard to general governance requirements involving the Legal Services Co-ordinator, the Internal Auditor, the Risk Manager and the Governance Officer. This matter will be further discussed and recommendations reported to Council if resourcing is an issue. Council needs to balance the requirement for reviewing legislative compliance with an outcome focus on service delivery.

11. Council should revise its delegations register.

RESPONSE

This is already under way in the Risk Management section of Council.

12. Council should re-format its policies so they 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.

RESPONSE

Discussions with regard to clarity of Policies, Committee responsibilities and other pertinent issues are a priority for the Manager of Strategic and Sustainable Planning in the Strategic Planning & Development Group. The number of policies within Council requires rationalization and review to ensure implementation capacity and priorities are clear and in line with Council wishes. Officers will request the Department to highlight some best practice models for the administration to investigate and present to Council.

13. Council should review clause 68 of its code of meeting practice noting the provisions of Clause 241 of the Regulation and Part 1.4 of the Department's Meeting Practice Note No 16 of November 2005.

RESPONSE

*Council will discuss this review in accordance with a report to Council on the Code of Meeting Practice **"and add the details of Clause 241 and Part 1.4"**.*

Council requested the additional wording above in bold and italics.

14. Council should improve meetings management by examining a better system to record the time councillors spend speaking in debate. Council should begin simultaneously projecting onto a screen, for the benefit of councillors and staff and the public, the wording of proposed resolutions of the meeting as part of its minute taking practices. Finally, Council should ensure that the minutes of more than just the immediately past meetings of Council and Council Committees are available on its website.

RESPONSE

*Council Services Unit is investigating alternative systems and costs for improving meetings management in the Council Chamber **"including simultaneous projection of resolutions"**.*

Council requested the additional wording above in bold and italics.

All Council Minutes are currently available on the website. A check will be done to ensure that these are clearly posted to avoid any confusion.

It should be noted that The Code of Meeting Practice states:

39 TIME FOR ADDRESS

39.1 *A Councillor may not, without the consent of the Council, speak more than once or for longer than five (5) minutes at any one time. If a Councillor asks a question, the time taken for the question to be answered is not included in the five minute time limit allowed for the Councillor's address.*

39.2 *The chairperson may permit a Councillor who claims to have been misrepresented or misjudged to speak more than once on a motion or an amendment, and for no longer than five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.*

There is an inbuilt mechanism in the microphones that allows for 5 minute addresses to be monitored. After 4 minutes the red light will flash, and this is a reminder to councillors that they only have one minute left. If a councillor wishes to speak longer than the allocated five minutes, they can seek leave of the meeting for an extension. The timer can be set and viewed on the speaking order screen, so that councillors are fully aware of the amount of time other councillors have before them and are taking.

The Lord Mayor has also been provided with two microphones (at each of his seats) which monitor his speaking time, even though he has priority to interject at any given time. In conclusion, the council has the mechanisms in place to properly manage and observe their address time at council.

15. The Lord Mayor as chair of council meetings should set and enforce clear boundaries around the conduct of debate so that councillors maintain focus on what is being discussed at all times and so that meetings are more effective for the organisation and the community.

RESPONSE

Councillors have discussed this aspect and agreed that chairing of meetings should be formalized and Councillors should act accordingly.

16. Council needs to respond to the findings of the review into the management of Council committees as a priority to ensure appropriate actions are taken to address the issues identified.

RESPONSE

A report to Council is scheduled for 27 November 2007.

17. Council should take steps to improve its annual reporting in response to comments made in this report.

RESPONSE

Production improvements to the Annual Report are underway and will be in place for the 2008 Report.

PLANNING AND OTHER REGULATORY FUNCTIONS

18. The draft Newcastle City Centre Plan should be adopted as soon as possible to guide the revitalisation of the City.

RESPONSE

Council adopted this plan on 9 October 2007.

19. Council should articulate formal procedures for dealing with any conflicts of roles in relation to its activities as a developer and for identifying and managing the risks of its commercial / entrepreneurial activities.

