

**REPORT ON INVESTIGATION**

**OF**

**RYLSTONE SHIRE COUNCIL**

**CONDUCTED UNDER**

**SECTION 430**

**OF THE**

**LOCAL GOVERNMENT ACT 1993**

# TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>INVESTIGATION SCOPE.....</b>	<b>5</b>
<b>Introduction.....</b>	<b>5</b>
<b>Rylstone Shire Council Area .....</b>	<b>5</b>
<b>Investigation Catalysts .....</b>	<b>5</b>
<b>Authorisation of the Investigation .....</b>	<b>5</b>
<b>Investigation Team .....</b>	<b>5</b>
<b>Powers of Departmental Representatives .....</b>	<b>6</b>
<b>Sources of Information .....</b>	<b>6</b>
<b>Audience .....</b>	<b>7</b>
<b>Post Report Responsibilities.....</b>	<b>7</b>
<b>INVESTIGATION CONTEXT .....</b>	<b>8</b>
<b>Industrial .....</b>	<b>8</b>
<b>Financial.....</b>	<b>10</b>
<b>Administrative.....</b>	<b>11</b>
<b>ANALYSIS.....</b>	<b>15</b>
<b>Industrial .....</b>	<b>15</b>
<b>Financial.....</b>	<b>23</b>
<b>Administrative.....</b>	<b>27</b>
<b>FINDINGS.....</b>	<b>35</b>
<b>Industrial .....</b>	<b>35</b>
<b>Financial.....</b>	<b>35</b>
<b>Administrative.....</b>	<b>36</b>
<b>RECOMMENDATIONS.....</b>	<b>37</b>
<b>IMMEDIATE ACTIONS FOR COUNCIL .....</b>	<b>38</b>
<b>ACTION FOR THE DEPARTMENT OF LOCAL GOVERNMENT .....</b>	<b>39</b>
<b>INVESTIGATION TEAM SIGN OFF .....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
<b>APPENDICES.....</b>	<b>41</b>

## **EXECUTIVE SUMMARY**

This report results from an investigation into the Rylstone Shire Council, undertaken in terms of section 430 of the *Local Government Act 1993* (the Act).

Rylstone Shire Council has been the subject of complaints to the Department of Local Government regarding its industrial, financial and administrative management.

Council has been on the Department of Local Government's financial monitoring list since October 2002 due to its poor financial performance.

In formally appointing an investigation team, the Director General of the Department of Local Government established the following terms of reference:

### **“To investigate and report on:**

- Whether the council's administration and management is able to meet its responsibilities under the Local Government Act 1993 and to fulfil its other statutory functions
- Whether council, as custodian and trustee of public assets, is correctly recording and reporting on its financial transactions and financial position and is otherwise exercising reasonable financial management
- Whether the conduct of councillors and council staff results in the provision of efficient, effective and appropriate standards of governance for Rylstone Shire Council
- Any other matter that warrants mention, particularly where it may impact upon the effective administration of the area and/or the working relationship between the council, councillors and its administration.”

### **The investigation concluded:**

- Council appears to have breached the Local Government (State) Award on many occasions since at least 2000 and has also breached its own recruitment and selection policy. Council has created industrial disharmony and divisions in the workforce and in the local community. Council has managed its workforce in such a way that its financial position has deteriorated.
- Council has a poor record of financial management and reporting. Council's current financial position is unsatisfactory and further financial deterioration has been predicted. Council's future sustainability and ability to provide effective services is very much in doubt.
- There are aspects of the administration of Rylstone Shire Council where council has not been operating effectively or efficiently, especially in the areas of its code of conduct, its code of meeting practice, its motor vehicle policy and its purchasing and procurement policy. Since the investigation team visited Rylstone, council has addressed some of these issues.
- The poor practices at Rylstone Shire Council are attributable to a range of people with different responsibilities. The corporate liability for work practices and decision making is a responsibility that each new incumbent councillor takes on and has a responsibility to amend if necessary. Clearly that has not been accepted in this instance.

### **Report recommendations:**

It is the recommendation of the investigation team that the Minister for Local Government order Rylstone Shire Council to complete the actions contained in this report under the heading "Immediate Actions for Council".

AND

It is the recommendation of the investigation team that the Director General of the Department of Local Government acts upon the recommendations contained in this report under the heading "Action for the Department of Local Government".

AND

It is the recommendation of the investigation team that the Minister for Local Government authorise a public inquiry into Rylstone Shire Council under section 740 of the Act.

## **INVESTIGATION SCOPE**

### **Introduction**

- 1 This is a report of the departmental representatives concerning an investigation under section 430 of the *Local Government Act 1993* (the Act) into Rylstone Shire Council.

### **Rylstone Shire Council Area**

- 2 At the commencement of the investigation we were advised that the local government area of Rylstone Shire is located about 200 km North West of Sydney and is reported to be home for about 3900 residents. The area covers 3826 square kilometres and provides support to pastoral pursuits, local businesses and some industry.

### **Investigation Catalysts**

- 3 Rylstone Shire Council has been the subject of complaints to the Department of Local Government regarding its industrial, financial and administrative management.
- 4 Council has been on the Department of Local Government's financial monitoring list since October 2002 due to its poor financial performance.

### **Authorisation of the Investigation**

- 5 On 9 July 2003 the Director General of the Department of Local Government authorised an investigation pursuant to section 430 of the Act in respect of Rylstone Shire Council.
- 6 On 9 July 2003 the investigation team was appointed. Each investigator was authorised as a departmental representative to conduct the investigation and to report to the Minister and the Director General on the results of the investigation.

### **Investigation Team**

- 7 The investigation team is:
  - John Canadi, Senior Investigations Officer
  - Carole Medcalf, Senior Investigations Officer
  - Peter Vincent, Senior Finance Officer

## **Terms of Reference**

- 8 The terms of reference are to investigate and report on:
- Whether the council's administration and management is able to meet its responsibilities under the Local Government Act 1993 and to fulfil its other statutory functions
  - Whether council, as custodian and trustee of public assets, is correctly recording and reporting on its financial transactions and financial position and is otherwise exercising reasonable financial management
  - Whether the conduct of councillors and council staff results in the provision of efficient, effective and appropriate standards of governance for Rylstone Shire Council
  - Any other matter that warrants mention, particularly where it may impact upon the effective administration of the area and/or the working relationship between the council, councillors and its administration.

## **Powers of Departmental Representatives**

- 9 The departmental representatives have all such powers available to them as departmental representatives in respect of an investigation under section 430 of the Act, whether arising pursuant to the Act, or otherwise. Without limiting this, the departmental representatives are to have power and authority to make such recommendations in their report, arising out of their investigation and the terms of reference, as they consider appropriate.

## **Sources of Information**

- 10 This report is based on evidence generated from:
- Information volunteered in direct interviews with 4 councillors, 2 current and 4 former staff members and 3 community members
  - Information volunteered by 2 union officials from the Municipal Employees Union NSW (MEU) and the Association of Professional Engineers, Scientists, Managers Australia (APESMA)
  - Information provided in written form by councillors, current and former staff members and community members
  - Council documents
  - Departmental documents
  - Submissions received from council and four individuals named in the report in response to invitation to comment on extracts of the draft investigation report.

The investigations team did not have access to any material from a recent investigation into aspects of activities of Rylstone Council by the Independent Commission Against Corruption.

## **Audience**

- 11 The report is presented to the Minister for Local Government and the Director General of the Department of Local Government, and copied to council, pursuant to the terms of section 433(1) of the Act.

## **Post Report Responsibilities**

- 12 Pursuant to section 433(3) of the Act this report must be presented at the next meeting of council after the report is received.
- 13 Pursuant to section 434(1) of the Act council must, within 40 days after presentation to it of the report, give written notice to the Minister of the things done or proposed to be done to give effect to any recommendations contained in this report.

## INVESTIGATION CONTEXT

### Industrial

- 14 Section 8 of the Local Government Act sets out the charter for councils in NSW. They are required to be efficient and effective, act with due consultation, provide adequate, equitable and appropriate services. They are to be community leaders, promote, provide and plan for the needs of children in their community.
- 15 Councils are custodians/trustees of public monies and should effectively account for and manage those funds. They are also to facilitate the involvement of councillors and staff members in the processes of decision making about the expenditure of funds and the direction of the council.
- 16 Councils, as part of their charter, are to act as responsible employers. At Rylstone, the council is regarded as an employer of significance.
- 17 According to a number of interviewees, council had very little history of industrial disputes until recently. Both union representatives and management (former and current) agreed that disputes at council had been relatively unheard of until 2000.
- 18 Information obtained from the Industrial Commission of NSW supports this. In the period 1998-1999 there was 1 listing of a matter of dispute involving Rylstone Shire Council. In the period 2000-2003 there were 7 dispute matters listed. These were matters that were either breaches of the Local Government (State) Award 2001 (the Award) or unfair dismissal matters.
- 19 For an organisation of approximately 73.7 full time equivalent (FTE) employees, with the majority being full time workers, this is a significant number of disputes in a limited period of time. There are a number of possible explanations for this. The most likely explanations come, not surprisingly, from staff and management.
- 20 One of the unions (MEU) argues that a former General Manager took an approach that threatened their members' ongoing employment and did not consult with them adequately. Management argue that in trying to improve efficiencies and make the workforce more effective, changes were essential and one of the unions (MEU) and some staff resisted those changes.
- 21 Current councillors have expressed differing opinions about these two periods in the workplace. It should be noted that achieving industrial harmony by maintaining outdated and expensive work practices is hardly an achievement. Likewise, industrial conflict rising from inadequate consultation or threats to job security should be viewed as an unnecessary and costly exercise.



- 22 The two periods concerned consist of the period of industrial unrest between 2000-2003 and the staff restructure in 2003.
- 23 The two views were reflected in the councillors' attitudes and behaviour over the last two years. This has played a part in the problems that have occurred at council. One of the union officials said that there exists a 4-2 split in the councillors on industrial issues. Those numbers were initially in support of management changes but with two resignations of councillors and the subsequent by-election in February 2003 that has changed to support for workers by a margin of 4-2. During the period immediately prior to the by-election, decisions about this issue most often were support for management by a margin of 3-1.
- 24 Such divisions have impacted significantly on council's proper management.
- 25 The division on industrial issues is reflected in the manner in which the organisational restructure was supported by the consultative committee, the MEU and the vote of all councillors. Cllr Clapham requested more time to consider the proposal but this did not happen. The APESMA official was unaware of the proposal until after it had gone forward to council and did not support the restructure.
- 26 As a result, the costing of the reorganisation was not critically examined.
- 27 A union official from APESMA said that members had not previously raised issues about Rylstone Shire Council. The official said that there have been some allegations of threats and intimidation by workers towards management over the last two year period and that there have been other issues between management and staff in the last two year period.
- 28 While we were told of the allegations of intimidation by a number of interviewees, there was no hard evidence presented. A former employee said that the threats had been taped but we received no taped material.

## Financial

- 29 Councils are the custodians and trustees of public assets. The Department of Local Government monitors financial performance to ensure councils are effectively and responsibly managing those assets to ensure the ongoing viability of council.
- 30 Rylstone Shire Council's financial position has declined over several years.
- 31 Deficit results from all activities have been returned each year since at least 1996-1997.
- 32 The effect of these deficit results has seen a decrease in net assets from 1996-1997 to 2001-2002 inclusive of \$4,246,000. This represents an erosion of net assets of 5.5% over this period.
- 33 Council's unrestricted current ratio for the 2001-2002 year was 1.58:1. The unrestricted current ratio is a measure of council's ability to meet its financial obligations such as paying for goods and services supplied. Council's ratio of 1.58:1 is well below the average for group 9 councils of 3.03:1.
- 34 Council held cash assets of \$710,000 at the end of 2001-2002, of which only \$29,000 was not externally restricted. Council's 2002-2005 action plan budgeted for \$1,238,000 in unrestricted funds.
- 35 Council held nil internally restricted funds for infrastructure replacement or employee leave entitlements.
- 36 Council's auditor, Spencer Steer, mentioned in its 2001-2002 Audit Report:  
  
*"Council's overall financial position, when taking into account the above financial indicators, is in our opinion unsatisfactory. The restoration of its available working capital position and cash reserves requires some immediate attention in the form of revising the current budget and a consolidation on its financial position and remedial actions by the 2003/04 budget."*
- 37 The condition of council's infrastructure at the end of 2001-2002 was such that \$6,122,000 was required to bring existing infrastructure to a satisfactory standard.
- 38 In October 2002 council was placed on the Department of Local Government financial monitoring list and was asked to provide details of proposed actions to improve its financial position.
- 39 The department again sought details of remedial action to be taken by council in December 2002.

- 40 Council responded in February 2003 seeking an extension of time to provide an updated quarterly budget review statement for December 2002. This statement was received in March 2003 and predicted a dramatically improved result for the 2001-2002 financial year.
- 41 Concerns were raised with the department regarding the accuracy of this statement.
- 42 The department's concerns over the financial state of council were the focus for the financial aspects of the investigation.

## **Administrative**

### ***The role of council and councillors generally***

- 43 Councils play a vital role in local communities, enabling them to grow and develop in a healthy, prosperous way. They provide essential services and facilities, they plan for the future and they regulate many activities.
- 44 Each council is a body corporate with responsibility for administration and good government of the area over which it has responsibility. Councils are required to operate within a legislative framework established by the NSW Parliament. The Local Government Act 1993 sets out the major powers, functions and responsibilities of councils.
- 45 Councillors, as elected representatives, are responsible for exercising leadership for the benefit of their communities. However, it is essential that the community have an opportunity to contribute their views and ideas. It is expected that councillors are both accessible and willing to meet with community constituents. It is essential that the community have confidence in their elected representatives.

