

**Local Government Reform Program -  
Promoting Better Practice**

challenges improvement innovation good governance

**REVIEW REPORT**

**SHELLHARBOUR CITY  
COUNCIL**

**JULY 2006**



**dlg Department of Local Government**

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## 1. ABOUT THE REVIEW

### Review objectives

The Local Government Reform Program - Promoting Better Practice 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.

### **Shellharbour City Council Review**

Shellharbour 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 that environment.

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

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

Councillors were also asked to complete a survey form. Completion of the form was not mandatory. Councillors were asked to answer questions about the following:

- Their perception of their role as councillors

- Councillor training
- Their understanding of council's strategic direction
- Community perceptions
- Relationships with staff
- The conduct of meetings
- What council does well and where it can improve.

8 of the 13 councillors completed the survey form.

John Davies, Caroline Egberts, Senior Investigations Officers and Aleisha Jaffrey, an Assistant Investigations Officer from the department's Investigations and Review Branch, conducted the on-site component of the review from 19 to 22 December 2005. The review team also attended the ordinary council meeting on 13 December 2005 and provided a briefing to councillors and senior staff prior to the meeting.

The on-site review involved a meeting with council's Mayor and general manager, conducting interviews with staff, meeting with councillors who requested a meeting and the review of a number of council's policies and other documents. It also involved visits to a number of council's developments including Shell Cove, Shellharbour Links golf course and the Illawarra Regional Airport.

The review team also spoke to a number of residents who had previously raised concerns with the department about council to get their views.

Following the on-site review, the review team undertook further analysis. Council management and councillors were then provided with the opportunity to respond to the review's draft findings. Council's response and the responses of individual councillors have been reproduced at pages 82 - 96 below. Prior to being finalised,

the report was amended to reflect subsequent developments and to correct any inaccuracies identified by these responses.

This report details the review's findings, recommendations and council's initial response. The department expects councils to formally respond to the review process, to prepare an action plan to address agreed issues and to provide progress reports on the implementation of the action plan.

## EXECUTIVE SUMMARY

Shellharbour City Council is well positioned to meet the needs of the rapidly growing community that it services.

Council has established a clearly articulated strategic framework for the exercise of its functions that has been developed in consultation with the community. Its strategic objectives are reflected in its management plan and are integrated to varying degrees with other key planning documents.

Council's strategic outlook is underpinned by an organisational structure that seeks to promote forward planning and the development and implementation of its strategic vision. This is done by maintaining a separation between council's strategic and planning functions and its day-to-day operations.

Council has put in place a fairly comprehensive governance framework. It has adopted a code of conduct that is consistent with the Model Code, established a conduct committee and adopted operating procedures. Pecuniary interest returns have been lodged on time. Council has a number of protocols that govern councillor access to staff and information, a fees and expenses policy that reflects the standards set in the department's circulars and a gifts register.

Council's code of meeting practice includes rules for public participation. Council and other meetings are well minuted and the statutory requirements relating to the closure of meetings are complied with.

Council's complaint handling policy reflects best practice complaint handling. Council has also adopted a policy governing public access to information that reflects and expands upon public rights of access to information under section 12 of the Local Government Act and the Freedom of Information Act. Council has also adopted a privacy management plan that reflects its obligations under the Privacy and Personal Information Protection Act.

In terms of its regulatory functions, council is currently in the process of reviewing its LEPs and DCPs to ensure compliance with recent planning law changes. Its development assessment processes have recently been reviewed and enhanced with the introduction of an on-line electronic DA lodgement and tracking capacity. Council has a comprehensive section 94 contributions plan that has been regularly reviewed and is well integrated with its strategic plan and its management plan. Council's state of the environment report is well prepared and complies with statutory requirements.

Council's finances are sound though it faces a number of medium term challenges in maintaining existing assets and meeting its obligations under its section 94 contributions plan. Council's entrepreneurial activities have ensured diversified revenue streams that support its long-term financial position. Council has well developed forward financial planning processes that allow it to forecast and plan for its future needs.

Council has been active in engaging with the community, undertaking a number of community surveys in recent years to assist in framing its strategic direction, ascertain customer satisfaction and engage in the statutory consultation process in the preparation of its management plan every year. Though the significant level of community participation in the preparation of council's last management plan undoubtedly had much to do with the proposed rate increase, it is also indicative that council's strategies for promoting public awareness of that process have been successful. A survey undertaken to evaluate council's communication methods, however, suggests some room for improvement.

Council's social plan is well prepared and meets the minimum requirements set out in the department's social planning guidelines and in some respects exceeds them. In addition to identifying and assessing the needs of the mandatory target groups, the social plan also seeks to address the needs of other target groups not normally captured by social plans.

The review also identified a number of areas for improvement for council. For example in the area of governance, council needs to improve communication



between staff and councillors. Council also needs to enhance its governance framework with the development of an internal reporting policy for making protected disclosures, an internal audit program, a statement of business ethics and formal procurement and contract management policies and procedures.

In relation to its regulatory responsibilities, council needs to better manage actual and perceived conflicts between its development activities and regulatory role. Council also needs to develop a formal enforcement policy to guide the exercise of its regulatory functions.

With respect to financial and asset management, council needs to address the need to meet its obligations under its section 94 contributions plan. Council also needs to adopt plans of management for all of its community land holdings and develop and review business plans for all of its business activities.

In other areas, council needs to develop a guarantee of service that establishes a clear set of service standards the community can expect of it. It also needs to develop a human resources strategy.

The review team was encouraged that council had already identified many of the above deficiencies itself and programmed action to address them. This perhaps reflects the strength of council's strategic focus and a culture of continuous improvement within the organisation.

The review team was disappointed at evidence of the poor leadership shown at the political level. Many of the councillors the review team spoke to appeared to lack a clear understanding of their role and functions under the Act or their obligations under the code of conduct. Many councillors were unable to demonstrate an understanding of council's strategic direction and some appeared to be unable to focus on the 'bigger picture'. Council meetings are chaotic and council appears to routinely struggle to get through its business efficiently. The review team witnessed numerous acts of disorder at the meeting it attended.

Council has provided training to councillors on key areas of their responsibilities. Ultimately, councillors are responsible for their own actions. However the fact that some councillors apparently regularly conduct themselves in a manner that is inconsistent with their obligations is also due to the fact that they have been permitted to do so without any action being taken against them. By taking appropriate action under the code of conduct and enforcing the disorder provisions of the code of meeting practice, council will not only discourage future breaches, but it will also serve an educative function in reinforcing to councillors their obligations.

More fundamentally, council needs to consider whether the inability of many councillors to share the organisation's strategic focus arises from council's current ward structure. A number of councillors appear to take a narrow, ward-based approach to their representative responsibilities.

Given the Shellharbour local government area covers a relatively small area and largely consists of a single urban area, it is difficult to see why there continues to be a need for it to be divided into six wards and represented by 13 councillors. Council should therefore consider reviewing the ward system to determine the following:

- whether it continues to be relevant
- the impact it has on council's capacity to meet the needs of the community as a whole, and
- whether it inhibits the promotion of a coherent vision or strategic outlook at the elected level.

In doing so, council should also consider reducing councillor numbers under section 224 of the Local Government Act. It is noted that at its June 2006 meeting council resolved to explore these issues further.

## 2. RECOMMENDATIONS

### *Strategic focus*

1. In preparing its next strategic plan, council should seek to plan for a longer period of time than the five years currently covered by its strategic plan.
2. Council should develop clearer performance indicators in its management plan against which it can measure its performance in achieving targeted outcomes.
3. Council should continue to improve integration between its strategic plan and its other planning documents (eg social plan, cultural plan, s94 contributions plan, LEPs).
4. Council should continue to monitor the performance of its organisational structure for duplication, overlap and gaps.
5. Council should consider formalising meeting and consultative practices between staff at less senior levels of the organisation working in related areas in different divisions to facilitate communication between them.
6. Council should hold a workshop for councillors on its strategic direction and their role in relation to it.
7. Council should review the ward system under section 211 of the Local Government Act and consider reducing its councillor numbers under section 224.
8. Council should monitor current resource sharing arrangements with neighbouring councils to evaluate their ongoing value and whether they are meeting council's original objectives in seeking to enter the arrangements.

9. Council should continue to seek to identify opportunities for further resource sharing or strategic alliances with neighbouring councils and to expand existing arrangements that meet council's objectives.

### *Governance*

10. Council should consider posting the Department of Local Government publication, *"So you are thinking of becoming a Local Government Councillor..."* on its website prior to the next local government election to educate potential candidates about local government and to ensure that they hold realistic expectations of what their role will be if elected.
11. Council should amend its code of conduct committee charter to provide clearer criteria to assist the general manager in assessing whether a matter is suitable for referral to the conduct committee and to guide the conduct committee in determining whether a matter should be reported to council.
12. Council should arrange further training for councillors in relation to their obligations under the code of conduct and other associated codes and policies and consider putting in place an ongoing councillor training and development program.
13. Council should provide information to councillors and designated staff on the completion of disclosure of pecuniary interest returns to ensure they are completed accurately and in a timely manner.
14. Council should consider putting in place a single formal briefing session for all councillors prior to each council meeting on items on the agenda. In doing so, it should put in place formal ground rules that ensure that briefing sessions are conducted in an appropriate and efficient manner.
15. In the interests of maintaining order at council meetings, council needs to enforce the disorder provisions of the Local Government Act and

Regulation and council's code of meeting practice and take any appropriate follow up action under its code of conduct.

16. The Mayor should consider consulting other skilled or experienced mayors for advice and strategies for maintaining order at meetings or make use of the workshops offered by the Local Government and Shires Associations on effective chairing.
17. In addition to the training referred to in recommendation 12 above, council should provide all councillors with training on the provisions of the Local Government Act and Regulation relating to the conduct of council and committee meetings, council's code of meeting practice and general concepts of meeting practice and procedure.
18. To minimise the amount of time spent at meetings debating the minutes of previous meetings, council should trial a process by which the minutes are typed onto a computer and displayed on a data projection screen during the meeting.
19. When council next determines membership of the staff committee, it should seek to include councillors outside the majority bloc.
20. Council needs to ensure that all councillors are correctly notified of meetings of the staff committee and that councillors who are not members of the committee are permitted to attend and speak in accordance with clause 263 of the Regulation.
21. Council should amend its complaints management policy to provide clearer linkages with its code of conduct and to more clearly reflect the processes for making complaints under the code.
22. Council should adopt a separate internal reporting policy for the making of protected disclosures.

23. In the event council adopts a separate internal reporting policy pursuant to recommendation 22 above, council should ensure that it is linked with its complaints management policy and its code of conduct and that its complaints management policy reflects the processes for making protected disclosures under its internal reporting policy.
24. Council should provide ongoing training to both councillors and staff on protected disclosures.
25. Council should take appropriate steps to ensure that it complies with its obligations under the State Records Act in the storage of records.
26. In preparing next year's annual report council should ensure it complies with section 33 of the Privacy and Personal Information Protection Act.
27. Council should develop an internal audit program as a matter of priority.
28. Council should address fraud risk as a priority in developing its risk management and internal audit priorities.
29. Council should develop a statement of business ethics, a procurement policy and procedures, a tender evaluation system and a contractor performance appraisal system as a matter of priority.

*Planning and other regulatory functions*

30. Prior to adoption of its next management plan, council should amend the sections relating to land use management to reflect the obligations imposed on it by recent planning law changes.
31. Council should consider establishing an independent hearing and assessment panel for the assessment of contentious DAs particularly where council is an applicant or has an interest.

32. Council should consider putting in place formal consultation processes between the compliance section and other sections whose work impacts on council's enforcement functions.
33. Council should develop a formal enforcement policy.
34. Reports of non-compliance requiring the exercise of council's regulatory powers should be dealt with under an enforcement policy rather than council's complaints management policy unless they raise concerns about council.
35. Council should take steps to clarify with councillors what is the appropriate role for them to play in enforcement matters.
36. More work needs to be done in improving linkages between council's State of the Environment Report and its management plan.

#### *Asset and financial management*

37. As part of its long term financial planning, council needs to continue to invest adequate funds in infrastructure maintenance over the medium term.
38. Council should address the need to reserve funds to meet its section 94 obligations beyond the 2007/08 financial year as a matter of priority.
39. In order that council's Conquest Asset Management system can be utilised to its full potential, council needs to ensure that it continues to apply resources to undertaking inspections of its assets and inputting data.
40. Council should prepare plans of management for all of its community land holdings as required under Part 2, Division 2 of the Local Government Act as a matter of priority.

41. Council should maintain its program of identifying current and potential uses for each parcel of operational land it holds.
42. In the interests of managing the risks associated with entrepreneurial activities, council should maintain its practice of limiting such activities to those areas where it has had previous experience and/or has the necessary expertise to undertake the activity.
43. Council should develop a business plan for each of its business activities.

#### *Community and consultation*

44. Council should ensure that it complies with clause 217(b) of the Local Government (General) Regulation 2005 in preparing all future annual reports.
45. Council should develop a guarantee of service.
46. In preparing its next management plan, council should ensure that its access and equity statement complies with the requirements of section C3.2 of the department's *Social and Community Planning Guidelines*.

#### *Workforce relations*

47. Council should develop a long-term workforce plan.
48. Council should provide induction training to new staff on its code of conduct and internal reporting policy.



### 3. CONTEXT

The Shellharbour local government area is located in the Illawarra region on the south coast of New South Wales. It is bordered by the local government areas of Wollongong in the north, Wingecarribee in the west and Kiama in the south. It covers an area of 147 square kilometres. It is bounded by three natural features, Lake Illawarra, the Minnamurra River and the Illawarra escarpment.

The local government area originated as a municipality of five separate and distinct townships of Oak Flats, Shellharbour Village, Albion Park Rail, Warilla and Lake Illawarra. Rapid urban growth has seen the townships merge to form a single urban area with a new Shellharbour City Centre at its heart.

The local government area also contains a number of rural localities such as Dunmore, Croom, Yellow Rock, Tullimbar, Calderwood, Tongarra and North Macquarie.

Land use patterns in the local government area consist of established urban and commercial areas, farmland and new residential estates as the development of the city continues. Shellharbour's key industry sectors are construction and retail.

As of the 2001 census, the population of the Shellharbour local government area was 57,071. This represented an increase of 9.6% since the 1996 census (as compared to 5.5% for the State) and 23.3% since the 1991 census. The current population is estimated to be 61,578. The population is projected to grow to 75,030 by 2021.

At 30 June 2003, 23.2% of the population were aged 14 years or younger (compared to the State average of 19.9%), 42.8% were aged between 15 and 44 (compared to the State average of 43.1%), 22.7% were aged between 45 and 64 years (compared to the State average of 23.7% and 11.3% aged 65 years or older (compared to the State average of 13.3%).

In the year ended 30 June 2002, average total income in the Shellharbour local government area was \$37,201 (compared to the State average of \$41,967). 37.55% of the population were recipients of pensions and benefits (compared to the State average of 30.51%) In the September quarter of 2003, 9.6% of the population was unemployed. The State unemployment rate was 6%.

In the year ended 30 June 2002, 1.78% of the population were Aboriginal or Torres Strait Islanders (compared to the State average of 1.69%). 11.8% of the population were of a non-English speaking background (compared to the State average of 15.43%).

