

challenges improvement innovation good governance

Promoting Better Practice Program

REVIEW REPORT

BALLINA SHIRE COUNCIL

OCTOBER 2008



Department of Local Government

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1. ABOUT THE REVIEW

Review objectives

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

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

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

Review process

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

The process involves a Department of Local Government (DLG) review team evaluating the effectiveness and efficiency of the council's operations and giving feedback. This involves checking compliance, examining appropriate practices and ensuring that council has frameworks in place to monitor its performance.

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

Ballina Shire Council Review

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

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

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

Senior Investigations Officer, Lyn Brown, conducted the on-site component of the review from 28 April 2008 to 2 May 2008.

The on-site review involved a meeting with Council's Mayor and General Manager, meetings with Council's staff, demonstrations of the practical application of Council's processes, attending a Council meeting and the review of a number of Council's policies and other documents.

Following the on-site review, further analysis was undertaken. Council management was then provided with the opportunity to respond to the review's preliminary findings.

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

2. EXECUTIVE SUMMARY

Council is well placed to meet the challenges that face its community in the future. Ballina Shire Council has a strong strategic focus that is evident in the way the organisation is structured and in the activities that it undertakes.

Overall, Council has demonstrated a sound understanding of the external environmental influences that have the potential to impact on achieving its strategic aims and is organised in such a way to respond to this. The organisation culture demonstrated that Council:

- has the capability to anticipate community need and expectations
- consults, communicates, listens and responds
- is focussed on its strategic aims
- has a sensible, mature and realistic approach to its business
- monitors what it does
- is a professional and dedicated organisation.

Council has developed good operating systems to ensure that it meets its legislative obligations. Council approaches its operational activities in a strategic way and yet has a system that is responsive to local community needs and expectations. While there is a risk management approach to Council activities, Council needs to prepare an overarching plan to bring this approach together, as well as developing a more defined approach to internal controls.

Council has taken a long-term, strategic approach to the area of land use planning, similar to its other areas of responsibility. In addition to its local environmental plan, Council has a number of land use strategies and structure plans. Council views its strategic plan as having a pivotal role in guiding land use planning in the Shire and in this regard the strategic sustainability framework underpins this planning.

Council is mindful of the need to manage conflict of interests appropriately and to conduct its development assessment in an open and accountable way. Council has adopted a number of plans and strategies to manage its environmental responsibilities. However, there are some areas where Council needs to ensure that

it has developed strategies to effectively deal with issues that are identified. Council should also develop a single enforcement and compliance policy for all its enforcement practices.

Council is in a satisfactory financial position. Council again has a strategic approach to its finance and asset area with a well documented long term capital works program and a long term financial model. Council is currently developing an overall asset management strategy built on a number of asset management plans.

Council has a range of methods for including the community in its processes and its efforts in this area are commendable. Council is encouraged to formulate an organisation-wide community engagement strategy to support its good efforts in this area. Council's annual report has some excellent elements and is a comprehensive and informative report to the community on its performance. While it was evident that Council has set some customer service standards for some of its practices, these need to be further developed, provided to the public and monitored.

In terms of its legislative responsibilities to staff, Council is a responsible employer and a good corporate citizen. Council has worked very hard to provide employment opportunities for young people and individuals with disabilities. Council has excellent human resources policies and practices, particularly in the area of managing the secondary employment of staff and staff exit processes. The gauging of staff satisfaction would assist Council to identify and articulate areas within the organisation that may require improvement.

In summary, this report recommends the continuance of Council's good practices and systems and makes some suggestions to improve its effectiveness.

3. RECOMMENDATIONS

Governance

1. Council should document its procedures relating to the disclosure of the receipt of gifts and benefits by councillors and staff.
2. Council should review its delegations following the 2008 election, taking into account the comments in this report, to ensure that they are current and appropriate.
3. Council should review its protected disclosures policy to ensure that the information contained within it is up to date.
4. Council should review its records management policy and procedures to include provisions relating to the keeping of councillor records.
5. Council should provide training to staff on the code of conduct.
6. Council's 'Interaction between councillors and staff' policy should be reviewed to ensure that the reporting and resolution processes are consistent with the requirements of Council's code of conduct.
7. Council should develop an overarching risk management plan to bring together its current risk management practices and manage all significant risk issues facing Council.
8. Council should formalise its approach to the internal audit function and develop an internal audit program.
9. Council should develop an organisation-wide disaster recovery/business continuity plan that is inclusive of all business continuity risks that the organisation may face.
10. Council should review its code of meeting practice, taking into account the comments made in this report.
11. Council should take the comments in this report into account when it undertakes its next review, as required by the Local Government Act, of the councillor expenses and facilities policy.
12. Council should develop and implement an induction program and an on-going professional development program for councillors.