- 46 The publication “Becoming a councillor – A guide for candidates at the 1999 Local Government elections” accurately describes councils’ accountability at page 16 as follows:

“Council decision-making should be transparent. Fundamentally, community consultation processes are designed to promote a culture of accountability on the part of the councillors to their local community.

Councils must regularly provide information, which demonstrates:

- Their council is being administered in accordance with the Act;
- Their council is allocating resources consistent with the corporate objectives in the management plan;
- The performance of the council is monitored and reviewed to ensure that council objectives are being pursued;
- The interest of all the community is served, and
- Each councillor is acting with integrity.

Implicitly the needs of the community should be reflected in the decisions of council.”

- 47 To assist councils to act with appropriate accountability, many policies have been developed. Included are the code of meeting practice, the code of conduct and policies on the use of council’s resources. Statutory obligations are also imposed on councils. These obligations include tendering provision and the requirement to lodge pecuniary interest returns. These policies and statutory obligations have been considered in the section 430 investigation in the context of the standard of council’s governance.

### ***Open meetings***

- 48 Government policy is designed to ensure that people have better opportunities for genuine participation and consultation about decisions affecting their lives. To achieve this in the context of local government, it is important that councils’ decision-making processes be as open, responsive and effective as possible. The councils’ charter under the Local Government Act 1993 requires council to keep the local community informed about its activities.
- 49 There is an expectation within communities that councils will live up to the claim that local government is the level of government “closest to the people” by encouraging more public participation in carrying out their decision making responsibilities. It is important that a council’s decision making process be as open, responsive and effective as possible.

- 50 The potential of local government is best realised when its decision-making is open and accountable to the local community. However, for accountability to be effective, there need to be mechanisms for public knowledge and participation in decision-making processes. The ability of the public and media to attend council meetings and observe the deliberations and decision of elected representatives plays a critical role in achieving better standards or accountability.
- 51 In all council decisions it is essential to openly demonstrate fairness, impartiality, objectivity and due consideration of all issues. Open decision making also provides some assurance of probity and integrity as well as preventing misunderstanding or even unfounded allegations.
- 52 In early 2003 concerns arose about Rylstone Shire Council's notices of meetings, the appropriateness of its actions in closing council meetings and the adequacy of its business papers. These aspects were considered in the investigation in terms of the council's code of meeting practice and the Local Government (Meetings) Regulation 1999.

### ***Code of conduct***

- 53 The community expects local government to provide fair, accurate and unbiased advice, act promptly and effectively and to manage its assets efficiently, economically and honestly. To assist in meeting these expectations the Local Government Act 1993 requires councils to adopt a code of conduct to be observed by councillors, staff and delegates of the council.
- 54 At the time the investigations team visited Rylstone Shire Council they had not adopted a code of conduct since the introduction of the Local Government Act 1993. The separation of functions between councillors and staff at Rylstone Shire Council are blurred. In particular, some councillors have become involved in the operational and management aspects of the council. There were further concerns that conflicts of interest existed on the part of councillors involved in operational matters.

### ***Tendering provisions***

- 55 The underlying motivation for tendering in general is to increase efficiency in the way that organisations conduct their business by "testing the market".
- 56 For council, tendering provides an additional benefit by making the process of purchase or sale more transparent. The tender procedure facilitates the auditing of decisions by increasing transparency and fosters probity. In turn, the tender process must be designed and implemented so as to incorporate checks and balances to ensure that these benefits are realised.

- 57 The investigation examined whether Rylstone Shire Council considered the tendering provisions of the Local Government Act 1993 and the Local Government (Tendering) Regulation 1999 when it entered into an agreement with a supplier of labour for the Kandos Multi-Purpose and Community Centre.

#### ***Lodgement of section 449 returns***

- 58 Pecuniary interest returns assist in ensuring transparency and accountability in local government decision-making. The obligation upon councillors and others to lodge returns is as much a protection for them as it is for the community.
- 59 Section 449 of the Local Government Act 1993 requires all councillors and designated persons to complete a pecuniary interest return and lodge it with the General Manager within three months after becoming a councillor or designated person. In the case of new councillors, this must be done within three months after being declared elected.
- 60 Although there were no concerns raised by the public about the non lodgement or adequacy of each councillor's pecuniary interest returns at Rylstone Shire Council, we obtained copies of the returns. We found that two councillors had not lodged their returns.

#### ***Use of council's resources***

- 61 A councillor, member of staff or delegate must use councils resources effectively and economically in the course of his or her public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless such use is lawfully authorised and proper payment is made where appropriate.
- 62 A councillor, member of staff or delegate should at all times be scrupulously honest in the use of council resources of all kinds. Use of such resources, whether for official or authorised private purposes, should be in accordance with the council's policy concerning payment of expenses, provision of facilities and any other relevant policy.
- 63 We looked at whether the use of Rylstone Shire Council's motor vehicles is in accordance with council's policy. Council has recently considered providing a motor vehicle to each councillor contrary to the Local Government (General) Regulation 1993. Council also appears to lack a purchasing and procurement policy.

## **ANALYSIS**

### **Industrial**

#### ***Turnover of senior staff***

- 64 There have been six general managers employed at council in the period 1987-2000. The longest served for 3.5 years and the shortest stayed for 5 days. In the period 2000-2003 there has been one general manager and two acting general managers.
- 65 The turnover in the positions of senior staff has been high, with positions either being filled in an acting capacity, remaining vacant or being filled and vacated after a short period of time.
- 66 Currently, for example, the Acting General Manager is also still in his appointed position of Director Corporate Services. The Acting Director, Technical Services Manager is still filling his position of Assets and Contracts Manager.
- 67 A Finances Unit Manager has recently been appointed after a substantial period of time without anyone in that position. Advertising for an Operations Manager has just taken place, with that position being vacant for some time.
- 68 This leaves the organisation vulnerable in a number of areas that have had implications for the management of staff. The corporate knowledge in senior management has either been lost or is limited. The leadership ability and therefore confidence in the organisation is also restricted by lack of experience.
- 69 The changes in senior staff, especially management, have meant changes in strategy and approach to the organisation's restructuring and financial management. Interference of councillors in staff matters has not assisted management to manage effectively. Councillors have acknowledged the dichotomy between the responsibility of the general manager and the responsibility of councillors. However, on occasions when it has suited, councillors have overstepped the mark and at other times made no effort to exercise anything like responsible management prerogative.

#### ***Organisational restructure***

- 70 On 19 March 2003 the then Acting General Manager, South Young, took a proposal for restructuring council staff to the council meeting.
- 71 The consultative committee also recommended the proposal to council as its second resolution from its meeting on 13 March 2003.

- 72 According to Clrs Clapham, Vrisakis and Hall the restructure proposal was presented to the councillors orally by then Acting General Manager, South Young, and illustrated by him on butcher's paper, for consideration. The proposal was accepted as Resolution 1.2 of the meeting.
- 73 No business paper giving details of the proposal was presented at that meeting. Councillors requested the Acting General Manager to implement the undocumented proposal "promptly" as set out in Resolution 1.3 of the meeting (see attached Appendix 1).
- 74 Clause 25A of the Local Government (State) Award requires each council to establish, and properly maintain, a consultative committee, which shall meet regularly and which shall:
- (i) provide a forum for consultation between council and its employees
  - (ii) positively co-operate in workplace reform to enhance the efficiency and productivity of the council and to provide employees with access to career opportunities and more fulfilling, varied and better paid work.
- 75 Clause 25B details the size and composition of the consultative committee, including at (i)(b)
- Employee representatives shall include:
- MEU (Salaried) - 1 elected,
  - MEU (Wages) - 1 elected,
  - Environmental Health and Building Surveyors' Association - 1 elected,
  - Australian Services Union (ASU) 1 elected,
  - Local Government Engineers Association of NSW (LGEA) 1 elected who have members employed at council.
  - Management representative(s) on the committee shall be nominated by council.
- 76 Minutes of the consultative committee of 13 March 2003 indicate that those present were Sharon Webster (MEU outdoor representative), Kevin Rose (MEU outdoor representative), Kerry Morrissey (management representative), Steven Mulholland (MEU outdoor representative), South Young (LGEA representative) and Fiona Hemmy (MEU office representative).
- 77 At the time, South Young was the Acting General Manager. The LGEA had written to him indicating they believed he had a conflict of interest in purporting to be their representative. They also told the interview team that South Young had not been elected by members to that position.
- 78 The MEU representation is in excess of what is allowed for in the Award in that there are two additional outdoor representatives over the number prescribed by the Award.



- 79 The composition of the committee determined in the Award allows for elected representation across the workforce with management representation being clearly nominated by council.
- 80 The Acting General Manager's role, particularly considering the restructure was his proposal, appears to be in breach of the requirements of the Award, as is the over-representation of the MEU outdoor staff.
- 81 The Award at clause 25D(iv) requires that all members should undergo appropriate training and education to effectively understand and participate in the consultative committee. Without such training the necessity of performing job evaluations and linking job requirements to the Award wage structure is generally not understood adequately.
- 82 It appears that training had been undertaken by the majority of the people at the consultative committee meeting on 13 March. Whether the then Acting General Manager, South Young had been trained, remains unverified.
- 83 The restructuring proposal developed by the then Acting General Manager, in consultation with others, and discussed at the consultative committee meeting of 13 March 2003, was examined by the committee members.
- 84 The recommendations regarding the restructure were presented to council from the consultative committee and were uncritically received by council.
- 85 The first resolution from the consultative committee meeting held on 13 March was that the recruitment and selection policy be amended to read:
- “all positions to be advertised internally first until all options exhausted and then advertise externally, if required. Internal advertising shall be done by placing approved advertisements on council's notice boards.”*
- 86 Clause 26(i) of the Award says: “When it is proposed to make an appointment or promotion to a new or vacant position within the organisation structure of the council, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position...applies to the appointment of any employee where the term or terms of employment are for more than 12 months in any period of 2 years.” Clause 26(iv) says, “Where requested in writing, internal applicants shall be given the reasons in writing for not being appointed.”
- 87 The recommendation from the consultative committee would again appear to be a breach of the Award.
- 88 Council's decision to amend their recruitment and selection policy in line with the recommendation also appeared to breach the Award, as appointment on merit is not the process adopted for the restructure at council.

- 89 Clause 31(i) of the Award says, "Where council has made a definite decision to introduce major changes in...organisational structure...that are likely to have significant effects on employees, the council shall notify the employees who may be affected by the proposed changes and the unions to which they belong."
- 90 According to an APESMA official they had been trying to contact the Acting General Manager for some time about restructure rumours at council. APESMA finally managed to contact the then Acting General Manager, on 23 March 2003 at 1.45 pm (approx). This was 4 days **after** council had approved the restructure. APESMA says he denied the restructure was happening. Mr Young has not given his version of this incident.
- 91 According to the same APESMA official, at 2.30 pm on the same day, in a meeting of employees, the then Acting General Manager announced the shape of the restructure. Following the staff meeting, the LGEA was contacted by a member who informed them of the restructure proposal.
- 92 Clause 31 of the Award requires notification to employees and unions **PRIOR** to restructuring as well as an actual notification of the restructure. Council's failure to do so would appear to again be in breach of the Award. The reasons for forewarning are detailed in clause 31(ii).
- 93 Council's failure to follow Award processes in the period 2000-2003 meant council had to engage legal representation and to appear before the Industrial Commission of NSW on several occasions, at significant cost. The representations were related to unfair dismissals, suspension of employees and the restructure. At other times matters referred to the Industrial Commission were settled by agreement with substantial payments made by council to the individuals concerned.
- 94 A business paper was prepared and presented **AFTER** the meeting of 19 March 2003, and is dated 19 March 2003 (see attached Appendix 2). It makes some assertions about the proposed restructure that are in our view incorrect.
- 95 In the papers the Acting General Manager asserts that the proposed (and subsequently adopted) organisational structure would cost some \$600,000 p.a. **LESS** than the then existing organisational structure, including significant savings by decreasing the use of consultants.
- 96 Analysis of the budget and financial reports has revealed that the budgeted cost of the new structure is actually **HIGHER** than in the previous year. This takes into account the reduced provision for consultant's fees that were supposed to provide significant savings in the salaries and wages component of the budget.

## **Job evaluations**

- 97 A job evaluation should occur when a position becomes vacant or is being restructured in line with Award requirements. The evaluation is usually required to assess necessary and/or desirable professional or technical qualifications.
- 98 It also assesses the level of experience and the fields of experience required. Following that, the position is linked to the wage structure in the Award. The assessment is generally undertaken in conjunction with the union that has members who would be eligible to fill the position being assessed.
- 99 The job evaluations that are referred to in the business paper of 19 March are incomplete and inadequate because they failed to follow the established process. They resulted in the production of 25 job description documents that include a list of skills that are sometimes unrelated to the position.
- 100 The higher skills based positions in the restructure described by the Acting General Manager did not eventuate. Most position duties, and the occupants of the positions, remained the same.
- 101 The job descriptions are supposed to provide a basis for job advertisements and selection criteria. All positions were advertised internally only and had three selection criteria (see attached Appendix 3).
- 102 “Good communications and interpersonal skills and team player” featured as selection criterion in the majority of positions. This leaves two selection criteria in each position, including a requirement for any professional or technical qualifications.
- 103 An example of the shortcomings of the selection criteria can be found in the position of the Environment Unit Manager. The selection criteria do not relate to anything recognisable in the job description. The three criteria are:
- “A friendly and approachable personality, and a team player;
  - Good communication and interpersonal skills;
  - Aspirations and/or exposure to an ecologically sustainable development approach to environment management instead of the “greenie approach”, plus social and economic aspects if applicable (see attached Appendix 3).
- 104 The job descriptions have a list of criteria that consists of, on average, approximately 73 or more requirements. They bear no relationship to the main three selection criteria in the advertisements (see for example attached Appendix 4).