There are 13 councillors on Shellharbour City Council. The local government area is divided into six wards each electing two councillors. The Mayor is popularly elected. Eight councillors, (including the Mayor) were elected as members of the Australian Labor Party. The remaining five were elected as independents.

Council employs 276 full time staff. Including temporary and casual employees, the total number of staff employed is 341. Three employees are aged between 13 and 17 years, 29 aged between 18 and 24 years, 269 aged between 25 and 54 years and 40 aged between 55 and 64 years.

Council's total revenue from ordinary activities for the 2004-5 financial year was \$52,185,193. Total expenditure was \$43,781,738. Council's total net assets held were \$297,979,675.

In the 2004-5 financial year council determined 803 development applications with a total value over \$131 million.

## 4. 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.

### ***Setting Council's Strategic Direction***

Council has a clearly articulated strategic direction that has been formulated in consultation with the community.

Council's current strategic plan relates to the years 2005 to 2010. As with its previous strategic plan, this was developed following community consultation. A total of 507 residents were interviewed. They were asked to identify what they most liked and disliked about living in Shellharbour, the best and worst qualities in 15-20 years, quality of life, council's services and facilities, suggestions for improvements, planning directions and the perceived importance of specific issues.

Council has adopted as a vision statement, *"A sustainable city: communities living in harmony, balancing nature's beauty with quality rural and urban environments."*

Arising from the vision statement, council's statement of purpose is: *"In partnership, to strive for the fulfilment of the city's vision through democratic governance by responsible leadership."*

Council's strategic plan is well set out and clearly articulated. It sets strategic directions in the following four main areas: environment, community, economy, and council services. The strategic plan sets broad objectives for a range of items falling under these headings. Under each of these items, the plan sets out how council intends to achieve each of its strategic objectives by identifying specific programs and time frames for their completion.

The strategic plan also incorporates a forward financial plan that consists of a series of yearly budgets through to the year ending 30 June 2014.

Given council has a well developed forward financial plan that covers the next 10 years and has sought the views of the community about its expectations in 15 – 20 years, it is surprising that council's strategic plan is limited to the next 5 years. The strategic plan covers a period only two years longer than the 3-year management plan which council is required to prepare every year. The need for council to develop a longer-term strategic vision is heightened by the expected rapid population growth in the area and the need to plan for the challenges this will bring. To meet this need, council's next strategic plan should be framed to cover a longer timeframe. *(Recommendation 1)*

Council's strategic plan can be accessed on its website. The website also contains information about how it was developed, how it works and its relationship with council's other plans. Council's website also invites comment on the strategic plan.

### ***Integration of council's strategic direction with its management plan***

Each year council is required to prepare a draft management plan with respect to its activities for at least the next 3 years and its revenue policy for the next year. Sections 403 and 404 of the Local Government Act require certain particulars to be included in council's draft management plan.

Council's management plan reflects the strategic objectives set in the strategic plan. It is structured along the same lines as council's strategic plan. The specific programs set in council's strategic plan are reflected in the management plan, together with its ongoing programs, operations and compliance with its statutory obligations.

Section 407 of the Local Government Act requires the general manager to report to the council within 2 months after the end of each quarter as to the extent to which the performance targets set by the council's current management plan have been achieved during that quarter. Council's quarterly reports are clearly set out and easy

to comprehend. The general manager also provides council with a detailed summary of achievements and highlights for the quarter and a quarterly budget review.

While council's management planning process has a focus on delivering strategically targeted outcomes, more work could be done to develop clearer KPIs against which council can measure its performance in achieving those outcomes. Council has recently adopted Outcome Manager management planning software and it is utilising this to develop "smarter" performance indicators. (*Recommendation 2*)

As with its strategic plan, council's management plan and the general manager's quarterly reports are available on its website.

Council's strategic plan also links in with a number of its other plans (including its social plan, section 94 contributions plan, asset management plan, cultural diversity statement) and there are varying degrees of integration between plans. However, as council acknowledged in its strategic assessment, there is scope for continued improvement in integrating plans. The department has recently issued a discussion paper on integrated planning called *Fitting the Pieces Together: Integrated Planning and Reporting by NSW Local Councils*. This is available on the department's website. (*Recommendation 3*)

### **Council's organisational structure**

Council has an innovative organisational structure that is designed to promote and support forward planning and the development and implementation of its strategic vision.

Council is divided into the following three divisions:

- Strategic functions under Peter O'Rourke, the Director – Community Planning and Strategies. This includes such areas as strategic planning (including s94 planning), corporate planning (including forward financial planning and entrepreneurial and development activities), organisational development

(human resources), and community services (including access and equity, child and family services, transport services, HACC services, youth services).

- Operational functions under Arthur Webster, Director – Operations and Services. This includes such areas as works and services, (including works depot, nursery, waste depot, recreational services, the pound and rural fire service), development and technical services (including civil engineering and landscape design, compliance and development assessment services), customer and environmental services (including procurement and contract management, environmental services, customer service and libraries), and corporate services (including legal services/ public officer, risk management financial services and rates).
  
- Shell Cove business division under Phil Woodcock. This is responsible for the management of council’s development activities at Shell Cove.

A formal framework of senior management meetings underpins the organisational structure. All meetings are formally minuted.

Council adopted its organisational structure in 2001. It was designed to position council to deal with the rapid commercial and residential development the local government area was anticipated to see over the next 10 – 15 years. The rationale behind separating strategic from operational functions was to ensure that those engaged in long term and strategic planning were given the time and the space to do so without being distracted by or preoccupied with the more immediate demands of day to day operational matters.

Council last reviewed its organisational structure in March 2005. At its meeting of 15 March 2005, council resolved that its organisational structure remain unchanged but that it be monitored over the next two years and that a report be presented to council.

Council is to be commended for its organisational focus on long term and strategic planning. However there are a number of risks implicit in the separation of strategic

from operational matters in related areas that are normally functionally closely associated with each other (eg strategic planning and development assessment). In particular there is the risk of duplication or overlap between related areas or conversely the appearance of gap areas in the organisational structure that no one is responsible for. Council needs to monitor the performance of its organisational structure to avoid overlap or duplication or the appearance of any gaps in its operations. *(Recommendation 4)*

Council also needs to ensure effective communication between its strategic and operational divisions. It is important that staff involved in operational matters are conversant with and operate within council's strategic framework. Conversely, it is equally important that those who are responsible for framing council's strategic direction seek the input of council's operational staff to ensure that council's strategic framework is informed by operational experience and is achievable.

Council has put in place a formal meeting structure at the MANEX level to facilitate communication between the operational and strategic divisions. The review team also found evidence of informal interaction between less senior staff in related areas in the two divisions. Staff told the review team that as a matter of practice, those involved in framing council's strategic framework consult with the operational staff responsible for implementing it. However, this appeared to be driven by the personnel concerned and could be lost with any change in staff. Accordingly, in order to facilitate communication between staff at less senior levels of the organisation working in related areas in different divisions, council should consider formalising meeting and consultative practices between them. *(Recommendation 5)*

### ***Councillors' understanding of council's strategic direction***

Based on responses to the councillor survey and comments made to review team members and in council meetings, many councillors failed to demonstrate a clear understanding of council's strategic direction or their role in relation to it.

The review team also found evidence to suggest that some councillors were preoccupied with minor, short-term issues at the expense of the 'bigger picture'. In

particular, it appeared that some councillors held the view that they had been elected solely to represent the interests of the ward they represented and had limited interest in issues that did not directly impact on that ward. This outlook is reflected in council's previous practice, promoted by councillors, of equally allocating capital expenditure between wards without any regard to need or efficiencies. This is an issue that is addressed in greater detail at page 67 below.

It is appropriate for councillors to seek to represent the concerns of individual constituents and their local communities by raising issues that have a more immediate or local impact. In doing so, it is important that they do not lose sight of long term issues and considerations or the bigger picture. Councillors also need to recognise that they do not merely represent the interests of the ward that elected them but also of the local government area as a whole. To this end councillors need to be conversant with council's strategic plan and to consider matters within the context of the strategic framework council has put in place.

Council provided a two-day induction course for the current council at Jamberoo that included a session presented by council's Director – Community Planning and Strategies, Peter O'Rourke on 'forward planning', although some councillors failed to attend on the second day when the above session was presented. Despite this training, many councillors do not seem to have a clear understanding of the council's strategic direction. All councillors would benefit from a further workshop with staff to promote an understanding of council's strategic direction and their role in relation to it. (*Recommendation 6*)

The Shellharbour local government area covers a relatively small area and largely consists of a single urban area. It is difficult to see why there continues to be a need for it to be divided into six wards and to be represented by 13 councillors. The current ward system no longer accurately represents the communities that make up the local government area and, as discussed in greater detail at page 67 below, operates to distort the allocation of resources. In the circumstances council needs to review the ward system under section 211 of the Local Government Act to determine the following:



- whether it continues to be relevant
- the impact it has on council's capacity to meet the needs of the community as a whole
- whether it inhibits the promotion of a coherent vision or strategic outlook at the elected level

In its draft report the review team also recommended that council consider taking the opportunity to reduce councillor numbers under section 224A of the Act. Council indicated in its response that it considered this option at its ordinary meeting of 7 February 2006 and resolved to take no action. The opportunity presented under section 224A has now expired.

However, council revisited the issue together with the broader issue of its ward boundaries at its meeting of 13 June 2006, resolving to call for a report on the number of wards and councillors, the process to enable their reduction and the timeframes involved. The review team encourages council to persist with this exercise and that it consider seeking to address the issue of councillor numbers under the referendum process under section 224. (*Recommendation 7*)

### ***Resource sharing***

Shellharbour City Council is one of several councils in the Southern Councils Group (SCG). Other member councils are Kiama, Bega Valley, Eurobodalla, Shoalhaven, Wingecarribee and Wollongong. The group facilitates collaborative projects and resource sharing amongst members.

Council has a number of resource sharing arrangements in place with neighbouring councils. In particular council appears to enjoy a strong partnership with Kiama. Both councils signed a formal resource sharing agreement in April 1997. The objectives of the agreement include maximising plant fleet use, sharing training opportunities and increasing access to specialist equipment.

Examples of resource sharing arrangements with Kiama and other neighbouring councils include:

- Common tendering with Kiama Municipal Council
- A plant sharing arrangement with Kiama
- Jointly funded community services positions with Kiama
- The joint Shellharbour and Kiama Local Emergency Management Committee
- The Rural Fire Service with Kiama
- A waste depot with Kiama
- The Lake Illawarra Authority with Wollongong City Council and Kiama
- The Noxious Weeds Authority with Kiama and Wollongong.

Council's participation in resource sharing arrangements with neighbouring councils such as the ones described above is to be encouraged. However council should monitor these arrangements to evaluate their ongoing value and whether they are meeting council's original objectives in seeking to enter the arrangements. *(Recommendation 8)* Council should also continue to seek to identify opportunities for further resource sharing or strategic alliances with neighbouring councils and to expand existing arrangements that meet council's objectives. *(Recommendation 9)*

## 5. 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.

### 5.1 Governance

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

A review was conducted of a range of aspects of council's governance practices including:

- *Ethics and values*
- *Risk management and internal control*
- *Council's decision-making processes*
- *Monitoring and review*

### **Councillor induction**

New councillors need induction training to equip them with the skills required to properly carry out their duties and allow them to be effective members of council's elected body. To assist councillors in achieving these goals, councillor induction training should seek to educate councillors about the activities and functions of their council and the legislative framework in which they operate. The program should ensure that councillors are made aware of their general legal responsibilities as an

elected member and their obligations of disclosure under the pecuniary interest provisions of the Local Government Act.

Council held an induction weekend for councillors at Jamberoo between 16 and 18 April 2004. The induction covered such issues as:

- The roles of the Mayor, councillors and general manager under the Local Government Act
- Planning law
- The organisational structure of council
- Presentations by the directors of each of council's divisions
- The Shell Cove project
- Forward planning, and
- Governance (including conflicts of interests and the code of conduct)

The review team found from its discussions with several councillors that they appeared to have held unrealistic expectations of what their role would be as councillors when they stood for election. Despite having received induction training, they appeared to continue to lack a clear understanding of their role as councillors and their obligations in terms of interacting with staff. This will be addressed in more detail below.

The department produced a publication in November 2002 called “*So you are thinking of becoming a Local Government Councillor...*” to assist people who are considering standing for election as councillors. Council held briefings with potential candidates prior to nominations and provided each candidate with this publication. Council should also consider posting the publication on its website prior to the next local government election with a view to educating potential candidates about local government and ensuring that they hold realistic expectations of what their role will be if elected. (*Recommendation 10*)

## ***Code of conduct***

Section 440 of the Act requires every council to adopt a code of conduct to be observed by councillors, members of staff and delegates of council, that is consistent with the Model Code of Conduct prescribed under the Regulation. A council's adopted code may supplement the provisions of the Model Code. However a council's adopted code will have no effect to the extent that it is inconsistent with the Model Code. Section 440(3) requires a council to review its code of conduct within 12 months after each ordinary election.

Council adopted its current code of conduct on 16 February 2005. The provisions of council's adopted code appear to generally reflect the substance of those contained in the Model Code.

As stated above, on being elected, the current councillors received training on its then adopted code of conduct at their induction weekend in April 2004. Councillors received further training on the Model Code by a Local Government and Shires Associations consultant in March 2005, following the adoption of council's current code. Staff receive code of conduct training from the general manager and public officer as part of their induction training.

Council has established a conduct committee under its code of conduct. Council has appointed its external solicitor and external auditor to act as independent members of the committee with one other to be appointed on a case-by-case basis by the general manager and Mayor. Council has adopted operating procedures to guide the work of the committee. However these could be improved by developing clearer criteria to assist the general manger assessing whether a matter is suitable for referral to the conduct committee and to guide the conduct committee in determining whether a matter should be reported to council. In developing criteria, council may wish to consult the NSW Ombudsman's Enforcement Guidelines for Councils.  
*(Recommendation 11)*

Council's conduct committee is yet to deal with a single complaint under its code of conduct. The general manager explained the reason for this was that he was yet to receive a complaint under the code of conduct.

Notwithstanding this, the review team was advised of and directly observed conduct on the part of some councillors that potentially constituted breaches of council's code of conduct. Examples of this include the following:

- The review team observed disruptive behaviour by some councillors at the meeting they attended. These councillors failed to show respect to the Chair, their fellow councillors and staff members. Notwithstanding this, everyone the review team spoke to, including the councillors in question, believed that everyone had been on their best behaviour at the meeting.
- A number of staff complained of inappropriate interaction by some councillors. Some of the councillors the review team spoke to confirmed this, complaining that they were denied access to staff. Furthermore, a number of councillors the review team spoke to demonstrated a poor understanding of their role and apparently failed to appreciate that it was inappropriate for them to become involved in operational matters.
- While the review team was at council, an incident occurred in which the member of staff responsible for coordinating councillor requests received an abusive telephone call from a councillor. The councillor in question unprompted referred to the incident in his discussions with the review team admitting that he *"did go off"*.

No action was taken in relation to any of the above conduct.

It would appear from the above that despite having received code of conduct training on two occasions, a number of councillors remain unclear as to their obligations under the code of conduct and regularly conduct themselves in a manner that is inconsistent with those obligations. This is undoubtedly due in no small part to the

fact they have been permitted to do so without any disciplinary action being taken against them under the code of conduct.