Planning and other regulatory functions

13. Council should develop a single enforcement and prosecutions policy to ensure there is a consistent approach to its compliance and enforcement activities across the different areas of Council.
14. Council should develop and adopt a companion animals management plan.
15. Council should develop a swimming pools compliance and awareness program for its area.

Asset and financial management

16. Council should finalise its asset management strategy and ensure that this is integrated with its long term financial strategy when completed.

Community and consultation

17. As part of its future social planning, Council should prepare long term strategies to meet the challenges that the ageing of the population will bring.
18. Council should develop an organisation-wide community engagement policy and framework to guide its practices.
19. Council should develop, monitor and report on customer service standards for all of the services it provides.
20. Council should develop a strategy to guide its tourism, cultural and economic development activities.

Workforce relations

21. Council should undertake an organisation-wide employee attitude survey.
22. Council should review its EEO management plan to ensure that it meets the requirements of section 345 of the Local Government Act.
23. Council should expand its staff training and development program to include relevant governance topics.

4. CONTEXT

Ballina Shire Council is located on the far north coast of NSW only two hours from Brisbane. The Shire has an area of 487 square kilometres. It is largely rural with the major centre servicing the Shire being the town of Ballina. The town of Ballina is located on the Richmond River. The town centre is situated on an island and the town has expanded onto the mainland to the north, east and west. The region has a number of smaller villages and major townships at Alstonville, Lennox Head, Wollongbar and Wardell.

The population of Ballina Shire at the 2006 Census (ABS Census QuickStats) was 38,461. Most people live in the township of Ballina, being over 16,000 people. Lennox Head (to the north) and Alstonville (to the west) are the next most populated townships. There is a reasonably large population, over 7,000 persons, that live in the rural area of Ballina Shire. While the population of the Ballina Shire area is growing, the rate at which it is increasing has slowed.

Ballina Shire has a population age profile that is different to that of the NSW State profile. Specifically, the Shire has a larger percentage of persons aged over 55 years than the State average. This difference is more significant for the age group over 65, with the Shire's percentage being more than 6% higher than the State average. Conversely, the population below the age of 54 years is generally lower than the State average. The Shire's Indigenous population is slightly larger than the State average, being 2.7% of the Ballina Shire population. Only 9.7% of the population were born overseas, as compared to the State average of 22.2%.

The 2006 Census data identifies school education as the industry employing the largest number of persons aged over 15 years. This is followed by cafes, restaurants and takeaway food services, highlighting the tourism focus of the area. The main rural industries include sugar, macadamia nuts, coffee, avocado, dairy and beef. There is also a strong fishing industry. The fishing industry was affected in early 2008 by extensive flooding of the Richmond River that resulted in a massive fish kill.

Ballina Shire Council was formed in 1976. This followed the amalgamation of Ballina Municipal and Tintenbar Shire Councils (Ballina Shire Council Annual Report

2006/07). The Council has nine elected representatives who are elected by a ward system of voting. Currently, the Mayor is elected by the councillors. Council conducted a referendum at its 2004 election in relation to whether or not the community wanted a popularly elected Mayor. The local government election in 2008 will see the community vote for its Mayor. This will increase the number of elected representatives to ten.

Council meets on the fourth Thursday of each month. Council has a number of committees of which the only members are councillors. This includes the land development, airport, facilities, environmental and civil committees. In addition, Council has established a committee of councillors as the Reserve Trust manager for the Crown reserves under its care and control. This is the only committee that has delegation to make decisions on behalf of Council.

The Council has an annual income of approximately \$53.8 Million with an approximate expenditure of \$48.4 Million (Annual Report 2006/07). Council has had a surplus after capital items for the past three years. Council employs 265 equivalent full time staff with an annual wages expenditure of approximately \$15 Million. Council is organised into four groups: General Managers Group; Regulatory Services Group; Civil Services Group; and Strategic Services Group. The Group Managers (including the General Manager) form the senior executive team.

Each of the groups is responsible for specific aspects of Council's operations. The Regulatory Services Group incorporates development services, building services and public and environmental health. The Civil Services Group is responsible for engineering works, infrastructure, waste, water, sewer, open spaces and reserves. The General Managers Group covers the areas of finance, governance, risk management, human resources, information systems, commercial services and tourism. The Strategic Services Group undertakes Council's strategic, social and heritage planning and economic and community development.