RESPONSE

Council has operated within ICAC guidelines at all times and these will continue to be followed. Within the administration clear direction has been issued from the General Manager's Office to ensure that the regulatory and entrepreneurial functions are separated in accordance with this recommendation.

20. Council should consider the benefits of reviewing its dispute resolution policy, together with other changes to its planning system.

RESPONSE

The review is to be scheduled in 2008 as part of the performance requirements of the Group Manager Strategic Planning & Development. A review of all planning procedures is targeted and will be done in the context of State legislative change by an independent consultant.

21. Council should establish better linkages between its environmental management reporting and other reporting requirements.

RESPONSE

It is acknowledged that a better outcome focus could be developed and linkages specified. This will be incorporated into the continuous improvement program already underway.

Council specifically discussed and adopted this response.

22. Council should improve its practices in documenting achievements in environmental management.

RESPONSE

As for Recommendation 21.

Council specifically discussed and adopted this response.

23. Council should consider the cost and benefits of a pro-active follow up of registrations for unregistered cats and dogs in its area.

RESPONSE

The Group Manager Strategic Planning & Development will provide information to Council on this matter to assess viability.

ASSET AND FINANCIAL MANAGEMENT

24. Council's administration should take the key operational role in developing the proposed long-term financial plan, with oversight and endorsement by the elected council.

RESPONSE

This will be done in the context of the long-term strategic plan covered under the Future Focus heading (Recommendations 1 – 5).

25. Council should consider the benefits of adopting a more coordinated approach to the current program to pursue operational efficiencies.

RESPONSE

This will also be incorporated in the development of the long-term strategic plan and will be carried out within the Australian Business Excellence Framework so that links between strategic intent and delivery outcomes are clear and aligned. Resources within the Organisational Performance and Business Strategy section have already been adjusted to ensure adequate focus and advice is available to Council as it develops its strategic plan.

26. Council should ensure it has an overarching asset management implementation plan in place to maximise the effectiveness of its increased commitment to asset maintenance and renewal.

RESPONSE

The further development of Asset Management within the organisation will result in a clear implementation plan. This will be commenced early in 2008.

27. Council should review existing business plans for its current business activities with a view to ensuring there are current business plans in place for all key Council business activities.

RESPONSE

Business Plans for Category 1 and 2 businesses will be updated during 2008. These include Summerhill Waste Management Centre, Stockton Caravan Park, Beresfield Golf Course and Parking Stations.

28. Council should put in place plans of management for all community land as soon as practicable.

RESPONSE

All plans of management for community land were completed when the legislation was first introduced. A progressive review has been put in place but it should be noted that there are generic plans of management for certain issues which cover all areas of community land such Heritage, Sportslands, Playgrounds, Neighbourhood, Bushland.

COMMUNITY AND CONSULTATION

29. Council should review its community consultation and community engagement framework in line with the recommendations emerging from the recent UTS committees review.

RESPONSE

This work has been underway for some time and a report is scheduled to Council in the second quarter of 2008. The report on Committees will be dealt with this month by Council and it should be noted that a Community Consultation Framework has been applied extensively within Newcastle to the extent that responses by the community to the Community Plan Consultation have said 'you know what we think, you consulted us before so get on with the plan'. The key issue here is to get representative consultation. Analysis is being undertaken of the Community Reference Panel such as implemented at Parramatta City Council.

Council specifically discussed and adopted this response.

30. In the preparation of the overarching strategic plan, Council should have regard to the objectives and strategies identified in the Community Plan and other plans, so that all existing elements that contribute to the strategic vision for the City are brought together in an integrated way.

RESPONSE

The newly created Strategic Planning & Development Group is responsible for planning and policy integration across the whole of Council so that plans are aligned to implementation and outcomes required by Council. The co-operative and collaborative approach by Strategic Planning & Development officers, with their colleagues across the organisation, will assist to achieve these objectives.

31. Council should articulate the achievements it is making against the strategies and targets identified in the Community Plan in its Annual Report.