Council clearly needs to continue to provide training for councillors in relation to their obligations under the code of conduct and other associated codes and policies. Council may also wish to provide training to staff who deal with councillors on a regular basis such as the councillor liaison officer so that they too are aware of councillors' obligations. Councillor training should be mandatory and needs to specifically cover the following matters:

- Code of conduct and the principles that underpin it
- Disciplinary provisions of the Local Government Act
- The role of councillors and staff
- Code of meeting practice and meeting procedures (see below at pages 35-38)
- Appropriate procedures for interaction with staff including council's procedures for requesting information, documents or action (see below at pages 33-35)

In providing training, council may wish to use the Model Code of Conduct training facilitators' kit issued by the department to all councils. Alternatively, council may wish to make use of the Councillor Professional Development Program offered by the Local Government and Shires Associations.

Council should also consider putting in place an ongoing councillor training and development program. (*Recommendation 12*)

Council held a training session for councillors on conduct and governance issues on 20 June 2006, conducted by Maddocks Lawyers. A representative of the department attended. Attendance was mandatory.

Council also needs to reinforce this training by taking appropriate action where there has been a breach of its code of conduct. In this regard, it is perhaps worth observing that council does not necessarily require a complaint to initiate action under its code of conduct. In doing so, council will not only discourage future

breaches, but such action will also serve an educative function in reinforcing to councillors their obligations under the code.

### ***Pecuniary interest***

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

The review team inspected pecuniary interest returns submitted by all councillors for the period 1 July 2004 to 30 June 2005. Council also has 72 staff who are identified as designated persons. The review team inspected a representative sample of the returns of five designated persons and the general manager's return.

All the returns appear to have been submitted on time, though one of the councillor's returns is undated. The quality of the returns submitted varies. Deficiencies in the returns inspected include the following:

- Failure to disclose the address of employers
- Failure to disclose the full name and/or the address of companies in which councillors had an interest
- Failure to disclose income received from investment properties
- Leaving spaces blank rather than writing in "Nil"
- Possible failure to disclose the disposition of a property in the relevant section

The Local Government Pecuniary Interest and Disciplinary Tribunal has pointed out the need for councillors (and designated staff) to give due care and attention to the accuracy, detail and content of the disclosures required in returns.



It is important that councillors and staff who are identified as designated persons complete the pecuniary interest returns accurately and in a timely way. Council should use the information provided in the department's circular 04/16 to prepare information for staff and councillors to assist them in completing their returns. Council adopts a standard annual procedure to issue councillors and staff with copies of circulars 04/16 and 05/24 to assist them in completing returns and to hold a briefing session for staff. However in view of the above errors, this is clearly an area that requires further attention, and where the recently issued departmental Pecuniary Interest Guidelines will prove helpful. (*Recommendation 13*)

### ***Councillor access to information***

A number of councillors the review team spoke to felt they were not being provided information by staff. The councillors said they sought the information through the requisition system and by questions on notice in council meetings. When pressed, the councillors explained their concern was not that their requests were refused but that there was a delay in the provision of information and that they felt the information provided was inadequate. They also complained that they had been told that the requisitions system was intended for requests for work to be done and not for requests for information.

A number of staff on the other hand commented on the number of requisitions received from some councillors and the impact this was having on their work. The review team's inspection of the requisition book confirmed that certain councillors submitted a large number of requisitions and that many represented requests for information rather than action.

Councillors enjoy the same rights as other members of the community to access documents held by council under section 12 of the Local Government Act. Furthermore, it is important that councillors are able to access such information as may be necessary to enable them to exercise their responsibilities as elected representatives of the community. The general manager is entitled to put in place appropriate processes that enable councillors to exercise their rights and responsibilities in a structured way so as not to impede the ongoing operations of the

council. It should also be noted that the Model Code of Conduct (and council's adopted code) imposes obligations on councillors and other council officials about how they handle council information.

Council has a formal protocol under which councillors may access information. This does not distinguish between requests for information and requests for action. Such requests are to be dealt with by use of the requisition book. They are then distributed to the relevant director for appropriate action. Staff must reply to requests within 10 working days. The reply should indicate what action has been taken or is proposed to be taken in relation to the request.

Under the above protocol, councillors may also request a report by a council officer. This is also to be done by use of the requisition books. These will be assessed by the general manager and distributed to the relevant director for action. Some requests may result in immediate action while others may be deemed by the general manager to require research and the preparation of a report to council.

A memo issued to councillors by the general manager on 27 January 2005 also addresses the issue of councillors' access to information. This states that access to information is under the control of the general manager and that there is no automatic entitlement to information by the Mayor or councillors between council meetings. However, a decision by the general manager to refuse access to information can be considered by council at its next meeting. It should be noted that under section 12A of the Local Government Act the general manager or any other person who refuses access to a document under section 12 must provide a written report to council of their reasons for refusal. Council is also required to review any refusal of access after 3 months.

The above processes appear to strike a reasonable balance between councillors' entitlement to information and the need to ensure such information is provided in a structured way. If a request is refused or councillors are dissatisfied with the response, they have the option of raising their concerns at a council meeting in accordance with the procedures for doing so. If staff are concerned about the use of

requisition books for requests for information, council should consider refining its protocols to provide a different procedure for making such requests.

Some of the independent councillors the review team spoke to, also expressed the belief that they were being denied information that was routinely provided to their ALP counterparts.

While staff brief the Mayor prior to council meetings on items on the agenda no such briefings are provided to other councillors. However staff do provide briefings to councillors on key items before council such as the budget. The ALP councillors apparently received a separate briefing on the last budget. The independent councillors were also provided with their own briefing session, however several failed to attend.

Council should consider putting in place a single formal briefing session for all councillors prior to each council meeting on items on the agenda. Such sessions have the benefit of ensuring that all councillors are provided with the same background information on the matters before them. In other councils, such briefings have enhanced the quality of councillors' decision-making and assisted them to get through their business more efficiently.

Council should put in place formal ground rules that ensure that briefing sessions are conducted in an appropriate and efficient manner. Briefings should be used purely for the purpose of providing information to councillors and to provide them with an opportunity to ask questions to clarify the information provided. As stated in the department's recently issued *Meetings Practice Note*, briefings should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting. (*Recommendation 14*)

## **Meetings**

The review team inspected the minutes of a number of council and committee meetings. It also attended the ordinary council meeting of 13 December 2005.

The meeting attended by the review team was chaotic. Council appeared to struggle to get through the business before it in an efficient manner and there were a number of instances where the Chair appeared to lose control of the meeting. For example on one occasion council continued to debate a matter for an extended period of time after it had voted on it. The review team also witnessed numerous acts of disorder that were not acted on. These included the following:

- Disparaging comments made by some councillors about the Chair, the general manager or fellow councillors
- Numerous petty points of order on councillors' gestures, facial expressions and perceived slights
- Abuse of staff at various levels of seniority who attended the meeting to provide information and answer councillors' questions
- Abuse of councillors and staff by members of the public in the gallery.

Numerous people the review team spoke to including staff, councillors and members of the public described the meeting as orderly compared to other recent meetings. The minutes of other meetings would tend to support that observation.

Councillors have a responsibility to behave professionally in and out of council meetings. Councillors should maintain good working relationships with each other and staff and act in a manner appropriate to their civic status. This would include orderly behaviour and complying with rulings from the Chair at council meetings. Council's code of meeting practice and code of conduct identify the standards and responsibilities imposed on councillors by the Act, the Regulation and the Model Code. Acts of disorder committed by councillors during council or committee meetings may amount to misbehaviour, leading to censure by the council and possibly suspension.

Maintaining order in such an environment would test even the most skilled Chair. However, a good start would be enforcing the disorder provisions of the Local Government Act and Regulation and council's code of meeting practice and taking any appropriate follow up action under its code of conduct. (*Recommendation 15*) The Mayor may also wish to consider consulting other skilled and experienced mayors for advice and strategies for maintaining order at meetings. The Mayor may also wish to consider making use of the workshops offered by the Local Government and Shires Associations on effective chairing. (*Recommendation 16*)

Councillors appear not to have been given training specifically on meeting procedure at their induction meeting at Jamberoo. In light of this and the conduct of many councillors at meetings, council should provide all councillors with training on the provisions of the Local Government Act and Regulation relating to the conduct of council and committee meetings, council's code of meeting practice and general concepts of meeting practice and procedure. Alternatively, council may wish to consider utilising the course offered by the Local Government and Shires Associations on meeting procedures. (*Recommendation 17*)

A significant portion of the meeting the review team attended was taken up with a debate over the accuracy of the previous meeting's minutes and several councillors voted against their adoption. The minutes of other meetings suggest that this has also happened at other meetings. Some of the councillors in question expressed the view to the review team that the minutes were not a true and accurate copy of the proceedings of the meeting as they often did not reflect comments made by them.

Section 375(1) of the Act requires a council to keep full and accurate minutes of council meeting proceedings. Subject to legislative provisions and any directions from the council, it is up to the general manager to decide how much detail is to be shown in the minutes. The content of the minutes of council's meetings are prescribed under its *Council and Corporate Meetings Minutes Policy*.

Although the minutes should contain enough detail to make the council's decisions understood, they are not meant to be a detailed transcript of council proceedings nor a record of the behaviour of individual councillors.

An inspection of the minutes of council's meetings indicate that they contain all the information required under the Local Government Act and Regulation and indeed are more detailed than many other councils' minutes. However, in the interests of bringing transparency to the preparation of the minutes and minimising the amount of time spent at meetings debating the minutes of previous meetings, council may wish to consider trialling a process by which the minutes are typed onto a computer and displayed on a data projection screen during the meeting. (*Recommendation 18*)

As a general rule, meetings of the council and its committees are required to be open to the public. Where council determines that a matter should be dealt with in confidential session, sections 10A – 10D of the Local Government Act outline the requirements for this determination.

Council meetings have been closed to the public on 11 occasions in the last year. An inspection of the minutes of meetings that have been closed to the public indicate that council has complied with its statutory obligations in doing so. In particular the minutes indicate:

- The relevant provision of 10A(2) under which the meeting was closed
- The matter that was to be discussed during the closed session
- The reasons why the meeting was being closed including, where required, an explanation of why discussion of the matter in question in an open council meeting would be, on balance, contrary to the public interest.

### ***Public participation***

Council has a public participation process at meetings to allow residents affected by a proposal before council the opportunity to address council directly. Council adopted its public participation process in 1974 and was apparently the second council in New South Wales to do so.

Public participation is governed by formal rules. These are available on council's website.

Unfortunately, as reflected in the minutes of a number of council meetings inspected by the review team, it would appear the public participation process was used by a number of residents to disrupt council meetings, to abuse councillors and staff and to prevent other residents from addressing council. As a result, at its meeting of 2 November 2005, council resolved to suspend oral public participation, restricting it to written submissions pending receipt of a report at its February 2006 meeting about how public participation practice can be improved.

In the draft report, the review team recommended that, notwithstanding the above conduct, council retain oral public participation as a valuable means by which residents can have an input into council decisions that affect them. But the review team considers that a balance needed to be struck between this and the need for council meetings to be conducted in an efficient and orderly manner. Council's then current rules for public participation appeared to strike this balance but the review team recommended that in view of the history of abuse of the process, council consider amending the rules to allow it to address that conduct more effectively. At its ordinary meeting of 7 February 2006, council resolved to continue public participation and amended the rules along the lines foreshadowed in the draft report to enable it to better control acts of disorder.

The draft report also recommended that council consider removing public participation from formal council meetings and instead hold it separately to the council meeting. The review team observed that this would give residents the opportunity to address council in a calmer and less intimidating environment than would be the case at an open council meeting. It also gives councillors the opportunity to follow up matters raised with staff prior to the matter being considered in the council meeting and assist council to get through its business at its formal meetings more efficiently. At its February meeting council resolved to hold public participation prior to council meetings along the lines foreshadowed in the draft report.

## **Committees**

Council has only one committee of which all members are councillors, the staff committee. In addition to this council has a number of advisory committees and working parties.

The staff committee's role is to review the general manager's performance. It can only make recommendations to council unless specifically delegated to make decisions.

The five councillors on the committee are all ALP councillors. A number of the independent councillors complained about the fact that they had been excluded from the committee and registered their dissatisfaction by walking out of the council meeting at which the committee members were selected.

It is unfortunate that membership of council's only standing committee and the committee that oversees the general manager's performance does not better reflect the diversity of views on council. While it is a reality of any form of democratic representative government that those with the numbers will prevail, when council next determines membership of the staff committee, it should seek to include councillors outside the majority bloc. (*Recommendation 19*)

Under clause 263 of the Local Government (General) Regulation 2005, each councillor, whether a member of a committee or not, is entitled to attend and speak at a meeting of a council committee.

That being the case, it is of concern that at the staff committee meeting of 9 November 2005:

- Councillors who were not members of the committee were incorrectly notified that the meeting would commence at 5.30 pm when it in fact commenced at 5 pm with the result that they only arrived as the meeting concluded.



- Councillors who were not members of the committee were not permitted to engage in discussion or debate or ask questions.

Staff apologised for the incorrect meeting time notified to non-committee members and explained that it resulted from a clerical error. Staff advised that changes to processes will prevent the error from recurring.

Council needs to ensure that in future all councillors are correctly notified of meetings of the staff committee and that councillors who are not members of the committee are permitted to attend and speak in accordance with clause 263 of the Regulation. (*Recommendation 20*)

### ***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 Local Government Act and continually reviewed to ensure they remain current.

Council's delegations to the Mayor and general manager were last reviewed on 15 March 2005. All delegations and sub-delegations are documented and can be found on council's Dataworks document management system.

### ***Complaint handling***

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

Council adopted a formal complaints management policy in August 2004. This was last reviewed on 18 August 2005. The policy incorporates the key elements of a best practice complaint handling system as reflected in the NSW Ombudsman's *Effective Complaint Handling* publication.

Council's complaints management policy could be improved by providing clearer linkages with its code of conduct and more clearly reflecting the processes for making complaints under the code. (*Recommendation 21*)

Council has a customer complaint form which contains information about council's complaint handling processes. A copy of council's complaints management policy is also accessible on council's website.

In line with best practice, council's complaints management policy seeks to promote the use of complaints as a way of improving council's systems. Under the policy, where the public officer refers a complaint to a manager for investigation, the manager is required to report back to the public officer. The manager is required to include in their response suggestions for improving systems and or recommend other action that could reduce the likelihood of similar complaints in the future.

Complaints are also recorded on council's Dataworks system and a list is provided to the general manager on a monthly basis. According to the general manager's September quarterly report, council received only four complaints during the quarter. All of these were resolved.

Council provides all staff with training on complaint handling. The public officer provided training to all staff between August and October 2005. Council's induction program also contains a segment on complaint handling.

### ***Protected disclosures***

The Protected Disclosures Act aims to encourage and facilitate the disclosure – in the public interest – of corrupt conduct, maladministration and serious and substantial waste in the public sector. This is achieved by:

- Enhancing and augmenting established procedures for making disclosures concerning such matters
- Protecting people from reprisals that might be inflicted on them because of these disclosures, and

- Providing for those disclosures to be properly investigated and dealt with

In order to be protected under the Act, disclosures need to be made to the principal officer or another officer in accordance with any procedure established for doing so and show or tend to show corrupt conduct, maladministration or serious and substantial waste.