- 105 Twenty-five people were interviewed AND appointed on the one day by a selection committee. The committee consisted generally of the Acting General Manager and one other person. The second, and sometimes third person on the committee, changed depending on the positions being interviewed for and according to the dictates of the Acting General Manager. The interviews took place at council.
- 106 This may indicate efficiency and good planning. However, it is highly unlikely that the interview process was anything more than rubber-stamping the incumbents into their new upgraded positions. It is almost impossible to conclude the needs of the organisation have been met in this selection process, nor has merit selection been applied in any meaningful sense. The community and the organisation have good grounds for feeling short-changed by the selection methods used, regardless of the calibre of the appointees.
- 107 Form letters were sent out indicating that some people increased their classifications from Grade 12 to Grade 20, in Band 3. There was no significant change in duties or responsibilities for any of these positions. The increase in salary was, in some cases, as much as \$500 per week.
- 108 The majority of unit managers received a regrading to Band 3 Grade 20 and were paid \$1005.50 per week regardless of their duties.
- 109 In one instance a truck driver became a unit manager and received a significant increase in pay. Another instance involved a trainee receptionist/front desk person being reclassified as the Public Relations and First Impressions Unit Manager. Her salary was more than doubled. Clause 22 A(i) of the Award says that the rates of pay for a trainee specified in Band 1/Level 1 are actual not minimum rates. Clause 22C(iii) states that "progression along the scale is not automatic but is subject to the successful completion of appropriate training modules and satisfactory service". The appointment of the trainee to a Band 3 Level 3 Grade 20 position would appear to be in breach of the above clauses of the Award. It is also not in keeping with the requirements of traineeships and the training and supervision that are required.

### ***Employment processes***

- 110 Council has a recruitment and selection policy that was amended on 19 March 2003 (see attached Appendix 5). The policy has to be read in conjunction with the Local Government (State) Award 2001. In places it appears to be in breach of the Award.

- 111 The policy states that all vacant positions should be reviewed before they are filled. The positions are to be reviewed to determine that the position description accurately describes duties and responsibilities and that they are classified consistently with Award provisions. Where a job evaluation process is established the policy requires that the position should be evaluated correctly and that the remuneration level is consistent with council's preferred position in the market place.
- 112 The selection process clearly states a requirement for letters to be sent to referees asking for referee's reports. Essential criteria are to include:
- formal education,
  - professional or vocational qualifications,
  - demonstrated relevant experience,
  - specialist knowledge,
  - judgment and problem solving skills and
  - management, supervisory and leadership skills.
- 113 Clearly the advertisements for the restructure in March 2003 (see attached Appendix 3) do not conform to council's own recruitment policy. The restructure in council is not the only example of council not conforming to appropriate selection processes.
- 114 In 2002, council advertised positions for the Multipurpose Centre at Kandos. The successful applicant initially applied for a contract position. It was suggested to the applicant by the then General Manager that he tender for the contract to fill the two positions.
- 115 The tender was approved and the positions were filled by a company owned by the initial applicant, who employed a second person. The tender was for \$177,100. Section 55(1)(f) of the Local Government Act 1993 requires that a contract for such an amount be let to public tender following a particular process. This did not occur.
- 116 In the restructure, the positions of pool supervisor and jet patcher were only ever advertised by calling for expressions of interest. Several other positions were also filled by way of expressions of interest. This contravenes Award requirements.
- 117 People who did not hold the appropriate qualifications filled some positions. For example, the former Manager of Operations had no qualifications but was paid in accordance with Award provisions, which stipulates that appropriate qualifications are a requirement.
- 118 A number of people were displaced in the restructure. No discussion was entered into with them prior to the meeting in the afternoon of 23 March 2003. Three of the former staff members interviewed by the investigation team said that they were initially informed they would no longer be retaining their positions in front of the assembled staff.

- 119 All three people were successful in obtaining significant payouts from council, having lodged unfair dismissal claims in the Industrial Commission of NSW. The basis for the claims was that proper processes were not observed and accordingly, Council was obliged to make payouts of contracts to the employees involved. These figures appear in the financial reports of council.
- 120 The employment processes at council from 2000 until the time of this investigation were generally not in accordance with the Award or the policy of council. The Award provides a process for council to follow if it chooses to restructure.
- 121 Council's decision to restructure in order to bring the wages and salaries back into line with a manageable budget was necessary. However, the increased current wage levels are unsustainable in the medium to long term. Council's approval of the restructure process means that the wages and salaries component of the budget remains unsustainable into the future. The restructure has cost council significant amounts of money and placed pressure on council's liquidity. Council has sent a letter to all staff informing them of their financial situation and asking staff to revert to their former positions and their former wage levels (see attached Appendix 6). Council will have to wait to see what outcome results from its request.
- 122 Under Award requirements, council may be obliged to make redundancy payments at the existing salary levels to its workforce. Council's cash reserves will be insufficient to make those payments, particularly to long-term employees. Council has been informed of this and has sought legal advice about its situation.

## Financial

### ***Draft management plan contents***

- 123 The required contents of the draft management plan with respect to council's revenue policy are set out in section 404 of the Act.
- 124 Council has not met the requirements of the Act when producing its draft management plan for 2003/04 – 2005/06 in that it has not included "a statement of any proposed borrowings (other than internal borrowings), the sources from which they are proposed to be borrowed, and the means by which they are proposed to be secured". This is despite the budget contained within the draft management plan referring to revenue in the 2003-2004 financial year of \$350,000 from "Loan Funds – Plant Purchase" and of \$250,000 from "MPSC Loan Income".

### ***Financial management of the consolidated fund***

- 125 The requirements for financial management of the consolidated fund are set out in section 409 of the Act
- 126 In particular, section 409(3) states
- "money that has been received as a result of the levying of a special rate or charge may not be used otherwise than for the purpose for which the rate or charge was levied, and*
- money that has been received from the Government or from a public authority by way of a specific purpose advance or grant may not, except with the consent of the Government or public authority, be used otherwise than for that specific purpose"*
- 127 The audited general purpose financial reports for the year ended 30 June 2003 indicate that the sum of such monies (being the water fund, the sewer fund and unexpended grants) total \$2,400,000.
- 128 However, cash and investments held by council as at 30 June 2003 totalled \$2,398,000.
- 129 The evident shortfall of cash and investments of \$2,000 indicates that council has breached section 409 of the Act. Council's auditor has noted that council:
- "is in contravention of the provisions of section 409 of the Local Government Act 1993".*
- 130 No evidence has been found that council has satisfied section 410 of the Act with respect to alternative use of money raised by special rates or charges.

131 An invoice dated 26 March 2002 from John A Summers for project services completed to 18 February 2002 totals \$60,000. It is made up of:

- Architectural design of Kandos Multipurpose Sports and Community Centre - \$25,000
- Concept development of Integrated Catchment Water Cycle Plan - \$20,000
- Concept Development of a Shire Wide Solid Waste Management Plan - \$10,000
- Recycled Effluent Water System - \$5,000

The invoice was paid in full (\$60,000) from grant monies received from the Department of Education and Training for the Kandos Multipurpose Sports and Community Centre project. This is despite only \$25,000 of the invoice relating to that project. The invoice appears to be from John A Summers as a creditor of council, not in his capacity as General Manager.

132 It appears that council has breached section 409(3) of the Act by unauthorised use of these grant monies.

### ***Budgets and reviews***

133 The Local Government (Financial Management) Regulation 1999 (LGFMR) sets out the requirements for budget estimates, review statements and revision of estimates.

134 The LGFMR clause 7(2) states that:

*A budget review statement must include or be accompanied by:*

- (a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
- (b) if that position is unsatisfactory, recommendations for remedial action.*

135 No such reports have been included with or accompanied the budget review statements presented to council for at least the quarters ended December 2002 and March 2003.

136 The quarterly budget review for the June quarter 2002 presented to council indicated that, contrary to previous reports, a deficit result of \$2,337,162 after all activities would be achieved for the financial year ended 30 June 2002.

137 The audited result for the financial year ended 30 June 2002 was in fact a deficit of \$850,000.

138 Council's original budget for the financial year 2002-2003 was for a surplus result of \$1,208,000.



- 139 The audited general purpose financial reports for the year ended 30 June 2003 indicate that the actual result for 2002-2003 was a deficit result of \$1,197,000.

### ***Current financial position***

- 140 Council's auditor, Spencer Steer, made the following notable comments in their audit report for the year ended 30 June 2002:

*"Council's overall financial position, when taking into account the above financial indicators, is in our opinion unsatisfactory.*

*The restoration of its Available Working Capital position & Cash Reserves requires some immediate attention in the form of revising the current budget & a consolidation on its financial position & remedial actions by the 2003/04 budget.*

*Council had set aside \$359K as Reserve funds, however all but \$29k had been used to fund over budgeted works & services. The balance of the Reserve funds has been disclosed as restricted receivables... As a result, there was no unrestricted cash & investments".*

- 141 Council was requested by the department in October 2002 to detail proposed actions to improve the financial position.

- 142 Over-expenditure on capital works projects has been a major contributor to council's poor liquidity position. Examples of over expenditure include:

- "Yelma Bend" – Allocation \$150K, expenditure \$194K
- "Tongbong Creek" – Allocations \$280K, expenditure \$404K
- "Upper Nile Reconstruction" – Allocation \$70K, expenditure \$144K

- 143 Recommendations made to council in October 2002 by the then General Manager John Summers to sell surplus fixed assets, reduce the size of the work force and to contract and sub-contract some projects were not accepted.

- 144 Audited general purpose financial reports for the year ended 30 June 2003 indicate a further significant deterioration in council's financial position with nil working capital available:

- External reserves are not cash backed to the extent of a \$2,000 shortfall.
- There is nil cash available to back internal restrictions - this represents a further shortfall of \$367,107 based on council's Restricted Cash Schedule as at 30 June 2003 as supplied to the department.
- This shortfall includes \$225,000 in employee leave entitlements.
- There are nil unrestricted cash and investments.
- The Unrestricted Current Ratio has deteriorated to a level of 1.07:1

Council's auditor, Spencer Steer, made the following notable comments in their audit report for the year ended 30 June 2003:

*“Council's overall financial position, when taking into account the above financial indicators, is in our opinion unsatisfactory.*

*The restoration of both the Working Capital position and the establishment of Reserves to fund future works and liabilities are required by the adoption of appropriate financial strategies.*

*There was no Unrestricted cash and investments and in fact \$2,000 of Externally restricted funds was used to fund general operating activities, which is in contravention of the provisions of Section 409 of the Local Government Act, 1993.”*

### **2003-2004 financial year**

- 145 As noted earlier, during the 2002-2003 financial year council reviewed its organisational structure with the intention of flattening the structure and reducing employee costs, particularly in the areas of consultancies.
- 146 The adopted budget for 2003-2004 contains salaries, wages and on-costs totalling \$3,601,038.
- 147 The draft general purpose financial reports for the year ended 30 June 2003 show total expenditure on salaries and wages, employee leave entitlements and consultancies of \$3,516,000. This total is known to contain some significant termination payments on employment contracts.
- 148 Council's recent staff restructure will therefore actually increase employee costs for 2003-2004 in comparison to 2002-2003, contrary to its stated aim of reducing costs.
- 149 Council's adopted budget for 2003-2004 predicts a further deterioration of equity, with a deficit result from all activities of \$2,646,000 predicted. This represents the loss of 3.6% of net assets.

## **Administrative**

### ***The code of conduct***

- 150 Section 440 of the Act requires that every council must prepare or adopt a code of conduct to be observed by councillors, members of staff and delegates of the council. Councils may adopt their own code or alternatively adopt a model code issued by the Minister.
- 151 Section 440(3) requires a council to review its code of conduct within 12 months after each ordinary election.
- 152 Council adopted its code of conduct on 20 September 1990. The code is now 13 years old. There is no evidence that it has been reviewed as required by section 440(3). In addition, the code predates the Local Government Act 1993, which changed the manner in which codes operate as a guide to behaviour in local government.
- 153 We spoke to several councillors and the Acting General Manager about whether council had a code of conduct. Except for the Acting General Manager, all were unaware of its existence. A former general manager also stated that he was not advised of the existence of the code of conduct. Without knowledge of its existence, it is impossible to conclude the code operates to guide and influence the behaviour of councillors and staff.
- 154 Council has considered adopting a “provision of information and interaction between councillors and staff policy” in 1997. It also considered a new code of conduct in 2003. Neither policy was adopted at the time they were initially considered. In response to our draft report, council adopted a revised code of conduct, which includes a section on the provision of information and interaction between councillors and staff on 17 September 2003.

### ***The provision of motor vehicles to councillors***

- 155 Section 252 of the Act requires that council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, deputy mayor and the other councillors in relation to discharging the functions of civic office.
- 156 Council has adopted such a policy.
- 157 Clause 42A(b) of the Local Government (General) Regulation 1999 requires that a policy under section 252 of the Act must not include any provision enabling a council to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.
- 158 Council considered the provision of motor vehicles to all councillors during its extraordinary meeting on 6 June 2003. Council resolved to undertake further investigation before reconsidering the matter.

159 The department has advised the council's Acting General Manager of the provisions of clause 42A(b) of the regulation. The Acting General Manager has advised that no further action will occur in regard to the provision of motor vehicles to councillors. It is nevertheless troubling that this proposal was considered at all, given its extravagance.

### ***Council's motor vehicle policy***

160 Council adopted a policy statement concerning the replacement, need and usage of plant/fleet and motor vehicles on 16 February 1995.