RESPONSE

This is agreed and will be implemented from 2008.

32. Council should consider revisiting its priorities for the economic and tourism development for the City in conjunction with the development of the Council strategic plan.

RESPONSE

This is agreed and is linked to recommendation 30 for integrating priorities and policies across the organisation .

WORKFORCE (Management Responsibility) – Recommendations 33 - 41

33. Council should develop a Workforce Strategy to align with its strategic priorities, and to cope with the identified pressures it will face such as an ageing workforce, succession issues and changing expectations of younger employees.
34. Council should amend the wording of its secondary employment policy by making it clear that approval for secondary employment must be sought in all cases.
35. Council should review its recruitment and selection policy and practices having regard to the comments made in this report.
36. Council should develop and implement action items arising from the results of its recent employee attitude survey.

Council specifically discussed and adopted this response. The Acting General Manager undertook to seek clarification from the Director General as to whether Council meant the elected Council or the General Manager who should implement the Recommendation. The Acting General Manager also undertook to seek clarification of the generic term 'Council' in Recommendations 33 to 41.

37. Council should cease the practice of rotating the General Manager's nominee to the Top Value Consultative Committee, and look to review the committee's performance to ensure it continues to focus on the role it must perform as provided in the Award.
38. Council should better coordinate the process of identifying and coordinating training to meet training needs across the organisation, and should ensure that proper training records are kept on the CHRIS system.
39. Council should establish tools and review mechanisms under the management of the Human Resources area to ensure that appropriate group based induction is being provided for all new staff.

Council specifically discussed and adopted this response.

40. Council should review the effectiveness of its performance development system and the links between this system and its salary system.

Council specifically discussed and adopted this response.

- 41 Council should ensure proper reporting takes place on an annual basis on the contractual conditions of its senior staff having regard to the provisions of section 339 of the Local Government Act 1993 and the matters raised in this report.

RESPONSE

These matters are internal administrative responsibilities and are being responded to through a new approach to Human Resources management, new personnel and a revision of all procedures. As to the final recommendation (41) the reporting of contractual conditions of senior staff will be done in a report to Council. It should be noted that there are no bonus provisions for any staff within the Newcastle City Council organisation. The reporting that can be made is whether the performance reviews have been undertaken and the remuneration increases applied in accordance with contractual conditions which apply the SOORT recommendations. Total remuneration packages are already disclosed in the Annual Report.

Council specifically discussed and adopted this response.

9. SUMMARY - WHAT'S WORKING WELL & CHALLENGES

COUNCIL'S PRIORITIES AND FOCUS

What is working well

- Commitment to infrastructure renewal
- Dedicated and cohesive management team

Challenges to improve

- Strategic Plan
- Management Plan
- Councillors' understanding of their role in the development of strategy
- Lack of integration between various plans

GOVERNANCE

What is working well

- Risk management
- Internal audit
- Management of contractors
- Access to information
- Management of private and personal information
- Records management

Challenges to improve

- Lateness of some pecuniary interest returns
- Delegations
- Ineffective council meetings
- Councillor/staff interaction
- Annual report

REGULATORY

What is working well

- Development assessment
- Environmental management
- Enforcement

ASSET AND FINANCIAL MANAGEMENT

What is working well

- Financial position is good
- Building and enhancing asset management framework and systems
- Rates hardship

Challenges to improve

- Financial plan
- Managing implementation of enhanced commitment to asset management
- Plans of management for all community land

COMMUNITY, COMMUNICATION AND CONSULTATION

What is working well

- Community plan
- Housing framework
- Crime prevention initiatives

Challenges to improve

- Community consultation and community engagement

WORKPLACE RELATIONS

What is working well

- Human resources policy framework
- EEO Management Plan
- Business partners from Human Resources
- OH&S Consolidation Project
- Aboriginal Employment Strategy

Challenges to improve

- Workforce Strategy
- Recruitment and selection policy and practice
- Consultative Committee
- Training and development