Council's complaints management policy purports to cover the making of protected disclosures. The definition of a "serious complaint" under the policy includes protected disclosures. Beyond this, the complaints management policy makes no further reference as to how protected disclosures are to be dealt with or to the protections afforded to those making them.

Presumably, protected disclosures are to be dealt with as serious complaints under council's complaints management policy. However, in the interests of ensuring that protected disclosures are properly made and that council complies with its statutory obligations in dealing with them appropriately and ensuring complainants enjoy the protections afforded under the Act, council should adopt a separate internal reporting policy. This should be based on the Model Internal Reporting Policy for Councils contained in the NSW Ombudsman's *Protected Disclosures Guidelines (5<sup>th</sup> edition)*. (*Recommendation 22*) In doing so, council should ensure that the internal reporting policy is linked with its complaints management policy and its code of conduct and that its complaints management policy reflects the processes for making protected disclosures under its internal reporting policy. (*Recommendation 23*)

Staff are provided with some training on protected disclosures as part of the induction process. However council should also consider providing ongoing training to both councillors and staff on protected disclosures. (*Recommendation 24*)

### ***Record keeping and management***

Councils are required to make and keep full and accurate records of its 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 utilises Dataworks as an electronic records and document management system to comply with its obligations under section 12. The system is integrated with Microsoft Word and Outlook and has the ability to easily accept all kinds of electronic files. Paper records can be imaged via scanners for importation into the system. However, council has advised that its records management system does not fully comply in that records held in council's Warilla Council Chambers and Lamerton House archives are not stored in air conditioned/climate controlled records repositories. Council should take appropriate steps to ensure that it complies with its obligations under the State Records Act in the storage of records. (*Recommendation 25*)

Council also has a comprehensive policy framework to promote compliance with its obligations under the State Records Act. Council's Records Management Policy establishes clear procedures for the following:

- Indexing and filing documents
- Document registration
- Document tracking
- Appraisal and disposal of records
- Records security
- A periodic file census

Council also has a Council and Corporate Meetings – Minutes Policy that prescribes procedures for the recording, registration and distribution of the minutes of the following:

- Any meeting attended by the council, councillors or council staff for which an agenda has been prepared and distributed
- Any pre-lodgement meeting to preview a development application
- Any meeting organised by any organisation and attended by council staff in circumstances where decisions affecting council's operations are taken.

### ***Public access to information***

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

Council's policies and other key documents are available in hard copy at its level 2 corporate services counter. They are also published on council's website.

Council charges no fees to inspect documents but imposes photocopying charges.

In the quarter ending in September 2005, council received 11 section 12 requests. In the quarter ending in December 2005, council received 13 such requests. All requests were granted.

Council has apparently refused access to documents sought under section 12 on two occasions in the recent past. Both requests related to the same document, a memorandum drafted by a member of staff for the general manager entitled "*Complainants and investigations by the Department of Local Government*". The memorandum was apparently drafted at the direction of the general manager to assist him in summarising information required for a briefing of the former Minister for Local Government.

Council granted access to parts of the memorandum but denied access to other parts of the document. The applicants were given reasons for council's decision to refuse access to part of the document. Access was refused on the following grounds:

- It would be contrary to the public interest because of the impact on the content of future communications between the general manager and the Minister for Local Government
- Granting full access would constitute a breach of council's obligations under privacy legislation and therefore is exempt under section 12(7)(d)
- Granting access may expose council to an action in defamation.

It would seem likely that the first and third grounds are irrelevant in determining the public interest under section 12(8). Section 12(8(a) provides that for the purpose of determining whether allowing inspection of a document would be contrary to the public interest, it is irrelevant that inspection of the document may cause embarrassment to the council, councillors or staff. It is also debatable whether the document was exempt under section 12(7)(d). The exemption provided for under that subsection refers to circumstances where disclosure of the document may constitute an offence against an Act. A breach of the relevant provisions of the *Privacy and Personal Information Protection Act 1998* does not constitute an "offence" as such.

However, a fact sheet issued by Privacy NSW entitled "*Local Government Records and the 'Public Interest' Test*" suggests that where granting of access to a document containing personal information may represent a breach of the privacy protection principles embodied in the relevant provisions of the Privacy and Personal Information Protection Act, this would be a relevant consideration in determining the public interest in deciding whether or not to grant access under section 12(6). That being the case, it was arguably open to council to refuse access to the document, just not on the grounds provided.

The decision to refuse access to the document was reported to council on 28 June 2005 and again on 9 August 2005. The decision to refuse access was endorsed by council on both occasions.

The fact that access was granted to part of the document and that the reasons for the decision to refuse access were reported to council demonstrates awareness by council of its obligations under section 12. This awareness is reflected in council's

policy document, “*Access to council documents – under the provisions of section 12 of the Local Government Act 1993 and the Freedom of Information Act 1989*”. In particular, it is noted that the policy seeks to:

- Ensure that wherever possible, the public will be able to access documents held by council either immediately or as soon as practically possible and
- Provide that wherever possible, the public is not compelled to seek access to documents held by council under the *Freedom of Information Act 1989* and that wherever possible, council shall provide access in accordance with the Local Government Act.
- Entitle any person to inspect documents held by council, (free of charge with the exception of photocopy charges if applicable), where that access is legally available under section 12 of the Local Government Act, or otherwise advise that person to make an application for access under the FOI Act.

The policy satisfactorily reflects and expands on council’s statutory obligations under section 12.

In addition to section 12 requests, in the last 24 months council has received 40 FOI applications. Of these 37 were granted in full or part, 2 were refused and 1 was pending at the time of the review.

Council has adopted a Privacy Management Plan under section 33 of the Privacy and Personal Information Protection Act. This satisfactorily reflects its obligations under that Act. However section 33 also requires councils to publish in their annual reports a statement about action taken to comply with the requirements of the Act and statistical details of any review conducted by or on behalf of the council. Council’s 2004/05 annual report does not contain this information. In preparing next year’s annual report council should ensure that it complies with this requirement. (*Recommendation 26*)

### ***Risk management and internal control***

Risk management is about the 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 should be a balance between the cost of managing risk and the benefits expected from engaging in an activity that has inherent risks.

Councils are exposed to a wide range of risks as a consequence of their diverse functions. A risk management plan provides council with a framework to proactively identify and manage generic and specific risks so that ethical behaviour and practice can be promoted.

Council has developed a comprehensive risk management program that incorporates the following elements:

- Strategic management of risk (including risk financing and insurance, crisis management and disaster recovery, OH&S system development, legal compliance, asset management framework development and entrepreneurial risk)
- Formal management of risk (including risk profiling across functions, all claims management, OH&S implementation, emergency procedures for council buildings, policy and procedure review)
- Informal management of risk

Council reviews its risk management program on an annual basis for relevance and progress. Council also undertakes annual risk audits using insurer protocols for liability. Council currently receives rebates from its insurer, Statewide, as a result of the audit. Council last audited its OH&S system in 2001 and is currently preparing a scope of works for the next 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 does not currently have an internal audit program. Council has programmed the development of an internal audit program by December 2006 and the appointment of an internal auditor in the 2006/07 budget. Council needs to develop an internal audit program as a matter of priority. (*Recommendation 27*)

The development of internal audit processes is also important as council does not appear to have undertaken any fraud risk assessment. Nor does it have a fraud control policy or strategy. It is important that fraud risks are identified and managed effectively and that staff are kept up to date on emerging risk areas and on proven strategies for properly managing them. Council proposes that its internal auditor will do this by December 2006. Council should address this issue as a priority in developing its risk management and internal audit priorities. (*Recommendation 28*)

### ***Councillor expenses and facilities policy***

Councils are required to have a policy on the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and councillors under section 252 of the Local Government Act. Council's policy has recently been reviewed. It is a clearly written document that covers key topics such as legal assistance for councillors and complies with the department's circulars on section 252 policies.

### ***Gifts register***

Since 1 January 2005, when the Model Code of Conduct came into force, councils are required to maintain a gifts register.

Council only started maintaining a physical gifts register after the current public officer started at Council in the second half of 2005. At the time the review team inspected the register, it only had a few entries in it. However the public officer

addressed staff on their obligations in disclosing gifts as part of his training on council's complaint handling system. This was reflected in a large number of disclosures received from staff over the Christmas/ New Year period.

### ***Tendering, procurement, asset disposal and contract management***

Councils' obligations in relation to formal tenders are regulated under section 55 of the Local Government Act and the relevant provisions of the Regulation. These provisions apply to contracts with a value of \$150,000 or more.

Tendering, procurement, contract management and asset disposal are all important areas of council operations. These activities should be governed by strict considerations of probity, transparency and accountability in the expenditure of public funds for public purposes. That being the case, it is of concern that council does not currently have in place a formal policy or procedures in relation to these activities.

It is also of concern that council does not have a statement of business ethics. A statement of business ethics can be an excellent tool for raising private sector awareness of 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 is currently developing a procurement policy and procedures, a tender evaluation system and a contractor performance appraisal system. This should be done as a matter of urgency. The above policies and procedures should provide for the following:

- A statement of business ethics
- Purchasing procedures for expenditure under the tender threshold
- Procedures for the calling of and receipt of tenders
- Procedures for the documentation of procurement and tendering processes
- Guidelines for the use of the extenuating circumstances grounds under section 55(3) of the Act

- Procedures for the assessment and evaluation of quotations and tenders
- Formal procedures for the disposal of assets
- Audit and risk assessment processes
- Contract management guidelines including rules on contract variations, inspections and contractor performance evaluations.

Council's above policies and procedures should be guided by the following considerations:

- *Legal obligations* - These include the provisions of the *Local Government Act 1993* and *Local Government (General) Regulation 2005*.
- *Policy frameworks and guideline documents* – These include the NSW Government Procurement Policy and Framework, the NSW Government Procurement Policy and Guidelines Paper, NSW Government Code of Practice for Procurement and the NSW Government Tendering Guidelines, which are available from the NSW Department of Commerce website.

Commonwealth Procurement Guidelines are available from the Department of Finance and Administration website.

The Department of Local Government has recently issued a draft copy of Tendering Guidelines for NSW Local Government to all councils for consideration and comment. The draft guidelines are available at the department's website under circulars 2005.

- *Value for money* – Value for public money to achieve positive outcomes for the community is the core principle underpinning procurement at all levels of government. It specifically involves a comparative analysis of all relevant costs and benefits of each proposal throughout the whole procurement cycle.
- *Probity* - Councils must conduct all tendering, procurement and business relationships with honesty, fairness and probity at all levels.

- *Accountability and transparency* - Councils must ensure that the process for awarding contracts is open, clear, fully documented and defensible.
- *Consistency* – This means that all conditions of tendering must be the same for each tenderer on any particular tender and the evaluation of tenders must be based on the conditions of tendering and selection criteria as defined in the tender documents.
- *No conflict of interests* - A councilor or council employee with an actual or perceived conflict of interests must address that interest without delay in accordance with council's code of conduct and the Model Code of Conduct for NSW Councils.
- *No improper advantage* - Councils must not engage in any practices that aim to give a potential tenderer an advantage over others, nor engage in any form of collusive practice.
- *Risk management* – The identification and management of risks should be built into council's procurement processes. For further information see *Taking the Con out of Contracting: Guidelines for Managing Corruption Risks in Local Government Procurement and Contract Administration*, available from the Independent Commission Against Corruption website.
- *Open to scrutiny* - Processes need to be based on clearly articulated and defensible evaluation criteria consistent with the legislative and policy framework. Actions must be robust and defensible to the public.

(Recommendation 29)

## **5.2 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*
- *Section 94 plans*
- *Environmental management*
- *Enforcement practices*

### ***Strategic land use planning***

The Shellharbour local government area accommodates a diversity of land uses including commercial, light industrial, the Illawarra Regional Airport, existing residential, greenfields developments, rural, coastal and environmentally sensitive areas. As the general manager observed to the review team, strategic land use planning in the Shellharbour local government area requires the use of every colour in the strategic planner's palette.

Council does not currently have a single overarching planning instrument in place. It currently has two local environmental plans:

- Shellharbour LEP 2000 Urban
- Shellharbour LEP 2004 Rural

The two LEPs seek to promote outcomes (such as sustainable development and the preservation of both the natural environment and current economic uses) that are compatible with council's strategic objectives.

Council is required by section 73 of the *Environmental Planning and Assessment Act 1979* to keep its planning instruments and policies, such as LEPs and DCPs, “*under regular and periodic review*”.

Council's Rural LEP was gazetted in December 2004. A review of its implementation has been programmed in council's management plan. The management plan also refers to a review of existing residential zones and uses and the preparation of a new Urban LEP. Council is also currently undertaking a study of the urban fringe with a view to determining appropriate zonings.

Council has a large number of development control plans particularly in relation to residential development. It is currently in the process of consolidating these. 4 DCPs have been repealed in the last two years.

However, the above developments have been overtaken by recent planning law reforms. In particular, under recent amendments to the Environmental Planning and Assessment Act, the Department of Planning has sought to standardise planning instruments by issuing a new prescribed LEP template that councils are required to utilise. The Department of Planning has given council three years to consolidate its LEPs in conformity with the template and has provided it with funding of \$110,000 to do so. Council advised that accommodating the diversity of land uses in the Shellharbour local government area within the context of the standard LEP template will be challenging.

A further challenge imposed by recent planning law changes includes the requirement that only one DCP may apply to a site. To comply with this requirement, a DCP may cover the whole local government area, a precinct or a site. Site-specific DCPs would operate to exclude the application of all other DCPs to the site. Council has had previous experience in developing site-specific DCPs in relation to the Shell Cove development.

Council faces a further planning challenge with the extension of the application of SEPP 71 Coastal Protection to the Shellharbour local government area.

Council's current management plan does not reflect these requirements and will need to be substantially remodelled to accommodate them. (*Recommendation 30*)

### ***Development assessment***

In 2004/05 council received 889 development applications and determined 803. 44% were determined within 40 days. The median development application approval time was 49 days. Council attributes the relatively low rate of compliance with the statutory 40-day assessment period to staff shortages. Of the 11.5 positions in council's development services section, two are currently vacant. Council has experienced difficulty in filling these positions. This is a structural problem experienced across the whole local government sector. Council has endeavoured to address this issue by offering traineeships.

Council's development assessment processes and competencies were reviewed in 2004. This resulted in refinements in the process and the introduction of an electronic DA lodgement and tracking system (eDA). However, there seems to have been a slow take-up of this. Council believes that this may be because many applicants lack the requisite equipment to produce the required information and supporting documents in an electronic format. Council believes the service will mostly be used by project home companies and engineering firms with large projects.

Council offers a pre-lodgement advice service. Two senior development assessment officers attend these, one with a planning background and another with a building background. Council provides the minutes of pre-lodgement meetings free of charge. To assist applicants and to ensure they provide all necessary information and documents, council also provides a checklist.

DA processing is monitored through the AUTHORITY software package or through the eDA:MS Project. DA turnaround times are monitored internally weekly and reported to council quarterly as part of the management plan review process. Turnaround times also form part of annual performance reviews.

The vast majority of development applications are determined under delegated authority. A development application will only go before council where:

- An objection has been lodged, (unless it is unreasonable, can be addressed by a condition of consent or relates to a section 79C consideration)
- It relates to a designated development
- It relates to the erection of or alteration to flat buildings containing more than 20 dwellings
- Where the proposed development does not comply with a DCP
- For a subdivision of more than 100 lots
- For a development with a value exceeding \$3,000,000

Council provides applicants with information about their review rights under section 82A in its correspondence following refusal. Most reviews are resolved following the provision by applicants of additional information that was not provided with the original DA.