161 The policy prescribes the entitlement to use a council owned motor vehicle. There are certain circumstances where a council officer may use a motor vehicle. Part 2 of the policy states:

“entitlement to vehicles shall be:

- the provision of a motor vehicle is a job facility, eg positions which require significant travel on behalf of council to fulfil its working requirements.
- the provision of a motor vehicle for private use by senior managers shall form part of an employment of a value assigned in that package paid by the user.
- the commuter use may be permitted by employees who have a motor vehicle with their position, providing they are on call out situations on behalf of council.
- exceptions to this will require the approval of the General Manager, and in the case of the General Manager the approval of council.”

162 Council employs 69 full time staff. Twenty one (21) council staff members were identified as having the use of a council motor vehicle to drive home from work. This represents about 30% of staff that have the commuter use of a council motor vehicle.

163 We were advised that the former Acting General Manager, Mr South Young gave verbal advice to employees to allow them to use motor vehicles to commute between home and work.

164 A council staff member must use council resources effectively and economically in the course of his or her public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless such use is lawfully authorised and proper payment is made where appropriate.

- 165 The number of council staff members who have the use of a motor vehicle to drive to and from their home appears to be excessive, particularly in light of the general poor state of council finances and the damaging perception it creates in the community about council's priorities. There is little justification for the current situation. We were advised that staff needed the motor vehicles because they are "on call" while others picked up workmates and take them to work.
- 166 From the information we received, only two staff members are "on call", two staff leased their motor vehicles and three staff used a motor vehicle "rarely, at times or when required only". The balance of thirteen (13) staff had the use of a council motor vehicle to drive to and from home apparently with approval from the former Acting General Manager.
- 167 In response to our draft report, council adopted a revised motor vehicle policy on 17 September 2003.

### ***Purchasing of goods and services***

- 168 It is good administrative practice to have policies to help guide decision making in local council practices. While it is optional for councils to have a policy for procurement under the tender threshold, such a policy leads to uniformity, greater clarity, consistency and forms the basis of a good corruption-resistant procurement system.
- 169 Council does not have an official policy outlining the procedures to be followed by staff when procuring goods and services on council's behalf.
- 170 The former general manager advised us that he recognised the need for a procurement policy, but was of the opinion that both the administrative procedures and corporate structure were adequate to ensure the appropriate safeguards. The funding for the development of such a policy was foreseen by the former general manager as becoming available in the 2003/2004 financial year.

### ***Tendering provisions and the Kandos Multi-Purpose Sports and Community Centre***

- 171 Section 55(1) of the Act requires a council to invite tenders in relation to the various classes of contract referred to in that subsection. If a council is obliged to invite tenders for a contract involving expenditure equal to or greater than the tender threshold of \$100,000, the Local Government (Tendering) Regulation 1999 specifies the procedural requirements of the tender. The Regulation also provides councils with a choice of tendering methods to use.

- 172 Tendering relies on competition to achieve greater and better quality service provision. It takes advantage of a competitive marketplace in an attempt to obtain the best value for the community. Best value relates not only to achieving the best value for money but also relates to quality and completion time among other things.
- 173 A former general manager entered into an agreement with Doble Engineering Services Pty Ltd on behalf of council to supply labour for the positions of Site Foreman and Construction Supervisor at the Kandos MPSCC and to supply labour for other council projects. The agreement was for an amount greater than \$100,000.
- 174 Council did not invite tenders for the supply of labour service in accordance with section 55(1) of the Act and the regulation. There is no evidence council resolved that exceptional circumstances existed to justify not going to tender. By not opening the tender up to competition and testing the market, it cannot be said that the council obtained the best value for the community.

***Involvement by the Deputy Mayor in operational matters***

- 175 Council's Deputy Mayor, Clr Vrisakis, obtained legal advice on behalf of council from Blake Dawson Waldron, solicitors. The legal advice was in regard to council's agreement with Doble Engineering Services Pty Ltd. Blake Dawson Waldron charged council \$561 for the provision of its advice.
- 176 Clr Vrisakis was previously a partner with Blake Dawson Waldron. At the time he instructed the firm he was also a paid consultant to the firm. It is also reported in the media and Clr Vrisakis confirmed that his son is a partner in the firm and his daughter also works for the firm.
- 177 Blake Dawson Waldron was not on council's legal panel at the time the advice was sought and received.
- 178 There is no evidence that council authorised Clr Vrisakis to obtain the legal advice. However, we were advised that Clr Vrisakis told the Mayor and the then Acting General Manager of the suggestions to obtain the legal advice. The Mayor confirmed this. We were unable to contact the former Acting General Manager, Mr South Young, to confirm whether he had authorised Clr Vrisakis to obtain the legal advice. Documents show that Mr Young was aware of the advice when it became available, as he subsequently obtained confirming advice from Lgov.
- 179 Clr Vrisarkis has advised us that he took advantage of his relationship with Blake Dawson Waldron to obtain competent and prompt advice at a negotiated minimal fee of \$500.

- 180 Pursuant to section 335(2) of the Act, one of the roles of the general manager is to control day-to-day management of the council. Obtaining legal advice is generally a matter for the general manager or the general manager's staff as part of the day-to-day management of council or as a directive from a council resolution relating to day-to-day operational matters.
- 181 The functions of councillors are set out in section 232(1) and section 232(2) of the Act. It is generally not the role of individual councillors to participate in the operational matters of council. It is also problematic for councillors to be directly involved in operational matters without the consent of the council or the general manager. A councillor's role includes the development of policy, the exercise of regulatory functions and the consideration of advice.

### ***Information and interaction between councillors and staff***

- 182 Pursuant to section 335 of the Act, the general manager is responsible to the council for performance and direction of all staff and day-to-day management of council. Therefore, it is appropriate that all requests for information and approaches to staff be directed to the general manager or person/s nominated by the general manager.
- 183 Council's past code of conduct appears to allow direct interaction between council staff and councillors. Part 3 of the council's code of conduct states:
- "Members and staff should ensure that members are given access to all council held information necessary for them to properly perform their duties and meet their responsibilities as members."*
- 184 There is evidence of several direct approaches by councillors to staff between December 2002 and January 2003. The situation became a matter of great concern to the then General Manager, Mr John Summers.
- 185 Mr Summers issued a letter in December 2002 to the Mayor, Cllr Peter Hall, advising him to cease approaching staff directly. Mr Summers also issued two memoranda in early January 2003 to councillors advising them that all information requests should be through him as the general manager rather than direct approaches to his staff. Mr Summers also directed council's managers not to take calls or requests from councillors. Mr Summers advised us that he also issued a similar directive in February 2003.
- 186 The Mayor alleges that Mr Summers was uncooperative and refused to provide him with information. The Mayor says that and at times Mr Summers was away on leave when he wanted information. The Mayor also says that he was of the opinion that he had no other option than to deal directly with staff on these occasions to get information. The Mayor's comments are refuted by Mr Summers.

187 The joint ICAC and Department of Local Government publication “Under Careful Consideration: Key Issues for Local Government” provides guidance on councillor interaction with staff. The guidelines state that requests for information and approaches to staff outside the forum of a council or committee meeting should be directed to the general manager or person/s nominated by the general manager. For all but straightforward advice on administrative matters, councillors should put their requests for information or advice in writing to be answered by the general manager or the appropriate nominated person.

### ***Lodgement of section 449 returns***

188 Section 449(1) of the Act requires a councillor or designated person to complete and lodge with the general manager, within three months after becoming a councillor or designated person, a return in the form prescribed by the regulations.

189 Cllr Jamieson and Cllr Vrisarkis were elected as councillors in February 2003 after a by-election. It appears that neither councillor lodged their return in compliance with section 449(1) of the Act within the required time limit.

190 This is a matter for further action by the Director General of the department under Chapter 14 of the Local Government Act 1993.

### ***Notice of meetings***

191 Section 9 of the Act requires that a council must give notice to the public of the times and places of its meetings and meetings of those of its committees of which all the members are councillors.

192 There was some concern among members of the public that they were unaware of when council meetings were to be held.

193 The current Acting General Manager advised that in the past, meetings were advertised in the local newspaper. He said that after South Young became the Acting General Manager, that process stopped. The only notice given to the public of a council meeting was a notice on council’s notice board at its office. The Mayor has also advised that notification of council’s ordinary meetings were given in council’s regular news letter to the community.

194 The Act does not prescribe the form of notice to the public. However, notice of council’s meetings should be wide enough to ensure the public is aware of such meetings. The advertisement of council’s meetings in the newspaper, in a form that is clear and informative, is an appropriate method to inform the public. Similarly, advice of such meetings on council’s internet web site as well as on council’s noticeboard and in council’s public buildings such as its library could be used to inform as many people as possible of its upcoming meetings.



195 It is noted that the public notice of meetings has improved in recent times. Council has acknowledged that the public notice of meetings could improve and it has advised that normal and appropriate practice has been reinstated.

### ***Council's closure of its meetings***

196 The ability of the public and media to attend and observe council meetings containing the deliberations and decisions of elected representatives plays a crucial role in achieving better standards of council accountability. This is recognised by the Act encouraging the making of decisions at open council meetings.

197 Councillors and staff should be prepared to air views publicly on both controversial and routine issues. This is an integral element in ensuring accountability of the governing body to their constituents. The capacity of electors to vote in an informed manner is best achieved when they can clearly experience the speeches and voting patterns of their councillors.

198 In coming to a council decision, it is essential to openly demonstrate fairness, impartiality, objectivity and due consideration of all the issues. Open decision making also provides some assurance of probity and integrity as well as preventing misunderstanding and unfounded allegations.

199 Pursuant to section 10D(2) the grounds for closing a meeting must specify the following:

- the relevant provision of section 10A(2),
- the matter that is to be discussed during the closed part of the meeting,
- the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

200 Council and committee meetings should only be closed to the public in the circumstances provided in section 10A of the Act. Council has advised that it has now instituted a procedure of specifying the specific provision of section 10A that is relied on for the closure of meetings in the future.

201 Section 10D(1) of the Act requires that the grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting.

202 We reviewed some of the reasons why council meetings after February 2003 were held in closed session. The reason for the closed session was generally disclosed as follows:

*“The following item contains discussions that are considered to be confidential in accordance with the Local Government Act, 1993, section 10A”*

203 Such a statement does not fulfil the requirements of section 10D of the Act.

204 For example, on 19 March 2003 council considered its organisational restructure in confidential session. No reason pursuant to section 10A(2) of the Act, as recorded in the minutes of the meeting, was given for why the meeting was held in closed session. It is unlikely that discussions concerning organisational restructures would come within the ambit of any matter identified in section 10A(2).

### ***Business Papers***

205 Section 367 of the Act requires the general manager to send to each councillor notice of the time and date of each council meeting and the business proposed to be transacted at the meeting.

206 These provisions do not require all reports and other documents relating to items on the agenda to be supplied before the meeting. For example, there may be confidential documents that the general manager may withhold under section 9(2A) of the Act and the reports may not be available until just prior to the meeting.

207 During the investigation, several interviewees stated that the then Acting General Manager, Mr South Young, presented business orally on occasion and no business papers were provided. Council’s consideration of its organisational restructure was cited as an example of such oral “business papers”. Another interviewee stated that business papers were always supplied for council’s ordinary business.

208 In the interests of the integrity of a council, transparency and accountability of its actions, it is appropriate that matters be presented to council in the form of a written report as part of council’s business papers where possible. This is particularly relevant to significant council decisions, which may have a major financial impact such as an organisational restructure.

209 It may be acceptable for an oral presentation to be provided in place of a written report. However, this is exceptional and should only occur in limited cases, for example in urgent situations. The consideration of an organisational restructure is not a case where an oral presentation alone is appropriate.

210 Council has advised that the standard of business papers has substantially improved and that the business papers are now as they should be.

## **FINDINGS**

### **Industrial**

- 211 Council does not appear to be aware of its responsibilities and obligations as an employer. While the general manager makes decisions about staff management and appointments, it is council that has the responsibility of bringing to account the general manager in that role. Ultimate responsibility rests with the corporate body.
- 212 Council appears to have breached the Local Government (State) Award on many occasions and has also breached its own recruitment and selection policy since the policy was put in place in March 2003. In doing so council has incurred significant unnecessary cost to the organisation.
- 213 The significant division in the councillors' positions is reflected in the views expressed by the workforce and the community on council's organisational structure to the investigation team. This cannot be viewed as constructive leadership. Aggressive behaviour by councillors towards each other in council meetings and towards some members of the public who were interviewed, threats of legal action and criticism of each other in the local media are unlikely to inspire confidence in the local community.
- 214 Council is now in a tenuous position regarding its ongoing financial viability, in part because of these breaches. Council has insufficient funds set aside to meet its employee entitlements obligations, as required by industrial legislation. It is entirely dependent on a good response to the letter sent by council to all employees.
- 215 This situation indicates that council is also in breach of its charter of responsibilities under section 8 of the Local Government Act 1993, particularly with regard to its responsibilities as an employer.

### **Financial**

- 216 To determine whether council has incorrectly recorded and reported on its financial transactions a more thorough audit would be required.
- 217 By means of its inaccurate budgeting and budget review processes council has demonstrated that it is not correctly recording and reporting on its financial position.
- 218 Council's apparent breaches of the Local Government Act, particularly in respect to the inappropriate use of grant monies demonstrate that it is not exercising reasonable financial management.

- 219 Despite instructions from council's auditors, and from the department, council has not taken effective steps to improve its financial position, a position that has in fact deteriorated and has been predicted to further deteriorate. As such it is our conclusion that council is not exercising reasonable financial management.
- 220 Council has a poor record of financial management and reporting. Council's current financial position is unsatisfactory and further financial deterioration is predicted. Council's future sustainability and ability to provide effective services is very much in doubt.