In 2004/05, council was a party to four sets of proceedings before the Land and Environment Court. All were class 4 actions. The applicants withdrew two actions and council was successful in the remaining two.

Council does not have an independent DA assessment process for developments where it is the applicant or has an interest in the proposed development. Council has a process for referring all development applications involving council property to an independent and accredited planner to check its compliance with the requirements with the Environmental Planning and Assessment Act. However, this is an audit process and not an independent merits assessment of the proposed development.



Council is a major developer in its own right, having a significant stake in Shell Cove and associated developments. Council has indicated any potential conflict of interests is managed by the fact that the DAs for these projects are independently prepared and submitted by its private sector partner, Australand. It would seem however that this fails to address a public perception that there is a fundamental conflict between council's role as a developer and as a consent authority.

In the interests of promoting public confidence in the assessment and determination of DAs in which council is an applicant or has an interest, council should consider establishing an independent hearing and assessment panel for the assessment of such DAs and any other contentious DAs. (*Recommendation 31*)

### **Section 94 contributions**

Council has one section 94 contributions plan. This was adopted on 28 September 2005. This is the sixth review of the plan. Council also has a *Works-in-Kind Policy* adopted on 29 June 2005. This relates to developers' offers to construct facilities identified in the section 94 contributions plan as a way of offsetting the cash contribution required.

Council's section 94 contributions plan is comprehensive and is well integrated with its strategic plan and management plan. The forward financial plan contained in council's strategic plan refers to major projects programmed under the section 94 contributions plan and the amount of section 94 funds council itself is required to apply under the plan. Council's management plan also specifies the works required to be undertaken in the 2005/06 financial year under the section 94 contributions plan (although a typographical error refers to these as 2004/05 targets).

Council has also developed guidelines for making assessments under section 94 of the Environmental Planning and Assessment Act. These are available on council's intranet. They are updated quarterly and reviewed each time the contribution plan is reviewed.

Expenditure of section 94 contributions is monitored in council's annual budget and an implementation schedule is put on public exhibition.

Council maintains two section 94 contributions registers:

- A manual register containing details of all contributions levied and received since the adoption of the original section 94 contributions plan in 1993, and
- A computer based register of all contributions levied and received since the adoption of the fifth review in December 2000 and contributions outstanding from the fourth review.

### **Compliance**

Council has a separate compliance section. There are a number of obvious advantages in creating such a specialist section responsible for the exercise of council's enforcement functions across the broad spectrum of its regulatory responsibilities. However, there are also potential disadvantages. For example there is the potential that enforcement issues may not be considered in conditioning consents. Similarly, the compliance staff may not recognise the issues that prompted certain conditions of consent being imposed in considering whether to take enforcement action.

The review team's discussions with staff suggested some scope for improved communications between council's compliance section and other sections whose work impacts on council's enforcement functions such as the development services unit. Council should consider putting in place formal consultation processes to facilitate such communication. (*Recommendation 32*)

Council does not currently have a formal enforcement policy. It was intended that one would be developed by December 2005, but appeared to be some way off completion when the review team visited council. Council should develop an enforcement policy as a matter of priority. The NSW Ombudsman's *Enforcement Guidelines for Councils* is a useful resource that contains a model enforcement policy. (*Recommendation 33*)

Complaints about non-compliance requiring the exercise of council's regulatory powers are currently dealt with under council's complaints management policy. They are registered onto the AUTHORITY system and dealt with in accordance with that policy. Such complaints ought more appropriately to be dealt with under an enforcement policy than the complaints management policy, which should relate solely to complaints about council. (*Recommendation 34*)

It would appear that council has a proactive approach to the exercise of its enforcement functions and has a monitoring program in relation a range of activities falling within its regulatory responsibilities.

One issue that emerged in the review team's discussions with both councillors and staff was the extent to which councillors become directly involved in enforcement matters. Local media reports of an incident last year involving a councillor and a resident facing enforcement action amply illustrates the potential dangers of councillors becoming directly involved in enforcement matters. Such intervention potentially compromises council's ability to effectively prosecute its enforcement functions. Where people the subject of enforcement action by council approach councillors, they should generally refer them to the appropriate staff member or where legal proceedings have commenced, to council's solicitor. Council needs to reinforce this with councillors. (*Recommendation 35*) Councillors were reminded of this during training provided by Maddocks Lawyers in June 2006.

### ***State of the Environment Report***

State of the environment reports are prepared by councils to report on the main environmental issues facing local government areas. The reports must address 8 environmental sectors and include major environmental impacts and related activities. The Local Government Act requires councils to prepare a comprehensive report the year ending after each council election and a supplementary report in the intervening years. These reports must identify any new environmental impacts since a council's last report and update the trends in environmental indicators that are important to each environmental sector.

Council's state of the environment report complies with the relevant legislative requirements. The report is, overall, well written and well presented. It addresses all the necessary environmental sectors. However, the section on heritage and particularly Aboriginal heritage is cursory. The Aboriginal Heritage Study completed in 2000 has still not been incorporated into council's processes. The integration of the study outcome into planning processes is continuing via the Aboriginal Heritage Group.

The report effectively utilises the pressure/state/response model and provides a detailed discussion of responses to the various pressures identified. However, there is minimal mapping provided and the report fails to provide any regional setting or acknowledge issues in surrounding local government areas that may impact on the Shellharbour local government area.

There is a specific listing of future actions to address environmental issues in the executive summary. Data and other information gaps are identified. However there is no specific section on council's environmental performance and the environmental impact of its activities.

The report describes council's engagement with the local community on a range of projects including the funding of environmental care groups, bush regeneration projects and various small environmental projects undertaken by the community.

Indicators in the state of the environment report are reflected in council's management plan. Any issues identified in the report are also considered during reviews of council's planning policies. However the report does not address its relationship with council's management plan and it would seem that there is some scope for improving linkages between the two documents. (*Recommendation 36*)

## ***Companion animals***

Council has a comprehensive local companion animals management plan in place. This was last updated in March 2003. Council is currently in the process of updating it again.

Council runs a number of community education programs on companion animals issues including microchip day, pooch pouches and stormwater education. Council also runs coordinated public education promotions on pet owner responsibilities with the RSPCA. Council's website also contains comprehensive coverage of companion animals issues.

Council has a proactive approach to the identification of companion animals in the area and pursuing outstanding registrations. Council subsidised discounted microchip days are advertised and held three times a year. Council also conducts regular mail-outs to owners of micro-chipped animals that have not been registered. All dog complaints are checked for registration compliance. Council also runs monthly media advertising on the "lost dog of the week".

Council has a written procedure for dealing with nuisance animal complaints.

Council has recently resolved to enter into an agreement with the RSPCA to manage a new dog pound facility on council's behalf at Unanderra in the Wollongong local government area. A need to review and update its current facilities at Albion Park, which were constructed in 1966, was identified in council's local companion animals management plan. The facility will also service Wollongong City Council. A local veterinary hospital operates as a cat pound.

Council has a policy of returning identifiable animals to their owners wherever possible in preference to taking them to the pound.

### **5.3 Asset & Financial Management**

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

A review was conducted of a range of aspects of council's practices in the areas of:

- *Financial management*
- *Asset management*

#### ***Overview of financial position***

##### *Operating Results & Trends*

Council has reported operating deficits before capital items and operating surpluses after capital items for the past 5 years. For the period 2004/05, the deficit before capital items was \$280k. After capital items, for the same period, the result was a surplus of \$8.4M. The deficit before capital items in 2004/05 would have been much greater had it not been for a gain on the sale of assets of \$4.4M.

##### *Budgeted vs Actual Results*

The actual deficit before capital items in 2004/05 was \$280k compared to a budgeted deficit of \$2.4M. The variance was due to a much higher than budgeted gain from asset sales mentioned earlier. The actual surplus after capital items for the same period was \$8.4M compared to a budgeted surplus of \$849k. During the period 2003/04 and 2002/03 the actual results after capital items were surpluses of \$20M and \$9M respectively compared to budgeted surpluses of \$675k and \$1.2M respectively.

### *Liquidity and Cash Position*

Council's unrestricted current ratio (UCR) for the 2004/05 period was 4.87:1. For the period 2003/04 and 2002/03 it was 3.66:1 & 2.80:1 respectively. The UCR measures the adequacy of working capital and the ability to satisfy obligations in the short term. It does not include externally restricted activities such as water, sewer or specific grants. A good UCR is greater than 2. A ratio of 1.5 to 2 could be of concern if other indicators are not adequate. A ratio of 1.5 is considered unsatisfactory.

Council's unrestricted cash for the periods 2004/05, 2003/04 & 2002/03 were \$8.9M, \$8.9M and \$13.4M respectively. The Rates & Annual Charges Outstanding Percentage (RACO%) in 2004/05 was 3.98%. The RACO% assesses the impact of uncollected rates and charges on liquidity and the efficiency of debt recovery. A benchmark for city and coastal councils is less than 5% while a benchmark for rural councils is less than 10%. The Debt Service Ratio (DSR) in 2004/05 was 0%. Council did not have any loans outstanding as at 30 June 2005. Council elected to retire all outstanding debt during the 2004/05 financial year as a means of making savings of \$1.9M per annum on the payment of principal and interest on its outstanding loans.

### *Infrastructure Maintenance*

Council has reported that its infrastructure assets are in reasonable condition. The written down value (WDV) of council's assets for 2004/05 period are as follows:

- Roads, Bridges & Footpaths 70%
- Stormwater Drainage 84%

The department considers that WDV below 50% may be a cause for concern.

Council's estimated cost to bring assets to satisfactory condition was \$11.178M as at June 2005. Estimated annual maintenance required was \$3.383M whereas actual program maintenance was \$2.101M. Internally restricted funds set aside for infrastructure replacement was nil at 30 June 2005.

While council's infrastructure assets may currently be in reasonable condition, the gap between estimated and program maintenance has the potential to pose significant long-term challenges for council, particularly in circumstances where it has failed to set aside restricted funds for infrastructure replacement. This is an issue council needs to address as part of its forward financial planning. In doing so, council needs to weigh the costs of investing in infrastructure renewal over the medium term against the potential costs of failing to do so over the long term. Commendably, council acknowledges this and has sought to address it through its 2006-07 management plan. It was the rationale for its application of a special variation to general income of 9.5% discussed below. (*Recommendation 37*)

#### *Auditor's Comments*

In its audit of council's financial reports for the year 2004/05, council's auditor commented; *"Council's net current assets increased from \$23.114M to \$26.872M during the year...Prima facie this places Council in a good financial position..."*

#### *Compliance with the Accounting Code*

For 2004/05 Council was fully compliant with the Local Government Code of Accounting Practice and the financial provisions of the Local Government Act.

#### *History of Special Variations and Loans Outstanding*

Council has applied for a special variation (SV) twice in the last 10 years. Council unsuccessfully applied in 2005/06 for an increase of 9.46% in general income. Council made a further application in 2006/07 for an increase of 9.5%, which was granted.

As previously mentioned, council did not have any loans outstanding in 2004/05.



### *Business Activities*

Council has 3 business activities namely a nursery, sand mine and caravan park. These operations are relatively small in terms of financial impact on the overall operations of the council.

### *Shell Cove*

Council has an interest in the Shell Cove development. This is the largest local government property development project in Australia. It involves the development of residential property and associated infrastructure, (including a harbour/marina and golf course).

The development operates under a management agreement between council and its private sector partner, Australand. Under the agreement, council is the developer. Council provides the land and sells it directly to purchasers. Australand is the project manager and financier and as such carries the risk associated with the project.

A committee comprising of 3 Australand executive staff and 3 council senior staff manages the development. All decisions are made on a consensus basis.

Under the management agreement, council is entitled to 50% of the net profits of the venture, calculated after deducting all development costs and administrative expenses. Sale proceeds are held in council's trust fund. As at 30 June 2005 all revenue earned on Shell Cove had been spent on the development. Based on current projections total revenue will exceed total costs with profit distribution to commence in 2009. Council will also own the harbour, marina and golf course when they are completed.

Council also receives an administration fee calculated as a percentage of each lot sold. In 2004/05, council received \$250,581 in administration fees.

### ***Long term financial planning***

As indicated above, council's strategic plan incorporates a forward financial plan that consists of a series of yearly budgets through to the year ending 30 June 2014. This is prepared every year in parallel with the budget process. Council's current forward financial plan is based on its 2005/06 budget. It is based on a series of carefully researched assumptions regarding costs, revenues and activities.

Council uses its forward financial plan to:

- Monitor predicted liquidity/ working capital/ debt servicing levels
- Plan future borrowing needs and rate and other revenue raising requirements to service projects and costs
- Assess the need and the timing to raise funds for capital projects
- Project expected expenses and revenue in future years for council operations including all business units and ventures such as Shell Cove and the Illawarra Regional Airport
- Prioritise future projects

While council has rated and assessed all of its assets, these have not been incorporated into its forward financial plan. However the plan makes allowances for greater asset maintenance costs in later years. Council's section 94 contributions plan has been incorporated into its forward financial plan. However other sources and applications of funds are yet to be defined and included.

The biggest driver of change council has identified for the years covered by its forward financial plan is the implementation of council's section 94 contributions plan. Council currently has only \$3.14 million left in restricted assets to pay for its commitments under the plan. These funds will be exhausted in the 2007/08 financial year if the current implementation schedule is maintained and additional funds are not reserved for this process. Clearly this is a matter that council needs to address as a matter of priority. (*Recommendation 38*)

Council has acknowledged that its forward financial plan will require further refinement with respect to the provision of physical infrastructure and the possible flow on effects that this will have on its other operations.

### ***Asset management***

As indicated above, council faces significant medium term challenges in balancing the need to maintain and replace its current asset base against the need to provide and maintain new infrastructure. In meeting this challenge, council needs to weigh the costs of investing in infrastructure renewal over the medium term against the potential costs of failing to do so over the long term.

In its draft report, the review team observed that council was somewhat hampered in its capacity to meet this challenge by the practice of allocating its capital works expenditure evenly between each of its wards without regard to need or efficiencies. This meant that wards containing newer developments with recently constructed infrastructure funded by section 94 contributions were allocated the same capital works funding as those wards covering established urban areas with older, rundown infrastructure and that, in the absence of new development, do not benefit from section 94 contributions.

The review team recommended that council review its practice of allocating capital works expenditure on a ward-by-ward basis with a view to determining whether this represents the most equitable, efficient or effective means of determining council's capital works priorities. The review team is pleased to note council abandoned this process in its 2006-07 management plan and budget, resolving instead to compile future capital works programs on a city wide basis with priorities being determined based on a cost benefit analysis for each project.

Council's asset management and replacement program is administered via the Conquest Management System software package which council has adapted for use by local government. This lists all of council's assets, (including plant, roads, drainage, buildings, parks and sports fields, footpaths and cycleways, street trees and furniture), their condition and valuation.

Staff have described Conquest as a very powerful tool. Unfortunately the process of undertaking inspections and inputting data has gone slowly. In order that Conquest can be utilised to its full potential, council needs to ensure that it continues to apply resources to undertaking inspections of its assets and inputting data. *(Recommendation 39)* Council has advised that it has applied additional resources to ensure this continues.

In assessing the condition of its assets, council applies risk management principles.

### ***Land assets***

Most of council's community land holdings have plans of management as required under the Local Government Act. About 80% of council's community lands have plans of management to current standards of compliance. Council expects to have plans of management in place for all of its community land holdings by March 2006. Given this is a statutory requirement under the Local Government Act council should attend to this as a matter of priority. *(Recommendation 40)*

Though it is not a statutory requirement, not all of council's operational land holdings currently have business plans. However, council expects to identify current and potential uses of each parcel of operational land held by council by June 2006. Council is to be encouraged to do so as a means of optimising the use of such lands. *(Recommendation 41)*

### ***Entrepreneurial activities***

Council has a strong entrepreneurial focus. This is reflected in a number of its development and business activities, namely:

- The Shell Cove development
- The Shell Cove marina
- The Shellharbour Links golf course
- The Illawarra Regional Airport

- Council sandmining
- Council's nursery
- The caravan park

In addition to this council has established an entrepreneurial fund from land sales. 40% of this is restricted for use to fund council's obligations under its section 94 contributions plan. The remaining 60% is reinvested in entrepreneurial activities.

Such activities have the benefit of providing council with alternative revenue streams and support its long-term financial position. They also serve to promote its strategic objectives in terms of facilitating economic development of the area.

While it is noted that council applies risk management principles to its entrepreneurial activities, council needs to remain mindful of the risks inherent in such activities and limit them to those areas where it has had previous experience and/ or has the necessary expertise to undertake the activity. It is noted that this is council's current practice as reflected in the arrangements it has entered into in relation to Shell Cove discussed above at page 65. (*Recommendation 42*)

Given council's entrepreneurial focus, it is surprising that it does not have business plans for a number of its enterprises. For council to effectively plan and monitor its business activities, it is important that it invest time and effort into systems to promote good risk management and control. Councils should develop a checklist for each business activity, including:

- 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

Council should develop a business plan for each of its business activities that incorporates and builds on this information. (*Recommendation 43*)

## ***Information technology***

Council has employed a 'best of breed' approach to IT development. This involves staff being asked to select a software package that best suits their needs. It is then the role of IT staff to integrate the large suite of software packages selected. This has seen the development of an innovative IT platform that incorporates a number of cutting edge features including:

- Cascade which has been used to consolidate resident data and eliminate duplication
- An e-business functionality for on-line DA lodgement and tracking and the payment of rates
- GIS on-line mapping
- Outcome manager which has been used to refine the development of management plan outcomes
- Dataworks electronic document management system
- Remote access to council's IT platform
- Conquest asset management system

To ensure management input into and ownership of IT development, council has established a corporate information group (CIG). This meets every two weeks to discuss council's IT needs and reports to MANEX.

## 5.4 Community & Consultation

A council's charter requires that a council:

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

The review of council's activities in this area looked at:

- *The methods council uses to involve and determine the views of its community*
- *Social and community functions of council*
- *Annual reporting*
- *Reporting to the community*

### ***Annual report***

Council's annual report 2004-5 generally complies with the requirements of the Local Government Act and Regulation. It is noted however that the annual report does not comply with amendments to the Regulation that commenced in September 2005 relating to information to be disclosed concerning the components of senior staff's remuneration package. In preparing next year's annual report council should ensure that it complies with these requirements now contained in clause 217(b) of the Local Government (General) Regulation 2005. (*Recommendation 44*)

### ***Public consultation***

Council has well developed public consultation practices.

In 1997, council conducted a major community survey called "Future Directions" to ask local residents what their hopes for the future were and about council's role in

that future. The results were used to prepare a strategic framework to guide the ongoing process of setting targets for council activities and planning for the future. In 1998, council followed this up with a resident satisfaction survey.

As indicated above council repeated its “Future Directions” survey in 2004. A total of 507 residents were interviewed. They were asked to identify what they most liked and disliked about living in Shellharbour, the best and worst qualities in 15-20 years, quality of life, council’s services and facilities, suggestions for improvements, planning directions and the perceived importance of specific issues. The results of the survey were used to frame council’s current strategic plan.

In addition to this process, council undertakes a community satisfaction survey annually. This is undertaken by council’s customer services section and covers general customer service, pools, waste management, libraries and the stadium.

Councils are also required to consult with the community in the preparation of their management plan every year. The draft management plan is required to be exhibited in accordance with section 405 of the Act. Council advertised its draft management plan in local newspapers, libraries and on council’s website. Council also sought public input by holding public meetings at Albion Park and Flinders in June 2005. As the management plan also contained a proposal for a significant rate rise, these generated considerable interest. 49 people attended the Albion Park meeting and 47 attended the Flinders meeting. In total, council received 839 submissions on the draft management plan. This included 779 feedback forms distributed by council. A petition was also circulated in relation to the rate increase proposal that received 8,000 signatures.

While the rate increase proposal undoubtedly played a role in generating additional interest in the management planning process, the significant level of community participation in the preparation of the management plan is indicative that council’s strategies for promoting public awareness of that process have been successful.

Councils are also required to consult with their communities in the preparation of their social plans. In preparing its social plan, council held consultative meetings



throughout the local government area with residents and service providers to obtain information on the strengths and needs of each area and target group. Council also conducted a written survey of service providers to identify key needs. Council also conducted a telephone survey of over 500 residents.

In addition to this, council consults with all social plan target groups. Council has an Aboriginal Liaison Committee and an Aboriginal Heritage Working Party. It has a Disabilities Advisory Committee and various youth projects operating through the Blackbutt Youth Centre. Council also consults periodically with other target groups and specific projects operate targeting women (Women for a Safer Community), men (Making Men Matter) and various parent and family projects. Council also employs an Aboriginal Liaison Officer and a Multicultural Strategies Officer to assist it to effectively liaise with those groups.

### ***Communication strategy***

Council utilises a number of mechanisms to advise the local community of its activities, including:

- The annual report
- A weekly one page feature in the Lake Times
- The Mayoral column
- Council's website
- Regional business quarterly advertisements.

In June 2004, council commissioned a community survey about its communication methods. This followed an earlier survey in 2002. The survey determined where the community obtained information about council's activities. Resident's attitudes to council were also surveyed. The survey results suggest there is some scope for improvement in council's communication methods. The survey found:

- 43% of residents agreed with the statement "Council is approachable and easy to contact". A further 31% neither agreed nor disagreed.

- 35% of respondents agreed with the statement “Council communicates well with the general public” A further 42% neither agreed nor disagreed.
- 46% of respondents agreed with the statement “There is a clear plan and direction for the future”. A further 35% neither agreed or disagreed.

Council’s website is well designed, informative, comprehensive, up to date and easy to navigate. While the above survey indicated that only 15% of those surveyed had accessed it in the last 12 months, there was a high level of satisfaction amongst those who did, with users rating highly the usefulness and accuracy of the information presented.

### ***Guarantee of service***

Council does not currently have a guarantee of service. Council should develop one to assist it in meeting its obligations to the community. A guarantee of service ought to establish a clear set of service standards that the community can expect of council and benchmarks against which its performance can be measured.  
*(Recommendation 45)*

### ***Social Plan***

The Local Government (General) Regulation 2005 requires all councils to develop a social and community plan at least once every 5 years to meet the needs of the residents of their area. This plan must be prepared in accordance with guidelines issued by the department. Aspects of the social and community plan must be reported in council’s management plan and annual report.

Council’s social plan has been prepared for the years 2005 – 09. It has been well prepared and meets the minimum requirements set out in the department’s *Social and Community Planning and Reporting Guidelines 2002* and in some respects exceeds them. In addition to identifying and assessing the needs of the mandatory target groups, the social plan also seeks to address the needs of additional target groups and specific areas for action, including:

- Transport
- Communication with council
- People living in new communities
- Grandparents as carers
- People who are gay, lesbian or transgender
- Men
- People with low incomes.

One criticism however is that the timeframes for implementation of strategies could be more clearly defined.

The social plan is linked with council's strategic plan. It is also well integrated into the management plan. The management plan outlines in broad terms implementation of strategies for target groups identified in the social plan. However it is noted that the access and equity statement in council's current management plan does not comply with the requirements of the department's *Social and Community Planning Guidelines* at section C3.2. In preparing its next management plan, council should ensure that its access and equity statement complies with these requirements. *(Recommendation 46)*

The social plan is also cross-referenced with other relevant plans including:

- The section 94 contributions plan
- Cultural plan, and
- Disability services plan

Council's social plan is available on its website.

Council has been successful in securing grant funding for many of its community services activities and programs.

## **5.5 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:

- *Consultative committee processes*
- *Job descriptions and job evaluation*
- *Recruitment and selection processes*
- *Employee remuneration*
- *Equal employment opportunity*
- *Staff development*
- *Grievance management*
- *Occupational health and safety*

### **Overview of the organisation**

Council's organisational structure is discussed in detail at pages 21-23 above.

Council employs 276 full time staff. Including temporary and casual employees, the total number of staff employed is 341. Three employees are aged between 13 and 17 years, 29 aged between 18 and 24 years, 269 aged between 25 and 54 years and 40 aged between 55 and 64 years.

Council's salary budget for the 2004/05 was \$13,969,564. Actual expenditure was \$14,323,610. The difference of \$354,046 or 2.5% was due to minor activity and price variations. Salary expenditure for the 2005/06 financial year is currently on track with the budget.

In 2004/05 \$479,422 or 3.5% of total wages and salaries for the year was paid in overtime.

### ***Human resources strategy***

As with other local government authorities, council is exposed to a number of workforce issues, such as:

- the shortage of specialised skills in certain areas, such as in planning
- an ageing workforce
- a change in workload for certain sections as council's and government priorities change
- increases in career opportunities outside the area.

Council does not currently have a human resources plan in place to manage these issues. However, council proposes to develop such a plan by June 2006. In doing so, council 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 human resources strategy can integrate and guide council's overall human resources effort, particularly in the areas of recruitment and retention and staff training and development. A strategy of this kind may be stand-alone or may be integrated into council's overall corporate strategy. The key is to ensure that, consistent with council's view on the future direction of the organisation, planning is underway to support that direction at the human resources level. (*Recommendation 47*)

### ***Human resources policies and procedures***

Council has a documented selection policy and procedure that applies to all recruitment processes that reflects its obligations under sections 348 and 349 of the Local Government Act.

All council positions have job descriptions, which are provided to staff. Council has a formal policy for the review of job descriptions. Job descriptions are reviewed annually as part of the performance review, on request or as may be required, and whenever council needs to fill a vacancy for the position.

Council also has a structured staff induction program for new staff. This ensures that staff become familiar with their workplace through a thorough and considered process that effectively equips them with the knowledge needed to perform their roles. Supervisors are required to complete an induction checklist and forward it to the Manager - Organisation Development.

Council's induction procedures and checklist are comprehensive. However in the draft report, the review team expressed the concern that neither made mention of the fact that staff are provided with a copy of council's code of conduct or are provided with training on their obligations under it. The review team observed that new staff should also be provided with a copy of the code of conduct. Council now includes a copy of the code of conduct with letters of offer. However, this should be reinforced with induction training on the code of conduct. Council now also provides new staff with a copy of its complaints management policy and procedure. However, in the event council adopts an internal reporting policy staff should also be given a copy of this and provided training as part of council's induction program. (*Recommendation 48*)

The *Local Government (State) Award 2004* requires that council have a salary system that determines how employees are paid and requires that an "employee shall be paid the salary system rate of pay that recognises the skills the employee is required to apply on the job". Council has a skills and performance based salary system that is consistent with the requirements of the *Local Government (State)*

*Award.* Council undertakes a skills and performance assessment on an annual basis.

Council's salary system does not form the sole basis for remuneration. Market assessments have come into play for some positions where there is a high demand across the sector but limited supply. This is particularly the case with planning staff. As discussed at page 55 above council has faced difficulties in filling two positions in its development services unit.

The *Local Government (State) Award* also requires council to develop a training plan that reflects the current and future skill requirements of council, its size, structure and the nature of its operations and the need to develop vocational skills relevant to it and the sector as a whole. Council has a formally documented training plan that is developed as part of annual performance reviews. This is reviewed in the last quarter of each year. Council's human resources section monitors compliance.

The Award requires the workplace consultative committee to be consulted in the development of the training plan. Council has formed a training and education subcommittee to fulfil this requirement.

### ***Consultative committee***

Clause 25a of the *Local Government (State) Award* requires each council to establish a consultative committee and to meet regularly. Council's consultative committee comprises of 3 management representatives, 7 union representatives and 1 delegate to represent the library and other remote sites. Two councillors used to attend as observers but no longer do so. The consultative committee meets every 2 months. Business papers and minutes of meetings are maintained by Human Resources and referred to the general manager and staff.

### ***Grievance management and staff attitudes***

Council has grievance management procedures that are consistent with those established under the *Local Government (State) Award*.

Council participated in a workforce study of a number of NSW councils undertaken by the Chandler Macleod Group. The study, amongst other things surveyed workforce attitudes. 42% of council's employees participated. 2% rated their job satisfaction as extremely high (compared to the benchmark of 4%), 15% as very high (compared to the benchmark of 15%), 53% as high (compared to the benchmark of 43%), 16% as neutral (compared to the benchmark of 22%), 10% as low (compared to the benchmark of 9%), 2% as very low (compared to the benchmark of 3%) and 2% as extremely low (compared to the benchmark of 2%).

13% of employees surveyed strongly agreed with the statement, "I would recommend my council as a good place to work to a friend or family member" (compared to the benchmark of 16%). 49% agreed with the statement (compared to the benchmark of 49%). 22% were neutral (compared to the benchmark of 21%). 13% disagreed (compared to the benchmark of 9%) and 3% strongly disagreed (compared to the benchmark of 5%).

### ***Occupational Health and Safety***

Council has adopted an Occupational Health and Safety Policy. This is currently under review. Council has also appointed an OH&S and rehabilitation coordinator. Council also has a formally constituted Occupational Health and Safety Committee.

Council conducts systematic occupational health and safety risk assessments. Workplace inspections are undertaken on a regular cycle and reported to responsible managers and the OH&S Committee. Risk assessments are also undertaken at the commencement of each construction job. Council has also introduced risk profiling and is currently trialling this at pools and beaches.

All employees are required under council's injury management policy to report injuries, near-misses and hazards to supervisors. Workplace injuries and time lost are monitored by the OH&S and Rehabilitation Coordinator and reported to the workplace consultative committee at each meeting and to MANEX.



## ***Equal Employment Opportunity***

Section 344 of the Local Government Act requires councils:

- To eliminate and ensure the absence of discrimination in employment on the grounds of race, sex, marital status and disability.
- To promote equal employment opportunity for women, members of racial minorities and physically handicapped persons in councils.

Councils are obliged to prepare and implement an equal employment opportunity management plan in accordance with section 345 of the Act.

Council has adopted a suite of policies to comply with its obligations under section 344 including:

- An EEO policy
- An EEO Management Plan
- A policy on harassment

Council's EEO Management Plan complies with the requirements of section 345.

## 6. COUNCIL'S RESPONSE

4 July 2006



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

**Local Government and Reform Program  
Promoting Better Practice  
Shellharbour City Council – Document Reference A42590**

Dear Sir,

Thank you for the Draft Confidential Report and the recommendations contained therein.