### **Administrative**

- 221 There are aspects of the administration of Rylstone Shire Council where council is not operating effectively or efficiently, especially in the areas of its code of conduct, its code of meeting practice, its motor vehicle policy and its purchasing and procurement policy. It is noted that council has recently adopted policies to improve the administration management.

## RECOMMENDATIONS

222 Section 434(2) of the Act states that:

*"The Minister may:*

- (a) after receiving the council's notice, or*
- (b) after the 40-day period,*

*whichever is the earlier, order the council to do such things or to refrain from doing such things arising from the recommendations contained in the report as are specified in the order."*

223 Section 740(1) of the Act states that:

*"The Governor or the Minister may appoint a person as commissioner, or two or more persons as commissioners, to hold a public inquiry and to report to the Governor or the Minister with respect to:*

*(a) any matter relating to the carrying out of the provisions of this Act or any other Act conferring or imposing functions on a council, and*

*(b) any act or omission of a member of a council, any employee of a council or any person elected or appointed to any office or position under this or any other Act conferring or imposing functions on a council, being an act or omission relating to the carrying out of the provisions of the Act concerned, or to the office or position held by the member, employee or person under the Act concerned, or to the functions of that office or position.*

224 As referred to above Rylstone Shire Council has demonstrated poor management of industrial, financial and administrative matters. The investigation team has no confidence that the significant financial and industrial problems will be fixed in the short term by council. Council's medium term financial viability is in doubt. The investigation team has no alternative in the circumstances but to recommend that the Minister authorise a public inquiry.

**225 It is the recommendation of the investigation team that the Minister for Local Government authorise a public inquiry into Rylstone Shire Council under section 740 of the Act.**

**226 It is the recommendation of the investigation team that Rylstone Shire Council complete the actions contained in this report under the heading "Immediate Actions for Council".**

**227 It is the recommendation of the investigation team that the Director General of the Department of Local Government acts upon the recommendation contained in this report under the heading "Action for the Department of Local Government".**

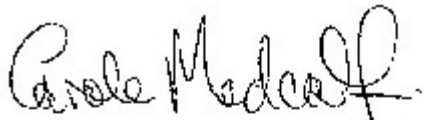
## IMMEDIATE ACTIONS FOR COUNCIL

- 228 There are aspects of the administration and financial reporting of Council where it is not operating effectively or efficiently. The following recommendations are made to assist council to improve those areas of its operations. The recommendations concern council's code of conduct, motor vehicle policy, purchasing and procurement policy, meetings policy and its budget reviews.
- 229 Recommendation 1: That council consider the conduct of Clr Vrisakis in obtaining legal advice from Blake Dawson & Waldron in terms of its code of conduct.
- 230 Recommendation 2: That council adopt an official purchasing and procurement policy. It should stipulate the procedures to be followed when ordering goods and services, such as the requirements to obtain quotes in particular circumstances. It should also ensure that all council purchases are appropriately authorised and procured from approved suppliers.
- 231 Recommendation 3: That council provide the department with a copy of its newly adopted code of conduct for its review.
- 232 Recommendation 4: That council provide the department with a copy of its newly adopted motor vehicle policy for its review.
- 233 Recommendation 5: That council review its practices and procedures for entering contracts for goods and services worth \$100,000 or more. Council should ensure that it abides by the tendering provisions of the Act and Regulation.
- 234 Recommendation 6: That council adopt a policy of widely informing the public of council's meetings cycle using various media.
- 235 Recommendation 7: That quarterly budget reviews presented to council are accompanied by a report as set out in clause 7(2) of the Local Government (Financial Management) Regulation 1999.

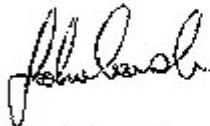
## **ACTION FOR THE DEPARTMENT OF LOCAL GOVERNMENT**

236 The investigation team identified a possible contravention of the pecuniary interest provisions of the Local Government Act 1993. Accordingly, we recommend that the Director General examine the possible breach of the Local Government Act 1993 by virtue of Cirs Jamieson and Vrisakis failing to lodge their pecuniary interest returns within the prescribed time.

**INVESTIGATION TEAM SIGN OFF**



**Carole Medcalf  
Departmental Representative  
Senior Investigations Officer**



**John Canadi  
Departmental Representative  
Senior Investigations Officer**



**Peter Vincent  
Departmental Representative  
Senior Finance Officer**



## **APPENDICES**

- 1 Minutes of council meeting 19 March 2003
- 2 Council business paper dated 19 March 2003 - Organisation Issues
- 3 Internal job advertisements
- 4 Example job description
- 5 Rylstone Shire Council - recruitment and selection policy
- 6 Letter to staff dated 18 August 2003

*This is page number 1 of draft Minutes, consisting of 8 pages, of the Ordinary Meeting of the Rylstone Shire Council, held at 4.00 pm 19 March 2003 and do not become the confirmed Minutes of the meeting until adopted by the next Ordinary Meeting of the Council.*

**MINUTES OF ORDINARY MEETING OF COUNCIL  
WEDNESDAY, 19<sup>th</sup> MARCH, 2003**

**PRESENT:** Councillors P Hall, Mayor (Chairman), M Clapham (Deputy Mayor), D Roach, P McQuiggin, J Jamieson, A Vrisakis

**Staff:** Mr S Young (Acting General Manager) Mr K Morrissey ( Manager Corporate Services), Mr J Allen (Acting Manager Technical Services) Mrs D Springett (Senior Health and Building Surveyor) Mrs J Halliday (Minute Secretary) Ms. F Hemmy (Executive Assistant)

**Visitors** – D Mahoney, A Wills, A Mulholland, S Mulholland, G Kelly, J Klower, T Ellcry, M Butler, J Mulholland,

**COMMENCEMENT:** The meeting commenced at 4.00 pm

**MAYORAL MINUTE**

The Rylstone Shire monthly newsletter, Community Capers, March issue 2003, Volume 78, has been released to the residents. Within that publication was an article headlined 'Rylstone Shire's GM Bows out'. The publication published what is referred to as 'a joint statement' from myself as Mayor and John Summers on vacating his position as General Manager of the Rylstone Shire Council. These statements were never made by me and were in fact contained in a draft media release submitted to me by Mr Summers, which I rejected.

After some negotiation a joint media release was agreed upon signed by Mr Summers and myself. That media release is as follows: -

**MEDIA RELEASE**

**From:** MAYOR – RYLSTONE SHIRE COUNCIL

**Date:** 18<sup>th</sup> February 2003

**Rylstone Shire's GM bows out**

In a joint statement, the Mayor of Rylstone Shire, Councillor Peter Hall, today announced that John Summers - the shire's general manager since 2000 will vacate his position as of today.

Clr Hall remarked that "*John's departure is on the basis of good standing by way of an agreement, the terms of which are satisfactory to both parties*".

*"John has made a substantial contribution to many aspects of the Shire's development and on behalf of the community, my fellow councillors and staff, I wish John and his family all the best."* mayor Hall said.

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*This is page number 2 of draft Minutes, consisting of 8 pages, of the Ordinary Meeting of the Rylstone Shire Council, held at 4.00 pm 19 March 2003 and do not become the confirmed Minutes of the meeting until adopted by the next Ordinary Meeting of the Council.*

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John Summers remarked that in accepting council's decision to terminate his five year contract on agreeable terms, he recognised that "There is no doubt that the results of the recent by-election has changed the direction of Council". He went on to say "The voice of the community has had a strong influence on what had been a very productive and enjoyable association between the organisation and the elected body of Council. However, change has become inevitable." He said.

*I still have a lot to contribute and I wanted to see out my full five-year term, but council has the right to exert its prerogative. I am pleased that council and Ctr Hall have supported me in an agreeable manner and by recognising my contribution to, and good standing in, the community,* John Summers said.

In expressing his thanks for the support received from members of the community, councillors and dedicated hard working staff – John Summer's concluded by saying, "In the highly regulated system of Local Government, it is the people who make the difference. I want to congratulate all those who have worked so hard for myself and for their Shire during the last three years of my tenure.

END

Ctr Peter Hall  
Mayor

John A Summers

---

**RESOLUTION 1119:** Moved Councillor P Hall seconded Councillor A Vrisakis  
RESOLVED that:

Council confirm my action in signing the Media Release as set forth in this minute and note that the publication as printed in the Community Capers was not authorised either by me or Council.

**CONFIRMATION OF MINUTES ORDINARY MEETING 19<sup>th</sup> FEBRUARY, 2003**

**Amendment**

- Item 3 – Point C - Replace – on the basis that not necessarily the highest or any tender be accepted, and that priority would be given to keeping the equipment in the Shire.

**RESOLUTION 1120:** Moved Councillor M Clapham seconded Councillor P McQuiggin  
RESOLVED that

Subject to the above amendment, the Minutes of the Ordinary Meeting of Council held on 19 February, 2003 be confirmed as a true record.

*This is page number 3 of draft Minutes, consisting of 8 pages, of the Ordinary Meeting of the Rylstone Shire Council, held at 4.00 pm 19 March 2003 and do not become the confirmed Minutes of the meeting until adopted by the next Ordinary Meeting of the Council.*

**CONFIRMATION OF MINUTES EXTRA-ORDINARY MEETING 26TH**

**FEBRUARY, 2003**

**Amendments**

Page 1 - RESOLUTION 1106 - add "management" between financial and assistance

**RESOLUTION 1121:**Moved Councillor P McQuiggin seconded Councillor D Roach  
**RESOLVED** that

Subject to the above amendment, the Minutes of the Extra-Ordinary Meeting of Council held on 26 February, 2003 be confirmed as a true record.

**CONFIRMATION OF MINUTES EXTRA-ORDINARY MEETING 17 MARCH 2003**

**Amendments**

- RESOLUTION 1116 - replace "with" with "to"
- Change Under Staff- Acting Finance Manager to Finance Consultant

**RESOLUTION 1122:**Moved Councillor J Jamieson seconded Councillor A Vrisakis  
**RESOLVED** that

Subject to the above amendments, the Minutes of the Extra-Ordinary Meeting of Council held on 17 March, 2003 be confirmed as a true record.

**BUSINESS ARISING - ORDINARY MEETING 19<sup>th</sup> FEBRUARY, 2003**

NIL

**BUSINESS ARISING - EXTRA-ORDINARY MEETING 26TH FEBRUARY, 2003**

Finance Manager - Re-advertising is taking place

**BUSINESS ARISING - EXTRA-ORDINARY MEETING 17 MARCH 2003**

NIL

**REPRESENTATIVES OF FMEU - 4.20pm**

Councillors agreed to allow representatives to speak to Council.

Graham Kelly- addressed the meeting - acknowledged good work of Council and Staff over the last number of weeks.

**RETURNED TO MEETING 4.37pm**

**GENERAL BUSINESS:**

**ITEM 1 SUMMARY OF ACTION TAKEN WITH RESPECT TO RESOLUTION PASSED BY COUNCIL - 19 FEBRUARY,2003 (I5.29)**

- RESOLUTION 1087 - Will be considered at a future meeting
- RESOLUTION 1096 - Letter has been sent
- RESOLUTION 1092 - List needs to be finalised after discussion on budget
- RESOLUTION 1098 - Work programs are available to Councillors. A Works Schedule to be included in the monthly business paper.

**RESOLUTION 1123:** Moved Councillor J Jamieson seconded Councillor D Roach  
That a works schedule be included in the monthly business paper.

*This is page number 4 of draft Minutes, consisting of 8 pages, of the Ordinary Meeting of the Rylstone Shire Council, held at 4.00 pm 19 March 2003 and do not become the confirmed Minutes of the meeting until adopted by the next Ordinary Meeting of the Council.*

**RESOLUTION 1124:** Moved Councillor P McQuiggin seconded Councillor M Clapham  
RESOLVED that:  
Council receive the report as information.

**ITEM 2: DECEMBER 2002 QUARTER BUDGET REVIEW STATEMENTS  
(E6.42)**

A Provisions Sheet to be included in a Business Paper

**RESOLUTION 1125:** Moved Councillor A Vrisakis seconded Councillor D Roach  
RESOLVED that Council:  
1. Adopt the attached December 2002 Quarter Budget Review Statements.  
2. Requests the Acting General Manager to promptly lodge the December 2002 Quarter Budget Review Statements with the Department of Local Government.

Councillor M Clapham advised that he wished his vote against the motion recorded:  
"I believe the currently projected figures are unachievable. We cannot hope to gain \$3 million in income in the next quarter to total \$8.3 million. I believe our total income will be more like \$6.2 million, whilst our expenditure will continue on to approximately \$9.8 million, leaving a net loss of approximately \$1.3 million after adding back non cash items.

**NOTICES OF MOTION:**

**RESOLUTION 1126:** Moved Councillor J P McQuiggin Seconded Councillor D Roach  
RESOLVED that  
The minutes of the Rylstone Shire Council meeting held on 18/19<sup>th</sup> December 2002 be corrected as follows:-  
Page 1 – the visitors section should read Stephen Mulholland not seconded Mulholland  
Page 12 – the General Business should read October 2002 not October 2001

**NOTICE OF RECISSION MOTION** – Councillor P Hall Councillor P McQuiggin and Councillor J Jamieson  
"In the best interests of Council and its current financial position as well as constant public lobby the whole of *resolution 951 and recommendation/resolution 678 should be rescinded.*"

**RESOLUTION 1127:** Moved Councillor P McQuiggin seconded Councillor A Vrisakis  
RESOLVED that  
Council rescind RESOLUTION 951 and RESOLUTION 678

**REQUESTS FOR DONATIONS: (A&I)**

Author	Subject	Recommendation
The Salvation Army	Request support by way of donation	Received
Spellbound Television	Request donation for NAIDOC week 2003 Schools Initiative competitions	Received

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**RESOLUTION 1128:** Moved Councillor D Roach seconded Councillor A Vrisakis  
RESOLVED that  
That Kandos/Rylstone Little Athletics Club, Kandos Public School Parents and Citizens Association Incorporated, Clandulla Progress Association, Bylong Hall Committee Inc and Rylstone/Kandos Playgroup all receive \$60 each, and that they be advised why the small donation.