As requested, each Councillor was given a copy of the draft report, on a confidential basis, and several Councillors have taken the opportunity to reply. These are shown as attachments.

Council's Senior Management have noted and analysed the 53 recommendations made by the Promoting Better Practice Review Team following their review of Council's processes and practices in exercising its functions.

It is pleasing to note that practically all recommendations made by your team in regard to the management of Council's operations are in fact very similar to, or follow on from, those which Council officers raised with your team in Council's self audit report which was provided to your team prior to their review. This audit was initially developed by Council through a review of the LGMA Governance Health Check carried out in mid 2005. Council's report also clearly stated a timeframe to complete all outstanding tasks pending resource availability.

I have provided an update on the status of each of these items, which identifies that substantial progress has been made on these items since December 2005 when Council staff finalised the audit. This work is continuing.

While your report is clear on the outstanding issues, I am somewhat disappointed that little comment has been made on the high level performance Council has achieved in a number of important areas.

All communications

addressed to:

**GENERAL MANAGER**

PO Box 155

Shellharbour City Centre 2529

Telephone: 02 4221 6111

Facsimile: 02 4221 6016

DX 26402 Shellharbour City Centre

Email: [records@shellharbour.nsw.gov.au](mailto:records@shellharbour.nsw.gov.au)

Web: [www.shellharbour.nsw.gov.au](http://www.shellharbour.nsw.gov.au)

**ADMINISTRATION CENTRE:**

Lamerton House, Lamerton Cres.

Shellharbour City Centre 2529

**COUNCIL MEETING CHAMBER:**

Cnr Shellharbour &

Lake Entrance Roads Warilla

**Letter – Department of Local Government**

**Local Government and Reform Program – Promoting Better Practice – Shellharbour City Council**

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In this regard, little acknowledgment has been made of Council's utilisation of 'best of breed' information technology for local government business operations, its e-services provisions including a unique electronic system for lodgement of development applications, its introduction of the Conquest asset management system and the adaptation of that software for use by local government in New South Wales.

The same can be said for Council's various entrepreneurial business activities which are generating income for Council and rewarding the community with many services which, by comparison with other Councils, are amongst the lowest cost available.

With regard to the Shell Cove Project, it is the largest local government property project in Australia with Council, as the developer, having to undertake complex property, legal and financial tasks never before undertaken by a local government authority, eg, resumption of the ocean floor.

In regard to the Airport Project, this redevelopment, including Council's performance, has received wide recognition at regional, State and Federal Government level (including the Prime Minister) especially in regard to the success of Council's alliances with the private and government sectors and in the efficiency of its utilisation of Regional Partnership Funding.

In Community Services, our Safer Cities project and our strategic partnerships with the private sector are receiving national recognition.

In my opinion, Council is at the forefront of local government in New South Wales in these four areas, notwithstanding our scarce resources.

Your Department is well aware that for the past two years management has been functioning under a considerable degree of difficulty due to the significant demand on its resources to respond to Councillor requests, the relatively high number of Section 12 and FOI applications and constant political agitation from a small community group. This has been very resource consuming and has severely limited progress with policy development and other important governance and management issues.

In these circumstances I am extremely pleased with the draft Report's overall findings. The report is, in fact, a very positive one for Council's management, citing our "clearly articulated strategic framework...an organisational structure that seeks to promote forward planning....a comprehensive governance framework....and sound finances."

I wish to extend my personal thanks to the Review Team, led by Mr John Davies. Their professionalism must be acknowledged and the feedback given to my staff has been invaluable.

Letter – Department of Local Government

Local Government and Reform Program – Promoting Better Practice – Shellharbour City Council

I now look forward to receiving the Final Report so that it can be formally presented to my Council and my community.

Yours sincerely



Brian Weir  
**General Manager**

**SHELLHARBOUR CITY COUNCIL  
RESPONSE TO DLG REVIEW  
4 JULY 2006**

1. This was identified to the Review Team by Council staff and is acknowledged. It must be remembered that Council's S94 Management Plan is a major component of Council's long term plans, and this plan extends well beyond a five year timeframe. Similarly Council's long term financial plan already extends beyond five (5) years.
2. This was identified to the Review Team by Council staff and is acknowledged. Council's recent (2005) adoption of the Outcome Manager framework has a medium term (3 years) development and enhancement phase to be pursued, inclusive of SMART performance measures.
3. Continuation acknowledged. Council management is committed to this practice.
4. Continuation acknowledged. This is our current practice.
5. This was identified to the Review Team by Council staff and is acknowledged.
6. This was identified to the Review Team by Council staff. It is Council Management's intention to continue this practice. This was held within weeks of the 2004 Election (Initial workshop was two day workshop held at Jamberoo – this was widely criticised by some Councillors and community representatives as a waste of time and money). Management raised this with the DLG as a critical issue. This was reinforced by a Maddocks seminar on 20/06/06 and further workshops on these issues are planned.
7. The opportunity presented by s224A was considered by Council at its meeting in March 2006 where it resolved that no action be taken. However, Council resolved on 13/06/06 to call for a report on the possibility of reducing Councillor numbers and the number of Wards by referendum.
8. A formal schedule will be developed to formalise existing and new arrangements. Council will continue to monitor this.
9. Council will continue to identify resource sharing alliances in the future.
10. Council held briefings with potential candidates (Notice to Potential Candidates Information Night held at 7:30pm on Monday 1 March 2004) prior to nominations. Council considers that what occurred was best practice at that time as Council held briefings and also handed each potential candidate a copy of the information booklet provided by the DLG. However in future Council will also post the information booklet on Council's website.
11. This issue was identified by staff during the DLG Review. The Code of Conduct, and Conduct Committee Charter was adopted 7/2/06. The Committee Charter contains advice on procedures of the Committee, as well as identifying forms of misbehaviour and sanctions. Maddocks Lawyers are continually advising Council with respect to procedures.

12. This issue was identified to the Review Team by Council staff. Since the Review, Council has adopted the General Manager's recommendation to require compulsory attendance at training. Council management had identified this issue by late 2005 and put the matter on hold when Council was advised that a Promoting Better Practice Review would be undertaken by the DLG. A training session (attended by a DLG Representative) and facilitated by Maddocks Lawyers has since been held.
13. Councillors and staff were provided with information on Pecuniary Interest Returns on 15/6/05 with relevant DLG Circulars 04/16 and 05/24 attached. This is standard annual procedure. Council also held a staff briefing regarding Pecuniary Interest Forms. A Declaration of Interest Form was also introduced in 2005 and is expected to be completed by Councillors when they declare a conflict/pecuniary interest at Council Meetings, under the Code of Conduct or Local Government Act.
14. From Management's point of view this has always been on offer – it is a matter for the Councillors to agree. Formal briefing sessions are convened by the General Manager on major strategic issues prior to these matters coming before Council.
15. This is now being addressed and was identified to the Review Team by Council staff as a major issue; Maddocks Lawyers will be assisting the General Manager in ensuring correct behaviour as indicated in the Code of Conduct and expected under the Local Government Act. Council welcomes comments from the DLG Review Team regarding further explanation of expected conduct and behaviour and will review Council's Code of Conduct to review and "set" the parameters of acceptable behaviour.
16. This recommendation has been referred to the Mayor for his consideration.
17. Agreed.
18. This is an option, however this is a political issue and Council must ensure that the Minutes do not show "political" viewpoints being recorded. As acknowledged in the report, Council adheres to its Minutes Policy, compiles the Minutes correctly and ensures that the Minutes are recorded in accordance with at least the minimum requirements of the Local Government Act. Management will give Council the opportunity to consider this option.
19. The matter has been completed. Council has so resolved at its meeting on 7 February 2006.
20. The matter has been finalised. Council has so resolved at its meeting on 7 February 2006.
21. This is a matter for the elected body to determine.
22. This is being continually undertaken and procedures are in place to double check information printed on meeting agendas and business papers to ensure accuracy. This recommendation arises from a single instance of an administrative oversight being made. The Mayor and Councillors have been reminded, as necessary, of the requirements of clause 263 of the Regulation.

23. Acknowledged. Council's existing Complaints Management Policy and Code of Conduct are listed for review.
24. Council's existing Complaints Management Policy contains reference to protected disclosures. At their induction Council staff have protected disclosures obligations explained to them; however a separate internal policy will also be prepared.
25. The proposed internal complaints policy will be linked to Council's existing Complaints Management Policy and Code of Conduct.
26. Council will continue to provide training to both Councillors and staff on protected disclosures. This will occur at both inductions and annually as part of an update of the training plan.
27. Council continues to make improvements annually to its records storage facilities, based on available funds and priorities, and will consider further outsourcing of storage as an interim to constructing a purpose built facility. This may also be a strategic alliance opportunity.
28. Council adopted a new "Access to Councils Documents under section 12 of the Local Government Act and Freedom of Information Act" policy on 7/2/06. This policy fully accords with the required guidelines and Council considers that this matter is finalised.
29. Council's Privacy Management Plan will be reviewed and reported to the Privacy Commissioner before the next Annual Report is published.
30. This was identified to the Review Team by Council staff and is acknowledged. Clearly, this function is a significant resource issue and was discussed by Senior Management in 2005. Council staff are preparing a report to Council on the future appointment of an Internal Auditor who could report directly to the General Manager.
31. Council staff will prepare a report to address fraud risk. Council staff look forward to addressing this in the proposed action plan and with the DLG in accordance with the guidelines yet to be provided by the DLG.
32. This was identified to the Review Team by Council staff as a priority issue and substantial progress has since been made. Templates have been prepared for Consultancy Agreement, Abbreviated Professional Services Contracts and Construction Contracts. Draft documents have been prepared for the Procurement Manual and Contracts Management Manual. The Contracts Performance Appraisal System is to be prepared.
33. This will occur as a matter of course. LEP Review work plans and timelines will continue to be developed and agreed to as required, in consultation with the NSW Department of Planning.
34. Council's existing procedures appear to function satisfactorily with an adopted independent assessment process to scrutinise Development Applications where Council has an interest.

35. Council's current consultation process between Development Assessment and Development Compliance staff needs to be formalised.
36. A draft enforcement policy has been prepared and is currently being reviewed by Council's Public Officer/Legal Advisor.
37. Council's draft Enforcement Policy has been structured to meet the Ombudsman's guidelines.
38. Councillors have received training re enforcement, regulatory etc. A seminar by Maddocks Lawyers held on 20/06/06 highlighted this issue as a major topic.
39. Council's introduction of "Outcome Manager" as a reporting system has enabled the development of a link between area specific environmental plans and the management plan. This is being further refined for clarity.
40. This issue is acknowledged and Council has addressed this in the 06-07 Management Plan and budget and this is the rationale for the rates increase application, which has recently been granted.
41. This is acknowledged and will be further assessed and an appropriate recommendation made to Council to ensure integrity and sustainability of the Section 94 Plan is maintained.
42. This was raised by management as a critical issue with the DLG Review Team. Council Policy has now been adopted to allocate funds on a citywide basis, as part of the Management Plan and budget from 2006-07.
43. This matter has now been addressed with additional resources being allocated to ensure it continues.
44. Plans of management have been adopted for exhibition in accordance with Part 2 Provision 2 of the Local Government Act 1993 for approximately 85% of Council's community land. This is a particular challenge in rapidly expanding LGAs such as Shellharbour.
45. Council will continue this practice.
46. This is our current practice. Entrepreneurial activities undertaken outside our area of direct expertise is done under advice from well recognised consultants. For example, the Shell Cove Project Manager is Australand Holdings Pty Limited, one of Australia's leading property developers, together with a team of consultants advising both Australand and Council.
47. Business plans are being developed for each significant business activity. Shell Cove is operated under a Management Agreement and is not a joint venture (refer to page 65 of the draft report).



48. This change to the Regulation will be adhered to when preparing the next Annual Report.
49. Staff are progressing statements of guarantee of service.
50. This section of the Guidelines (not Regulation) relates to monitoring and review of the targets identified in our A&E Statement, on a quarterly basis, by incorporating them in the Management Plan. We have tended to report on them annually through our Annual Report. More consultation with the appropriate managers is required to devise ways to meet this recommendation.
51. Council is currently in the analysis and forecasting phases of developing a long-term workforce plan. It is anticipated that we will be in the planning and implementing phases by August/September 2006. Council is also heavily involved in a similar project at a regional level with the Southern Councils Group.
52. Council now includes a copy of the Code of Conduct with letters of offer and we have now updated our procedure to include a copy of Council's Complaints Management Policy and Procedure.
53. Council cannot identify any way in which the EEO Management Plan departs from Legislative Requirement. Council seeks clarification from the DLG.

Mr Brian Weir  
General Manager  
Shellharbour City Council

SHELLHARBOUR CITY COUNCIL	
Doc No	86209160
30 MAY 2006	
Batch No	06105130 m.u.10
Box No	1m367
	Booneir

22 May 2006

Dear Brian

Re Local Government Reform Program Review Report – my opinion

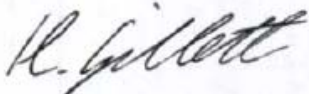
As a Councillor, my major concern with the subject report is the general use of the term “Councillors” throughout the report. While the reference to Councillors is sometimes clarified with words such as “some” or “many”, it is often used alone, and could be read as referring to all the Councillors. Where in fact, the comments made don’t or shouldn’t refer to all the Councillors, as some of the Councillors do not largely deserve the criticisms. This problem with the report is particularly true where comments about Councillors are repeated, such as in the summary sections (eg. p. 84), or expanded, later in the same paragraph (eg. p. 8 to 9). In my opinion, even the use of the words “most” and “many” in reference to Councillors in some instances is “over the top”, given that, to me, it is quite often less than half the Councillors regularly behaving in the way described in the report. (Especially as it is often appears to be many of the same Councillors, and this is not noted in the report either.)

In fact, I feel that, not only should the report not have used the term Councillors in this “over all” way in many places, it should have included a section on how professional some of the Councillors can be. For the report not to make this clear, in my opinion, is unreasonable.

In my opinion, some or many of the Councillors are working hard and responsibly in regard to their obligations, and hence, in fairness, the report should have also given more “credit where credit due”.

Thank you for noting my comments on the subject report.

Yours sincerely,



Cr Helen Gillett  
Shellharbour City Council

Rec'd  
23/5/06

24 May 2006.



Department of Local Government

**DLG Review**

To Whom It May Concern:

I consider the report given in draft form from the Department of Local Government to be fairly accurate and a true insight into the meeting procedures of our Council.

I feel the report is not biased towards anyone or unfair regarding political or non-political parties on their contribution to the effective conduct of the business of council.

The need for all councillors' to attend briefings after election should be compulsory.

The references to non-complying or as yet not implemented requirements of the LG Act are, I believe to be very minimal and knowing our staff they will be addressed.

I consider the draft report to be a fair and balanced review with valid points that when implemented will assist in a more cohesive council working for all.

Yours sincerely

A handwritten signature in black ink, appearing to read "Donald L. Briggs", written over a horizontal line.

Councillor Donald L. Briggs

COUNCILLOR'S ROOM

Administration Centre

Lamerton House,

Lamerton Crescent,

Blackbutt 2629

COUNCIL MEETING CHAMBER

Cnr Shellharbour and

Lake Entrance Roads Warilla

100% Recycled paper A small recycling symbol consisting of three chasing arrows forming a triangle.

26<sup>th</sup> May 2006.

To.

Mr. John Davies.  
Senior Investigations Officer.  
Department of Local Government.

SHELLHARBOUR CITY COUNCIL	
Doc No	8620958
30 MAY 2006	
Batch No	06105130 MK10
Box No	1m367 RWeir

Lee  
29/5/06  
[Signature]



I found this report disappointing in many aspects. When one does a procedural audit it is usual to test the procedures if they are in place. Sadly for this Council you found glaring holes where there were no procedures and I believe failed to properly test the procedures that were in place. I also feel you have made a series of excuses for what are acts and omissions and attempts to shift the blame onto Councillors when it is clear that the actions of Councillors, on some occasions, are responses to the lack of clear information and honesty of the management. You appear to look at the effect and not at the cause.

Point 6.

A workshop for Councillors on its strategic direction will ensure all Councillors have a clear and precise understanding of Councils future plans. Information and education will assist Councillors to visualise and remain focused.

Point 7.

I feel this is a completely political point with no substance in what has been examined in this review, it has been well reported here that the Minister was unhappy that this Council did not take the recent opportunity to reduce Council numbers. The reasons for wanting to do this are unclear to me, however I feel this report is not the place to push this political agenda.

Points 11 to 17.

For me these are points you make that have been least properly thought out and look at the effect not the cause. I feel it is my duty to ensure the proper professional governance standards are followed at all times. Council meetings at times are unproductive and unsettling the code of conduct is not being enforced, certain Councillors behave like small children and repeated calls from the Mayor to contain themselves fall on deaf ears, the code of conduct was put in place to deter this type of behaviour. The code of conduct must be enforced whether attending Council meetings, briefings etc. It is essential the Mayor retain control of meetings and if attending a workshop will provide him the necessary skills then I believe this to be appropriate. All Councillors should attend workshops to inform, educate and keep them abreast of developments which in turn assist them in their duties as productive Councillors.

COUNCILLOR'S ROOM

Administration Centre  
Lamerton House,  
Lamerton Crescent,  
Blackbutt 2529

COUNCIL MEETING CHAMBER

Cnr Shellharbour and  
Lake Entrance Roads Warilla

100% Recycled paper

How do you expect the Independent Councillors to sit quietly at meetings when I feel we are continually being kept in the dark, any points we wish to make being ruled out of order by the chair or continually interrupted by the Labor Councillors who seem to most of the time to be knowledgeable about what is taking place but willing to go along with it. The major problem with public participation was certain residents had decided Council must be accountable to the residents it serves, and demanded honesty to concerns they felt were relevant, this was not going to be tolerated. The public did not disrupt meetings generally they addressed Council with their concerns and sat down. I believe the problem was Labor Councillors and the chair continually interrupted residents because of the valid points being raised.



Point 18.

The minutes are not a true and accurate record of meetings. I do not expect the minutes to be a detailed record of what each Councillor has stated, however I do expect when a Councillor has made valid points they be reflected in the minutes. The General Manager and Mayor are afforded this privilege.

Points 21 & 22.

This has been raised by me with the D L G. Your report seems to suggest that you feel this was an oversight in process that led to the biased nature of this committee. Let me assure you, I feel this was a deliberate act to stack the committees as the Labor Councillors wished to control and exclude four Independent Councillors in particular. I strongly feel you have should of taken a firmer stance on the poor standards of accountability and governance that these actions lead to. You also fail to mention that an experienced General Manager failed to make recommendations to the Councillors to try to ensure that the committees were representative. A question be raised was his lack of action deliberate or his not wanting to become involved. I do not believe the change of time in relation to the staff committee meeting was a mistake. It seems very much as though the time changed, once Council was aware several Independent Councillors wished to attend.

Point 34.

Council needs to consider using an independent assessment process for proposed developments, with Council having significant interests in the Airport, Golf Course and the proposed Marina Project. With intense and detailed scrutiny by residents it is imperative Council must be seen to be acting in the publics best interest at all times.

Point 42.

I have reservations as to pooling all capitol works expenditure; I doubt there would be a fair and equitable determination of priorities. At present Councillors are not prepared to respect or appreciate each others opinions, concerns, or input. Until there is a dramatic change in attitudes I cannot foresee a fair system of priorities.

COUNCILLOR'S ROOM

Administration Centre

Lamerton House,

Lamerton Crescent,

Blackbutt 2529

COUNCIL MEETING CHAMBER

Cnr Shellharbour and

Lake Entrance Roads Warilla

100% Recycled paper 

Council has adopted the Companion Animal Management plan if only to comply with legislation. When reading the recommendations it is obvious animal welfare is not a priority as minimal effort and input has taken place. Shellharbour City has a high percentage of dog ownership I believe Council needs to be positive and receptive in its approach to providing services to cater for the needs of resident's dogs in this city. A dog agility area is of one several possibilities Council must consider, the Dogs Day Out is a great community activity and must be retained as an annual event. I applaud Council including the pound on the web site.



I believe Council will not move forward until Senior Management, staff, Councillors and Mayor attempt to work together, as a Council we must be seen to be working in the public's best interest at present this is not happening. I feel there is too much political interference in the day to day running of Council, this needs to be addressed. Councillors were elected to serve the community to the best of their ability; each Councillor elected on their merits. Perhaps further training will enhance their performance. Senior Management needs to present a receptive and clearer understanding allowing time and patience to each Councillors pacific need. Improved communication and consultation will go a long way to alleviate many concerns experienced at present; the experience within Senior Management needs to flow through to Councillors to advise and guide. Councillors are individuals with a diversity of personalities, concerns and agendas. Senior Management and Councillors must participate and work as a team to ensure they provide the best possible service to the residents they serve.

I do commend Council on the positive aspects outlined however the draft report contained constructive criticism; Council must act on this report. The objective is to turn negatives into positives with forward planning, support and co- operation this can be achieved.

Yours Sincerely,

A handwritten signature in cursive script, appearing to read 'H. Stewart'.

Councillor Helen Stewart.

**COUNCILLOR'S ROOM**

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Blackbutt 2529

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Cnr Shellharbour and

Lake Entrance Roads Warilla

100% Recycled paper A small recycling symbol consisting of three chasing arrows forming a triangle.

REPLY TO D.L.G. REVIEW TEAM

Dear Sir / Ms

Thank you for the opportunity to respond to your review in relation to Shellharbour City Council. Several areas that your team has identified for improvement are: further councillor training including the mayor is most welcomed as ongoing education for councillors is paramount if we are to serve the community to the best of all our ability. However please note the general manager has on several occasions ~~was~~ offered both pre council briefings and councillor/mayoral training prior to this report, unfortunately several councillors did not grasp this opportunity. Also the mention of having Independent councillors on the staff committee is of extreme importance not only to the council but the communities perception of the transparency of how decisions are made. I note also no mention in your report of manipulation of the minutes by the majority block. As previous incidents in council have highlighted several appalling incidents in council meetings. I am disappointed in your report or the tools used to come to the conclusions you have, I believe more qualitative and quantitative areas of research ultimately should have been utilised in your report. Observation of one council meeting could not give an overall outlook good poor or otherwise although I stand to be corrected if you have evidence to contradict my assumptions. Also your assumptions that public participation in council should be adjusted because of disturbances from people in the gallery should be re addressed as public participation had been working effectively for thirty (30) years and it was only the lack of action taken against these people in the gallery that allowed this disturbance to continue. Page 49 suggests councillors expenses have a " clearly written document that covers key topics such as legal assistance for councillors " may I suggest further investigation by your department should have been forthcoming as incidents for legal assistance for councillors has already been accessed by a councillor although reasons for this access is not absolutely clear in the minds of some councillors and the community.

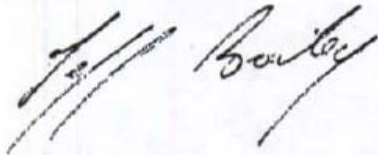
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SHELLHARBOUR CITY COUNCIL	
Doc No	86209159
30 MAY 2006	
Batch No	06/05/30 ML10
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30/5/06

Page 19 and 20 clearly points out council strategic direction from 2005 – 2010 and I do agree this plan is clearly set out and the direction of council is on track to hopefully reach our outcomes. In conclusion your report is quite comprehensive in parts and I do agree with some comments and improvement areas. Although I believe the qualitative and quantitative research you undertook could be improved to allow a more in depth review and investigation of all facets of council including councillors, council officers, community and meetings, finance, consultations etc. I do hope this response has been useful and if you would like to discuss any matter regarding this response please feel free to contact me on 0242975286

Yours Faithfully,



Councillor Jeff Bailey, MEd. BA. Dip. Ed. J.P.



## 7. SUMMARY- WHAT'S WORKING WELL & CHALLENGES

### COUNCIL'S PRIORITIES AND FOCUS

#### *What is working well*

- Council has a clearly articulated strategic direction that has been formulated in consultation with the community.
- Council's management plan reflects the strategic objectives set in the strategic plan.
- Council's quarterly reports on its performance against targets set in the management plan are clearly set out and easy to comprehend.
- Council has an innovative organisational structure that is designed to promote and support forward planning and the development and implementation of its strategic vision.
- A formal framework of senior management meetings underpins the organisational structure facilitating communication between the different divisions of council.
- Council has resource sharing arrangements with neighbouring councils.

#### *Challenges to improve*

- Council's strategic plan only covers the next 5 years. More needs to be done to develop a longer-term strategic vision.
- More work could be done to develop clearer KPIs in council's management plan against which it can measure its performance in achieving its targeted outcomes.
- More work can be done to improve integration between council's strategic plan and its other planning documents (eg social plan, cultural plan, s94 contributions plan, LEPs).
- Council needs to monitor the performance of its organisational structure to avoid overlap or duplication or the appearance of any gaps in its operations.

- Council needs to formalise meeting and consultative practices between staff at less senior levels of the organisation working in related areas in different divisions (eg strategic planning and development assessments) to facilitate communication between them.
- Many councillors demonstrate a limited understanding of council's strategic direction or their role in relation to it.
- Some councillors appear to have a parochial focus in terms of their representative role.

## **GOVERNANCE**

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

- Council runs a structured induction program for all councillors at the start of each term.
- Council has adopted a code of conduct that reflects the provisions of the Model Code of Conduct.
- Council has adopted guidelines for the code of conduct.
- Council has well defined protocols to allow councillors to raise matters with staff or to seek information.
- Minutes of council meetings are full and accurate.
- Council complies with its statutory obligations in closing council meetings.
- Council has a public participation process to enable residents to address council.
- Delegations have been reviewed and are stored on council's Dataworks system.
- Council has a comprehensive complaint handling policy that reflects best practice complaint handling.

- With the exception of records storage, council complies with its obligations under the State Records Act.
- Council appears to generally comply with its obligations under section 12 of the Local Government Act and has developed a policy to assist it to do so.
- Council has adopted a privacy management plan that reflects its obligations under the Privacy and Personal Information Protection Act.
- Council has developed a comprehensive risk management program.
- Council has adopted an expenses and facilities policy under section 252 of the Local Government Act that complies with the department's circulars on such policies.
- Council maintains a gifts register.

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

- Council's code of conduct operating procedures could be improved by including criteria to assist the assessment of complaints.
- Some councillors appear to lack a clear understanding of their role or obligations under the code of conduct and engage in conduct that is inconsistent with those obligations.
- Council needs to provide further code of conduct training to councillors and to enforce its code of conduct.
- Council needs to ensure pecuniary interest returns are completed accurately.
- Council needs to put in place a single briefing session for all councillors prior to council meetings.
- Council meetings are chaotic and council appears to be incapable of getting through its business efficiently.

- No action is taken on acts of disorder in council meetings.
- Council needs to provide councillors with training on meeting procedure.
- Membership of the staff committee does not reflect the diversity of political views on council.
- Council needs to adopt a separate internal reporting policy for protected disclosures.
- Council needs to ensure that it complies with its obligations under the State Records Act in the storage of documents.
- Council needs to develop an internal audit program.
- Council needs to undertake a fraud risk assessment.
- Council needs to develop a statement of business ethics, a procurement policy and procedures, a tender evaluation system and a contractor performance appraisal system.

## **REGULATORY**

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

- Council is undertaking a review of its LEPs and DCPs to ensure compliance with recent planning law changes.
- Council has key elements of an effective DA assessment process including pre-lodgement discussions, applicant checklists, electronic lodgement and tracking functionality and monitoring of assessment timeframes.
- Council has a comprehensive section 94 contributions plan that is integrated with its strategic plan and management plan.
- Council complies with its statutory obligations in the management of s94 funds.

- Council has a comprehensive local companion animals plan in place, runs public education campaigns on companion animals issues and has a proactive approach to the identification and registration of companion animals.

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

- Council has no process for the independent merits assessment of DAs it has lodged or in which it has an interest or other contentious DAs.
- Council has no formal enforcement policy.
- Some councillors have a tendency to become involved in enforcement matters.

## **ASSET AND FINANCIAL MANAGEMENT**

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

- Council's financial position is sound.
- Council has effective forward financial planning processes.
- Council has an effective asset management system in Conquest.
- Council engages in entrepreneurial activities that expand its revenue base and promote its strategic objectives in relation to economic development.
- Council has an innovative 'best of breed' approach to IT development that aims to meet the needs of end-users and promote staff input and ownership of the IT platform.

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

- Council needs to invest more funds in infrastructure maintenance to meet the estimated need for such maintenance.
- Council currently has insufficient funds reserved to meet its obligations under the section 94 contributions plan beyond the 2007/08 financial year.

- Council needs to continue to apply resources to assessing the condition of its assets and inputting data into Conquest so that it may be used to its full potential.
- Some of council's community lands do not have plans of management as required under the Local Government Act.
- Many of council's businesses lack business plans or have business plans that have not been recently reviewed.

## **COMMUNITY, COMMUNICATION AND CONSULTATION**

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

- Council has well developed public consultation processes to seek community input into the development of its strategic framework and management plan and to gain customer feedback on the quality of its service.
- Council has undertaken a review of the efficacy of its communication strategy.
- Council's social plan complies with and in some respects exceeds the department's guidelines and seeks to address the needs of additional target groups.
- Council has been successful in securing grant funding for many of its community services activities and programs.

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

- Council's annual report does not comply with additional reporting requirements recently imposed by the commencement of the Local Government (General) Regulation 2005.
- Council's review of its communication strategy suggests some room for improvement.
- Council does not have a guarantee of service.

- Timeframes for the implementation of strategies under the social plan could be more clearly defined.
- The access and equity statement in council's current management plan does not comply with the requirements of the department's *Social and Community Planning Guidelines*.

## **WORKPLACE RELATIONS**

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

- Council has a documented selection policy and procedure that reflects its obligations under sections 348 and 349 of the Local Government Act.
- Council has a structured induction program for new staff.
- Council has a documented salary system that complies with the requirements of the *Local Government (State) Award 2004*.
- Council has a consultative committee as required under the *Local Government (State) Award 2004* that meets regularly.
- Council has grievance management procedures that reflect those in the *Local Government (State) Award 2004*.
- Council has participated in a survey of staff attitudes.
- The staff survey indicates high levels of satisfaction amongst staff.
- Council has well-developed OH and S processes.

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

- Council does not have a human resources strategy.
- Council's induction procedures need to include the provision of copies of council's code of conduct and internal reporting policy to new staff and training on these.