**CORRESPONDENCE:**

Author	Subject	RESOLUTION
Mrs N Lilley	Request for gravel on Lilley's Road	Request noted
Gerry Ryan	Use of Rylstone Hall, Amenities block and camping over the October long weekend	Agreed that any additional insurance premium be paid if required.
Arkida Pty Ltd	Kidney Foundation require use of Kandos Hall for catering purposes and request that fees be waived. Also camping facilities required.	Agreed that insurance be looked into to ensure that all is in order.
Forward from Gerard Martin, MP	Acknowledge receipt of representations of 28 February 2003. Mr Scully has arranged for the matters raised to be examined. A response will be provided as soon as possible.	Received
Kim Clarke	Letter concerning waiving of Lease fee for Cudgegong Waters Park.	Refer to the next meeting after the Lease arrangements have been looked into.
Hannaford Cox Connellan & McFarland	B & H McKay - Re Cudgegong Waters Park Renewal of Licence Agreement	Agreed that a Report be brought to the next Council Meeting.
Rod London	Concerned over the current Financial Situation and ability of Management to oversee the situation	Councillor A Vrisakis read a proposed letter of reply to the meeting
Tri-Government Blue Mountains Access Lobby Group	Milestone has been reached	Received

Letters also tabled:

- Letter from S Collins, Australian Cement, re Charbon Give Way Signs and B Doubles 12/3/03. RECEIVED
- Letter from M Wearing, Ryka Riggers Recycling re Green-recycling project 18/3/03 RECEIVED

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*This is page number 6 of draft Minutes, consisting of 8 pages, of the Ordinary Meeting of the Rylstone Shire Council, held at 4.00 pm 19 March 2003 and do not become the confirmed Minutes of the meeting until adopted by the next Ordinary Meeting of the Council.*

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**RESOLUTION 1129:** Moved Councillor A Vrisakis seconded Councillor J Jamieson  
**RESOLVED** That the letter as read to the meeting by Councillor A Vrisakis be sent in reply to Mr London's letter.  
 Councillor M Clapham wished his vote recorded against the motion.

**RESOLUTION 1130:** Moved Councillor J Jamieson seconded Councillor D Roach  
**RESOLVED** that  
 Council receive the correspondence, and deal with as necessary in accordance with the table.

**OPEN FORUM – 6.37 PM**

M. Butler – Spoke on behalf of the Community Group

- Concerned about graffiti – Concrete Bridge Pylons at Rylstone
- Incentives from Council to Light Industries to set up business in Rylstone/Kandos
- Pleased to see statement from Councillor A Vrisakis in the Mudgee Guardian

J Mulholland

- Provision of disabled toilets and babychange area
- Clean-up along river and Tongbong Road garden entrance to town – St Johns wart, weeds etc – Could Council Staff please meet with the Community Group on site

A Mulholland

- Weeds on Crown Land – Council is responsible for this. Grants are available for weeds on Crown Land

**RESOLUTION 1131:** Moved Councillor A Vrisakis seconded Councillor J Jamieson  
**RESOLVED** that  
 Council attend to eradication of weeds around the river near the bridge at Rylstone including the garden area (Tongbong Road) south of the bridge, and maintain that area, seeking if available Government Grants for that purpose.

A Wills

- Noted that the Revised Budget was sent to Dept. of Local Government
- ICAC investigation, and can the results be made public – this was done at the February meeting. Would like more investigation on this matter.

D Mahoney - Mudgee Guardian Reporter

- Would like Council to investigate the ICAC matter raised by A Wills further, as the public want to know.

**RESOLUTION 1132:** Moved Councillor J Jamieson seconded Councillor P McQuiggin  
 That Open Forum continue after 7.00 pm

A Wills

- Integrated Catchment Water Study – what is happening – would like to see report. Staff member who was doing this has resigned.
- Council not posting agenda's due to cost of postage - would be prepared to pay postage

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*This is page number 7 of draft Minutes, consisting of 8 pages, of the Ordinary Meeting of the Rylstone Shire Council, held at 4.00 pm 19 March 2003 and do not become the confirmed Minutes of the meeting until adopted by the next Ordinary Meeting of the Council.*

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- Solicitor's correspondence -- re vacating Baldy Mountain -- Acting General Manager will look into this

ADJOURN FOR DINNER 7.15  
RE-ADJOURN FOR 7.45

#### CONFIDENTIAL ITEMS

The following reports contain matters which are considered to be confidential in accordance with the Local government Act, 1993, Section 10a.

**RESOLUTION 1133:** Moved Councillor A Vrisakis seconded Councillor J Jamieson  
RESOLVED that  
Council move into Committee at 7.45 pm

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#### **ITEM 3. ORGANISATIONAL ISSUES (S5.5)**

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**RESOLUTION 1134:** Moved Councillor P McQuiggin seconded Councillor D Roach  
Resolved that:-

1. Council accepts the Consultative Committee's recommendations (dated 13<sup>th</sup> March 2003) on the New Organisational Structure.
2. Council adopts the New Organisation Structure.
3. Council requests the Acting General Manager to promptly implement the New Organisational Structure.
4. Council authorises the General Manager and the Directors as "Senior Staff" defined by the NSW Local Government Act.
5. Council approves and confirms the position holders of Managers Corporate Services and Manager Technical Services as the position holders of Director Corporate Services and Director Technical Services, respectively.
6. Council acknowledges all staff within the New Organisational Structure qualify and subject to Local Government (State) Awards provisions.
7. Council also acknowledges staff (other than those defined as "Senior Staff" under the NSW Local Government Act), at P.A. and Unit Manager's level (classified within Band 3 Level 3), and at Executive Assistant and below Unit Manager's level (classified between Band 3 Level 2 and Band 1 Level 1), respectively, within the Local Government (State) Award.
8. Council acknowledges the adopted New Organisational Structure may be adjusted during the finalisation of future years Budgets.



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**RESOLUTION 1135:** Moved Councillor J Jamieson seconded Councillor P McQuiggin  
Resolved that:-

1. Council accepts the Consultative Committee's recommendation (Dated 13<sup>TH</sup> March 2003) on the Recruitment & Selection Policy's amendments.
2. Council adopts the Amended Recruitment & Selection Policy
3. Council requests the Acting General Manager to promptly implement the Amended Recruitment & Selection Policy.

**ITEM 4 PROPOSED MULTI PURPOSE SPORTS CENTRE - DEVELOPMENT ASSESSMENT (K2.2)**

**RESOLUTION 1136:** Moved Councillor A Vrisakis seconded Councillor D Roach  
RESOLVED that:

Council authorise the Acting General Manager to request a meeting with Mr Doble to deal with matters arising from the Council Meeting as he sees fit.

**ITEM 5 SALE OF LAND FOR UNPAID RATES**

**RESOLUTION 1137:** Moved Councillor J Jamieson seconded Councillor D Roach  
RESOLVED that:

Council adopt the recommendation submitted by the Acting General Manager

**RESOLUTION 1138:** Moved Councillor D Roach seconded Councillor P McQuiggin  
RESOLVED that

Council move out of Committee at 9.38pm

There being no further business, the meeting closed at 9.39 pm.

*I certify this to be a true copy of the Minutes of the Ordinary Meeting of Council held in the Council Chambers, Rylstone on Wednesday, 19 March, 2003 and confirmed as such by Council at its Meeting on Wednesday, 16 April, 2003.*

Councillor Peter Hall  
Chairman

South Young  
Acting General Manager

**ITEM 4: ORGANISATIONAL ISSUES (\$5.5)****Resolution No. 1**

Resolved that:-

1. Council accepts the Consultative Committee's recommendations (dated 13<sup>th</sup> March 2003) on the New Organisational Structure.
2. Council adopts the New Organisation Structure.
3. Council requests the Acting General Manager to promptly implement the New Organisational Structure.
4. Council authorises the General Manager and the Directors as "Senior Staff" defined by the NSW Local Government Act.
5. Council approves and confirms the position holders of Managers Corporate Services and Manager Technical Services as the position holders of Director Corporate Services and Director Technical Services, respectively.
6. Council acknowledges all staff within the New Organisational Structure qualify and subject to Local Government (State) Awards provisions.
7. Council also acknowledges staff (other than those defined as "Senior Staff" under the NSW Local Government Act), at P.A. and Unit Manager's level (classified within Band 3 Level 3), and at Executive Assistant and below Unit Manager's level (classified between Band 3 Level 2 and Band 1 Level 1), respectively, within the Local Government (State) Award.
8. Council acknowledges the adopted New Organisational Structure may be adjusted during the finalisation of future years Budgets.

**Resolution No. 2**

Resolved that:-

1. Council accepts the Consultative Committee's recommendation (Dated 13<sup>TH</sup> March 2003) on the Recruitment & Selection Policy's amendments.
2. Council adopts the Amended Recruitment & Selection Policy
3. Council requests the Acting General Manager to promptly implement the Amended Recruitment & Selection Policy.

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**ORGANISATION ISSUES (\$5.5)**

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*This report contains matters which are considered confidential in accordance with Section 10A, Local Government Act 1993.*

**Report:**

The current work redesigning and restructuring processes within Council have been going on for more than 12 months. With the recent departure of the General Manager due to problems of grossly deteriorated financial position and non-harmonious work environment among staff members across the organisation, it is extremely important to take appropriate and immediate measures to improve the organisation's financial sustainability and staff harmony. From staff open forum discussions, there is a very strong consensus to have a swift change (rather than lengthy dragging along approach).

Following a number of open forum staff discussions, informal taskforce options analyses, and Consultative Committee meetings, the following recommendations were resolved by the Consultative Committee on 13 March 2003:

1. That Council resolve to adopt the amended Recruitment & Selection Policy
2. That Council resolve to adopt the new Organisational Structure and to implement the structure immediately.

The proposed Recruitment & Selection Policy (amended version) allows all positions to be advertised internally first until all options exhausted and then advertise externally, if required.

The new organisational structure costs some \$600,000 p.a. LESS than the existing organisational structure. Being a small council with less than 100 employees (and a high ratio of consultants verses employees organisation), there is inequity and/or disparity in income levels between staff members across the departments, for example: some staff in Layer 3 (of a 6 to 7 Layers organisational structure) are paid \$75,000 p.a. to \$110,000 p.a. in the Technical Services Department and other staff in Layer 3 of the Operations Department are merely paid \$38,000 p.a., etc. Under the new structure (a flatter organisational structure that reduces to 4 Layers from a 6/7 Layers structure), there is consistency in pay levels across the departments. In respect of a flatter organisation, for example, the GM's salary is reduced from \$167,000 p.a. (plus other allowances) to \$105,000 p.a. under the new structure. Also, specialist consultants are only engaged if absolutely necessary, otherwise, employees are employed to undertake tasks that can be carried out in-house.

To date, Job Evaluations have been carried out via "Wyatt Model" of the NSW Local Government Job Evaluation Systems. PA and Unit Manager positions are evaluated at Band 3 Level 3, and EA and below Unit Manager level's positions are evaluated within Band 3 Level 2 and Band 1 Level 1.

Under the new organisational structure, \$150,000 p.a. (provisions) out of the \$600,000 p.a. savings made will be used to compensate the "higher skilled based" positions, as those positions are given greater authority & accountability, greater autonomy in their decision making processes especially in the areas of judgement and problem solving, greater specialist knowledge and skills, greater management skills, greater interpersonal skills and so on. I anticipate some \$110,000 p.a. out of the \$150,000 p.a. provisions may actually be required during the implementation of the new organisational structure. This gives a \$450,000 p.a. to \$490,000 p.a. nett savings to the organisation.

Under the new structure, two newly created outdoor positions viz. Quick Response Unit Manager and Works Quality Improvement Unit Manager, are targeted to provide career paths for those who have worked for many years in Rylstone Shire and who have earned their respect from among the outdoor staff members. This is especially needed as there has been a long history of divisive factions within the outdoor staff, and potential incumbents within those positions must have earned their respect (from their peers) to ensure staff harmony among the outdoor staff members. There are also two revamped engineering unit manager positions (viz. Traffic, Design & Stormwater Unit Manager; and Assets & Contracts Unit Manager) been formulated from a single engineering manager position previously. They provide an alternative career path for younger engineers within the organisation who aspire for a managerial position. These two engineering unit management positions must be filled by qualified engineers. I also recommend the Director Operations' position (under the new organisational structure) not to be formally or permanently filled at this stage so as to ensure a further avenue of cost savings in the near future, if deemed necessary (i.e. via a 2-departmental structure instead of a 3-departmental structure), etc.

From Council legal documents and staff confidential records to date, there are currently two director level employees employed on a formally signed Contract of Employment basis. Under the new organisational structure, the terms of their existing contracts will be honoured. In fact, there is also a line manager employee who is currently on the payroll, but, has yet to demonstrate the existence of a formally signed Contract of Employment. If the original document can be presented for sighting, his contract of employment will also be honoured.

Due to a few new positions and a number of substantially changed positions from their original positions, those positions will need to be advertised internally, in accordance with the proposed amended Recruitment & Selection Policy. Internal advertisements encourage appointments to be made from the existing employees within the organisation. All internal appointments are given assistance with development and training to better equip incumbents in performing their new and/or revamped roles.

All employees, and particularly those affected employees, are encouraged to apply for the internally advertised positions. Under the new organisational structure implementation, there will be no forced redundancies and no employment losses. However, there will be opportunities for improved career paths and/or promotions. From my assessment of staff impact from this new structure implementation, I do not anticipate any employees (union or non-union) to be significantly affected. Because most of our employees are either MEU or LGEA or APESMA union members I express the following comments. I do not anticipate any MEU, LGEA or APESMA members will be significantly affected. However in any event if it is proved otherwise, lateral transfers will be promptly offered and carried out to the new &/or revamped positions or to backfill vacancies created by appointments to the new &/or revamped positions.

**Recommendation that:**

*Part A:*

1. Council accepts the Consultative Committee's recommendations (dated 13<sup>th</sup> March 2003) on the New Organisational Structure.
2. Council adopts the New Organisation Structure.
3. Council requests the Acting General Manager to promptly implement the New Organisational Structure.

4. Council authorises the General Manager and the Directors as "Senior Staff" defined by the NSW Local Government Act.
5. Council approves and confirms the position holders of Manager Corporate Services and Manager Technical Services as the position holders of Director Corporate Services and Director Technical Services, respectively.
6. Council acknowledges all staff within the New Organisational Structure qualify and subject to Local Government (State) Awards provisions.
7. Council also acknowledges staff (other than those defined as "Senior Staff" under the NSW Local Government Act), at P.A. and Unit Manager's level (classified within Band 3 Level 3), and at Executive Assistant and below Unit Manager's level (classified between Band 3 Level 2 and Band 1 Level 1), respectively, within the Local Government (State) Award.
8. Council acknowledges the adopted New Organisational Structure may be adjusted during the finalisation of future years Budgets.

*Part B:*

1. Council accepts the Consultative Committee's recommendation (dated 13th March 2003) on the Recruitment & Selection Policy's amendments.
2. Council adopts the Amended Recruitment & Selection Policy.
3. Council requests the Acting General Manager to promptly implement the Amended Recruitment & Selection Policy.

Appendix 3



## INTERNAL ADVERTISEMENTS (as at 20 March 2003)

APPLICATIONS ARE CALLED FOR THE FOLLOWING LISTED POSITIONS  
&  
ALL APPLICANTS MUST ADDRESS THE SELECTION CRITERIA FOR EACH POSITION

Applications MUST be addressed to the Acting General Manager and MUST be placed in Council's

TENDER BOX located at the front counter (please ask Cashier for direction if uncertain), at 77 Louisa Street, RYLSTONE, NSW 2849

(Applications close at 12.00 noon, Friday 28 March 2003)

Position Number	Salary Level	Permanent Position	Key Responsibilities and Selection Criteria
P006/03	Band 3 Level 2 (Grade 16 to 18)	Executive Assistant Operations	<ul style="list-style-type: none"> <li>• Assist Director Operations and Unit Managers with day to day functions</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> <li>• Intermediate Computing Skills</li> </ul>
P014/03	Band 3 Level 2 (Grade 16 to 18)	Executive Assistant Corporate Services	<ul style="list-style-type: none"> <li>• Assist Director Corporate Services &amp; Unit Managers with day to day and strategic functions</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> <li>• Advanced Computing Skills</li> </ul>
P023/03	Band 3 Level 2 (Grade 16 to 18)	Executive Assistant Technical Services	<ul style="list-style-type: none"> <li>• Assist Director Technical Services with day to day and strategic functions</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> <li>• Possess working knowledge with environmental, planning and engineering legislation</li> </ul>
P007/03	Band 3 Level 3 (Grade 19 to 21)	Workshop & Fleet Unit Manager	<ul style="list-style-type: none"> <li>• Ensure the day-to-day and strategic management of Council's fleet, facilities and workshop functions in a holistic and sustainable manner</li> <li>• Relevant qualifications / tickets, and a team player</li> <li>• Basic Computing Skills</li> </ul>
P008/03	Band 3 Level 3 (Grade 19 to 21)	Parks, Waste & Cleansing Unit Manager	<ul style="list-style-type: none"> <li>• Adequately manage all aspects of the Parks, Waste Depot, and ensure satisfactory cleansing of council facilities</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> <li>• Basic Computing Skills</li> </ul>
P009/03	Band 3 Level 3 (Grade 19 to 21)	Works Unit Manager	<ul style="list-style-type: none"> <li>• Adequately manage day to day running of works operations</li> <li>• Experience in interpreting technical plans, and a team player</li> <li>• Good Communication &amp; Interpersonal Skills</li> </ul>
P010/03	Band 3 Level 3 (Grade 19 to 21)	Supply & Purchasing Unit Manager	<ul style="list-style-type: none"> <li>• Adequately manage councils supply and purchasing functions in accordance with existing purchasing and procurement policies</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> <li>• Intermediate Computing Skills</li> </ul>
P011/03	Band 3 Level 3 (Grade 19 to 21)	Facilities Unit Manager	<ul style="list-style-type: none"> <li>• Adequately manage day to day facilities operations and/or works as directed by the Director Operations</li> <li>• Relevant qualifications or willingness to seek appropriate training and/or development</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> </ul>
P012/03	Band 3 Level 3 (Grade 19 to 21)	Works Quality Improvement Unit Manager	<ul style="list-style-type: none"> <li>• Ensure operational works implementation comply with quality and continuous improvement requirements</li> <li>• Good Communication &amp; Interpersonal Skills, and a team player</li> <li>• Minimum 10 years operations experience within Rylstone Council</li> </ul>

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P013/03	Band 3 Level 3 (Grade 19 to 21)	Quick Response Unit Manager	<ul style="list-style-type: none"> <li>Ensure the quick response operations are managed efficiently and effectively, and a team player</li> <li>Minimum 10 years operations experience within Rylstone Council, and possess knowledge, experience and/or tickets of a suite of equipment relevant to the council's operations environment</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> </ul>
P015/03	Band 3 Level 3 (Grade 19 to 21)	Finance Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage all aspects of council's finances, and hold relevant qualifications CPA, CA</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>"Hands-on" accounting and finance experience</li> </ul>
P016/03	Band 3 Level 3 (Grade 19 to 21)	Records Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage all aspects of council's records, with minimum 10 years "hands on" experience</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Advanced records management within Aus-Info Records Management Systems</li> </ul>
P017/03	Band 3 Level 3 (Grade 19 to 21)	Early Childhood & Youth Unit Manager	<ul style="list-style-type: none"> <li>Exposure and/or aspirations to effectively and efficiently deliver childhood and youth services</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Basic Computing Skills</li> </ul>
P018/03	Band 3 Level 3 (Grade 19 to 21)	Family Affairs Unit Manager	<ul style="list-style-type: none"> <li>Exposure and/or aspirations to effectively and efficiently deliver family affairs services</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Basic Computing Skills</li> </ul>
P019/03	Band 3 Level 3 (Grade 19 to 21)	Payroll & HR Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage the payroll and HR functions</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Intermediate Computing Skills</li> </ul>
P020/03	Band 3 Level 3 (Grade 19 to 21)	Information Technology Unit Manager	<ul style="list-style-type: none"> <li>Advanced knowledge of hardware, software, desktop and network systems including repairs, maintenance and administration</li> <li>Proven ability to train staff, and minimum 5 years advanced computing skills</li> <li>High level interpersonal and communication skills, and a team player</li> </ul>
P021/03	Band 3 Level 3 (Grade 19 to 21)	Public Relations & First Impression Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage all aspects of council's Public Relations and customer service interactions in a friendly, courteous and cheerful manner</li> <li>Good Communication &amp; Interpersonal Skills</li> <li>Intermediate Computing Skills, and a team player</li> </ul>
P022/03	Band 3 Level 3 (Grade 19 to 21)	Library Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage all aspects of council's Library services</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Intermediate Computing Skills</li> </ul>
P024/03	Band 3 Level 3 (Grade 19 to 21)	Water & Wastewater Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage all aspects of council's Water &amp; Wastewater functions</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Possess and/or aspiration in stakeholders and working committee involvement</li> </ul>
P025/03	Band 3 Level 3 (Grade 19 to 21)	Assets & Contracts Unit Manager	<ul style="list-style-type: none"> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Experience in life cycle asset management in a sustainable fashion, and asset database management experience</li> <li>Project &amp; contract administration experience and/or exposure</li> </ul>
P026/03	Band 3 Level 3 (Grade 19 to 21)	Traffic, Design & Stormwater Unit Manager	<ul style="list-style-type: none"> <li>Ensure an integrated traffic, design and stormwater focus, and execution of these functions</li> <li>Good communication and interpersonal skills, and a team player</li> <li>Exposure and/or experience in committee forums</li> </ul>
P027/03	Band 3 Level 3 (Grade 19 to 21)	GIS & Mapping Unit Manager	<ul style="list-style-type: none"> <li>Adequately manage all aspects of council's GIS and mapping functions</li> <li>Good Communication &amp; Interpersonal Skills, and a team player</li> <li>Advanced Computing Skills</li> </ul>
P030/03	Band 3 Level 3 (Grade 19 to 21)	Health & Building Unit Manager	<ul style="list-style-type: none"> <li>Ensure a sustainable management of the health and building functions in compliance with relevant legislation</li> <li>Good communication and interpersonal skills and a team player</li> <li>Ensure a friendly, flexible and professional approach to customer and stakeholder interactions</li> </ul>
P029/03	Band 3 Level 3 (Grade 19 to 21)	Environment Unit Manager	<ul style="list-style-type: none"> <li>Friendly and approachable personality, and a team player</li> <li>Good Communication &amp; Interpersonal Skills</li> <li>Aspirations and/or exposure to an ecologically sustainable development approach to environment management instead of the "greenie approach", plus social and economic aspects if applicable</li> </ul>
P002/03	Band 3 Level 3 (Grade 19 to 21)	F.A.	<ul style="list-style-type: none"> <li>Provide flexibility and innovations in best practices in the executive environment, minimum 5 years executive and/or administrative experience with Rylstone Council</li> <li>Excellent communication &amp; interpersonal skills, and a team player</li> <li>Advanced computing skills and demonstrated multi-skilling experience</li> </ul>

Appendix 4  
Job Description

(GRADE 20): 603.87 POINTS  
Page 1 of 4  
11/3/3

Position Code P027/03 GIS & Mapping Unit Manager  
Case ID

Evaluation Model 19  
Band/Level 3/3

**Position Summary**

To manage GIS and mapping functions innovatively, efficiently and effectively, within affordable resources constraints

**Key Responsibilities**

1. Manage GIS and mapping functions
2. Manage computing technology in a best practice framework
3. Other management duties

**Authority and Accountability**

Guidance is only available in the form of broad policy direction or legislative requirements. The job holder normally resolves issues without reference to the supervisor.

Decisions made by the job holder affect the work and activities of all Divisions of the Council.

Significant planning is required to co-ordinate with various organisational units or multiple resources

The job holder develops a complete budget for a department, including personnel requirements

This job controls expenditure which includes salary and non-salary costs of between \$100,000 and \$1m pa.

The job holder has shared responsibility for raising non-standard revenue

**Judgement and Problem Solving**

Problems are solved by using research, analysis, and evaluation of information which is often not readily available. Judgement is important as there is often no right or wrong solution

The job holder must make judgements or recommendations based on advanced analytical or creative thought.

**Specialist Knowledge and Skills**

The job holder requires the following level of technical skills.

**Expert Knowledge areas:**

- PC Applications Software (eg Lotus, DBase, desktop publishing)
- Operate Office Machinery (photocopier, facsimile, microfiche reader, plan printer)
- Mainframe Operations
- Computer Operations Control
- Mainframe Configuration Design
- Mainframe Hardware/Software Support
- Network Configuration Design
- Network Hardware/Software Support
- Operating Systems (PC or Mainframe)
- Technical Support (PC or Mainframe)
- Programming (PC or Mainframe)
- Systems Analysis and Design
- DataBase Management
- Application / User Support



## Job Description

Page 2 of 4

### **Solid Working Knowledge areas:**

- Filing
- Data Entry
- Managing Records Systems
- Budget Administration
- Statistical Analysis
- Exhibition / Display Work
- Corporate / Business Planning
- Public Relations
- Contract Administration
- Project Management
- Risk Management
- Property Management
- Asset Management Systems
- Marketing
- Document Publishing
- Scanning Machinery
- Meeting Procedures
- Training & Development
- On-Line Bibliographic Systems
- Research & Special Information Needs
- Valuation Principles
- Land Titles
- Town Zonings
- Cost Accounting
- Financial Accounting
- Cost/Benefit Analysis

### **Basic Working Knowledge areas:**

- Tendering Procedures
- Tender Evaluations
- Purchasing & Procurement
- Principles of Town Planning & Subdivision/Land Management
- Administrative Legislation
- Local Government Legislation

In addition, the operational knowledge required by the job holder includes knowledge of the structure, functions and processes of several departments.

### **Management Skill**

The job holder is responsible for the direction and co-ordination of operations of a branch function within the council.

The person initiates action in the following work areas:

- Evaluating performance
- Coaching and advising

## Job Description

Page 3 of 4

- Authorising timesheets
- Approving overtime
- Approving leave
- Appointing employees
- Handling employee complaints
- Disciplinary actions
- Terminating employment

The job holder approves and makes final decisions in the following work areas:

- Assigning work activities
- Identifying training needs

The job holder supervises 1 to 5 personnel indirectly.

This job involves the supervision of 1 to 5 contractors.

The annual value of contracts directly managed by the job holder is between \$101,000 to \$1m.

The total number of volunteers managed by this job on a regular basis is 1 to 5.

### Interpersonal Skills

This job requires written communication skills which enable the job holder to write correspondence, reports and submissions that require original sentence and paragraph construction and wording.

Responsible for monitoring or evaluating effectiveness of customer service provided by the Council, and recommending modifications to service.

Requires extensive, on-going cooperation, coordination and communications between Divisions and Branches for work production or service quality.

This job requires communication skills which enable the job holder to perform the following activities:

- Exchange/explain information
- Explain situations
- Advise, recommend or counsel
- Train one-to-one
- Sell, persuade, influence
- Negotiate agreements

The job holder is required to interact with the following groups or individuals within the council on a regular basis and for the purpose shown below:

Advise or recommend:

- Council Meeting
- Councillors
- Committee Meetings of Council
- General Manager
- Department/Division Heads
- Section Managers/Line Managers

Negotiate or persuade:

- Other Council Employees

The job holder is required to interact with the following groups or individuals outside the council and for the purpose listed below:

## **Job Description**

Page 4 of 4

Provide and obtain information:

- Members of courts or tribunals
- Members of Parliament
- Media

Advise or recommend:

- Commercial/industrial/development representatives (eg vendors, builders)
- Community organisations - service clubs etc
- Professional/industry associations including unions
- Government officers (eg Roads & Traffic Authority, Dept of Local Government)
- Employees of other councils
- Applicants for employment
- Local Business

Negotiate or persuade:

- Members of the public/residents
- Consultants, solicitors and other professionals

### **Qualification and Experience**

The preferred qualifications for this job is a 3-Year Degree

It would be expected that the person would have 12 months and up to 2 years relevant work experience.

In addition to the qualifications and experience, the job holder must possess the following licences or certificates:

Driving Licence Class 1A (Standard Driver's Licence)



# RECRUITMENT & SELECTION POLICY





19/3

## Part 1 – Introduction

This policy aims to provide guidance and assistance to all managers who are involved in recruitment, selection and promotion of employees at Rylstone Shire Council.

The policy outlines the principles and procedures which are to be followed in the recruitment, selection, and promotion process.

Only a person who has applied for an appointment to the position may be selected.

### *Temporary Appointments*

If a position within the organisation structure of Council is vacant or the holder of such a position is sick or absent, the council may appoint a person to the position on a temporary basis. A person appointed to a temporary position shall not continue in that position for a period of more than 12 months.

### *Merit Principle Applies*

Rylstone Shire Council is obliged to ensure that from all the applicants eligible for appointment, the person who has the greatest merit is selected. This means that persons will be selected on the basis of whether they have the abilities, qualifications, experience and standard of work performance that are required to perform the job.

Each manager who has a role in the recruitment of employees or in selection for promotion should do their utmost to ensure that the merit principle is applied in each case.

### *Equal Employment Opportunity*

Rylstone Shire Council is an equal employment opportunity employer and is committed to ensuring that all applicants for selection are not discriminated against on any of the following grounds:

- Sex
- Race
- Marital status
- Pregnancy
- Disability
- Age
- Homosexuality
- Transgender
- Responsibilities as a carer

Equal employment opportunity means that irrelevant attributes such as those listed above are not taken into account in the selection process. This means that no discrimination should take place in job advertisements, job interviews or the selection process.





## Part 2 - Vacancy Review

A vacancy occurs when the person employed in the position leaves that position. The expiry of fixed term or temporary positions does not constitute a vacancy. These positions lapse automatically on the expiry date.

A vacancy may also include an anticipated vacancy such as when notice of resignation has been accepted, or when a retirement date is known.

### *Reviewing a Vacancy*

All vacant positions, except newly created or recently reviewed positions, should be subject to review before they are filled.

The position review should be conducted by the General Manager or other appropriate officer. In practice it may be handled by an individual officer or a team. The composition of a team will depend on the nature of the position, for example, managerial, professional, indoor, outdoor, trade, technical and so on.

A vacancy should be reviewed in order to:

- Determine whether or not the position, in its current form or in a modified form, should continue. This determination should take into account known and projected workloads, current staffing arrangements, budget status, known and projected changes in external influences such as outside funding, and comparative need elsewhere within the organisation or division.
- Ensure that the position description accurately describes duties and responsibilities.
- Ensure that the position is classified consistently with award provisions.
- Where a job evaluation system is established, ensure that the position is correctly evaluated.
- Ensure that the remuneration level is consistent with Council's preferred position in the market-place.

The recruitment process should not commence until the vacancy review is complete.





### **Part 3 - Vacancy File**

An official file in two sections should be opened for each vacancy. The file should be opened and maintained by the appropriate officer, eg the relevant manager or Convenor of the selection panel.

#### ***Section 1 - Vacancy Control***

The following documents should be kept in the Vacancy Control section of the file:

- Approval from the vacancy review process.
- A certified position description.
- Results of the most recent job evaluation.
- Selection criteria.
- Job advertisement.
- Advertising arrangements - placements, costs, circulation/distribution details, etc.
- All components of any package of materials made available to prospective applicants.
- Summary list of enquiries for the vacancy.
- Summary list of applications received which shows the ones that have been short-listed and interviewed.
- Summary of interview arrangements.
- Selection panel membership.
- Signed and dated records of meetings of the selection panel.
- Recommendations for appointment, justification and approval details.
- Any other information and correspondence, such as invitations to external participation on the selection panel.

#### ***Section 2 - Applications***

Section 2 of the official file should contain the following:

- Individual applications together with any relevant correspondence or file notes, such as acknowledgment letters.
- Individual invitations for interview and interview arrangements.
- Letters to referees.
- Referees' reports.
- Notes summarising telephone conversations with referees.
- Unsuccessful advices or indication of forwarding same.





## **Part 4 - Selection Criteria**

Selection criteria should be developed for all vacant positions. The selection criteria should be determined by the relevant manager in consultation with the General Manager.

Selection criteria should be developed according to the following guidelines:

### ***Essential Criteria***

Essential criteria provide a common standard for all applicants and ~~minimise the possibility of irrelevant matters being taken into account.~~ Essential criteria will include:

- Formal, educational, professional or vocational qualifications.
- Demonstrated relevant experience.
- Specialist knowledge and skills.
- Judgment and problem solving skills.
- Management, supervisory and leadership skills.
- Interpersonal and communication skills.
- Special requirements for the position consistent with hours of operation, location, mobility, uniqueness, autonomy and so on.

### ***Desirable criteria***

Desirable criteria are those which will greatly assist the person to do the job, but are not essential to its performance. Desirable criteria will include:

- Preferred work experience.
- Behavioural characteristics, such as ease in dealing with the public, preparedness to work alone and willingness to work elsewhere in the organisation when required.
- Preferred qualifications.







## **Part 5 - Selection Panel**

A selection panel is mandatory for each advertised position.

The role of the selection panel is to identify and recommend for appointment the applicant for a vacant position who has demonstrated the greatest merit.

Membership of each selection panel, including nomination of the Convenor, is subject to the approval of the General Manager (or other appropriate officer).

The General Manager may vary the composition of the selection panel to cater for special circumstances - for example Council may wish to have external participation on a panel for a key position or one requiring special expertise.

The selection panel should have a minimum of two and a maximum of four members. One of the panel members should be the supervisor of the position. Factors to be considered in deciding who should be on the selection panel include:

- The nature of the position.
- Skills, training and experience.
- Gender balance – it may be appropriate to consider external representation to ensure gender balance.
- Availability.
- Professional expertise.
- Representation of users of the services provided by the position.

Proxy members (someone who stands in for another) of selection panels should be discouraged. All members of a selection panel should have received training in selection techniques, including merit-based selection and the principles of equal employment opportunity.

### ***Conflicts of interest***

Members of the selection panel are obliged to advise the Convenor if they have a conflict of interest or potential conflict of interest. Some common conflicts of interest are:

- The panel member is related to an applicant - this includes de facto relationships.
- The panel member is a close friend of an applicant.
- The panel member has some animosity towards an applicant or vice versa.
- The panel member is a nominated referee for a short-listed candidate.
- The panel member has some form of indebtedness to an applicant or vice versa.

Conflicts of interest should be divulged and resolved at an early stage so that they do not prejudice the operations of the selection panel. In cases where conflicts of interest are not divulged and become apparent or are brought to notice during or after the selection process, there are good reasons to abort the selection process or declare it invalid.





### *Responsibilities of the panel and its members*

Through the Convenor, the selection panel is answerable to the General Manager (or other appropriate officer). The Convenor is responsible for liaising with the General Manager (or other appropriate officer).

Members of the selection panel are responsible individually for advising the Convenor of real and potential conflicts of interest or of any other matter which may affect their full participation in the panel.

### *Functions of the Selection Panel*

The functions of the selection panel are:

- To review vacancy documentation and to understand fully the selection criteria.
- To devise ways of assessing candidates against the selection criteria.
- To examine existing or potential conflicts of interest and resolve them.
- To apply merit-based recruitment principles.
- To apply the principles of equal employment opportunity.
- To apply the selection criteria to written applications and produce a recommended short-list of candidates for interview where appropriate. (There does not always have to be a short list. In some cases all applicants will reach the interview stage)
- To interview short-listed candidates.
- To seek additional input in order to reach a decision.
- To make recommendations for appointment.
- To make recommendations for a default appointment where appropriate. This may be necessary where the recommended applicant rejects the offer or fails to take up duties.

### *Method of Operation of Selection Panel*

Within the constraints of this policy, each panel may determine its own method of operation, but must acknowledge and adhere to the following requirements:

- **Quorum** - a meeting of the selection panel should not proceed unless all members attend. Once the meeting has commenced, the panel may not vary its membership. If a member of the panel is absent, he or she should withdraw from the process. Alternatively the process will be aborted.
- **Formality in Voting** - the panel should operate informally. Where consensus cannot be reached after reasonable discussions, a vote will be taken. Dissenting members may submit minority reports.
- **Confidentiality** - panel proceedings (including all documentation made available to panel members) are to be regarded as confidential. At the conclusion of the selection process, all materials will be collected and placed on file. No material will be destroyed for a period of six years. Original official documentation will be retained on file. Local government is covered by Part 2-6 of the State Records Act 1999. It is therefore prudent that the Act be used for guidance in retaining confidential information.





- **Conflicts of Interest** - real or potential conflicts of interest must be divulged and considered at the initial meeting of the panel. If there is a conflict of interest, that person should be excluded from the process. The Convenor is responsible for guiding the panel on these matters. If an unforeseen conflict of interest occurs later, it is the responsibility of individual panel members to notify the Convenor. If a conflict of interest involves the Convenor, he or she shall inform the General Manager or another appropriate officer immediately.
- **Record of Proceedings** - the panel must keep a brief record of proceedings of each panel meeting. This should cover decisions made, whether they were made by consensus or vote, resolutions of conflict of interest, recommendations and so on. Records of meetings are not minutes, but are a means of assisting the panel in its deliberations and a memory aid in the event of subsequent grievances or disputes.

The Convenor is responsible for the accuracy of the record and will sign the record as soon as possible after each meeting. Members of the panel may access the record at any time during the life of the panel. Records of proceedings will be held under confidential cover.



Appendix 6 002



S5.1 (fh)

Please Quote:

**RYLSTONE SHIRE COUNCIL**  
*...waterways and wilderness*

18<sup>th</sup> August 2003

«LastName»  
«Address1»  
«Address2»  
«City» «State» «PostalCode»

Dear «Salute»

I am writing to you on a matter of critical importance regarding your employment with the Shire, and to the viability of the Council.

During March 2003 a new organisational structure, designed by the then Acting General Manager, Mr South Young, was introduced to Council.

The then Acting General Manager advertised several reclassified positions arising as a result of the new structure internally at Council. The incumbent staff applied for and were appointed to those positions, commencing from early April 2003. Essentially, these positions that were previously classified at supervisory and lower/middle management level were reclassified as 'Unit Manager' positions under the new structure.

In many instances, this reclassification represented a movement of some 10 to 14 grades in Council's salary structure with no actual change to the position description, functions, responsibilities or accountabilities of the position.

As you would no doubt be aware Mr Young's services at Council terminated on 26<sup>th</sup> June 2003 and I was subsequently appointed to the position of Acting General Manager by the Council.

Subsequently, it has become apparent to both Council and myself that the wage increases provided by the new structure were not financially sustainable and that if Council were to continue to pay these reclassified positions (26 in total, plus two more created subsequent to the new structure being implemented) at the increased rates, then Council would soon experience serious financial difficulties rendering the arrangement untenable.

In order to address the situation, a meeting was arranged at Council on 17<sup>th</sup> July 2003 for the relevant parties to discuss the problems with the viability of the structure. The meeting was attended by myself, several Councillors, an Industrial Officer from the Shires Association of NSW, the local United Services Union Organiser and members of Council's Consultative Committee.

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All correspondence to be addressed to:  
The General Manager  
PO Box 42 Louee Street Rylstone NSW 2849  
Telephone: (02) 6379 0100  
Library: (02) 6379 4465 Facsimile: (02) 6379 0199  
Email: rylstone@rylstone.nsw.gov.au

At the meeting it was agreed by all parties that there were problems with the implementation of the structure and the way in which staff had been appointed to the reclassified positions. Specifically, positions had not been formally evaluated in line with appropriate skills, accountabilities and functions under Council's salary structure as required under the *Local Government (State) Award 2001*, and that the reclassified positions had not been referred to the Consultative Committee at any stage for recommendation.

It was further agreed by all the parties that the Council would re-implement a viable organisation structure which would be substantially similar to the old structure, existing prior to March 2003, in that the 28 employees in question would revert to their former rates of pay and job titles and duties that were in effect prior to the recent restructure.

This change is essential to ensuring continuity of employment at Council for the affected staff and will alleviate any serious financial consequences in Council's budget.

Further to the above, I encourage you to consider the current situation and I would like to discuss the implications of the restructure with you personally. Please contact me at your earliest convenience to arrange a meeting at a mutually convenient time.

Yours faithfully

Kerry Morrissey  
Acting General Manager