Council determined 796 development applications in 2006-07 (NSW Department of Planning, Local development performance monitoring: 2006-07, February 2008). The net mean time for determining development applications in 2006-07 was 58 days. This is higher than the average net mean time for similar councils of 46 days.

5. COUNCIL'S AMBITIONS, PRIORITIES AND FUTURE FOCUS

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

Council is well placed to meet the challenges that face its community in the future. Ballina Shire Council has a strong strategic focus that is evident in the way the organisation is structured and in the activities that it undertakes. Council has developed a sound strategic plan – People, Place, Prosperity: A framework for a more sustainable Ballina Shire 2025.

Council has linked its strategic aims and vision with its management plan. Each principal activity in the management plan links to an overall aim and a sustainability vision. Council's management plan also includes a clearly articulated set of values that support the sustainability commitment made in the strategic plan. The strategic framework is being used to underpin the development of the new local environmental plan.

Council's plans and strategies are reasonably well integrated. It is evident that the management plan includes elements of many of its other plans and is used to progress the aims of the strategic plan. The Department of Local Government has approved a new approach to integrated planning and reporting for local councils in NSW. The requirements will be promulgated later this year, with a staged approach to implementation.

Integrated planning will require councils to develop integrated plans that incorporate both a long-term strategic focus and more detailed shorter-term operational plans. This will include guidelines to better integrate a range of plans that councils are currently required to prepare. Council is well placed to implement these requirements when they are released.

Community engagement has been a strength of the strategic plan and continues to be a feature of the way Council conducts business. A range of methods were used to

engage with the community to develop the sustainability framework. This included releasing discussion papers to prompt discussion in the community, the establishment of two formal groups to develop the framework, contacting local organisations and posing specific questions to the community for its response.

The two formal groups that guided the development of the framework were the Peer Review Panel and the Civic Panel. The Peer Review Panel consisted of prominent and experienced people whose role was to critique the project. The Civic Panel was a group of residents with various interests and experience. This group was the “sounding board” to tease out issues, perspectives and values. Councillors were engaged throughout the process.

With such extensive community involvement, the strategic direction for the Shire is well founded. Council continues this ethic of community involvement in identifying and developing its strategic direction. An example of this is the extensive process that is underway to develop the new Local Environmental Plan (LEP) (see Planning and Regulatory section of this report).

Council's organisational structure supports the Council to focus strategically and provides assistance to Council staff in developing longer term plans. Having a separate group for strategic services assists Council staff to focus on the implementation of its activities to meet its aims. One risk of this approach is that the strategic “experts” are left to define Council's direction without the “buy-in” of Council staff. While there was no evidence that this is occurring, Council should be mindful to ensure that it does not forget its internal stakeholders when it is developing its long term plans.

Council's various discussion papers, both for its sustainability framework and the current LEP process, show that Council has a clear understanding of the challenges that face its community. Council has professional in-house expertise that helps it know and understand the environment within which it operates. This is another example of the strength of the organisation structure that has been adopted.

A key aspect of an organisation's plans and operations is to be able to continually monitor performance to ensure that the organisation is heading in the set direction

and responding appropriately to changes in the environment. It is evident that Council monitors its performance and has adopted a number of performance indicators to drive its business. These are included in the management plan and link to the relevant strategies.

This linkage to the strategic direction enables Council to monitor its progress in implementing the strategic plan through these indicators. Performance indicators are widespread across the organisation with staff reporting on the performance indicators through the quarterly management plan reporting process. Staff performance plans are also linked to the strategies outlined in the management plan.

Commencing in 2008/09, reporting on these indicators will be a more frequent and regular feature of Council's business processes. Reporting on the strategies will be an agenda item for Council's monthly senior executive meetings in addition to the quarterly reporting to Council meetings. This reporting will be enabled and supported by the implementation of a software platform called "Interplan". "Interplan" will assist in coordinating, monitoring and reporting on Council's plans and directions. Council is encouraged to continue with this implementation.

Council also has a strong governance framework to assist it to implement and monitor its programs.

While it is evident that Council continually monitors its activities, Council should ensure that it builds in a more formal review process of its sustainability framework after it has been in operation for some time, perhaps five years. This is to ensure that Council is able to respond to emerging issues and changes to the environment in which it operates.

Ballina Shire Council is also a good neighbour and participates in a number of initiatives with adjoining councils. Examples of this include involvement in the Northern Rivers Regional Organisation of Councils (ROC), a regional alliance of general managers, an information technology resource sharing arrangement and a regional human resources group, to mention a few. The Council is a partner with the Northern Rivers Risk Management Group, which was awarded a Risk Management Excellence Award. Council has also been generous in assisting smaller councils

within the region where it is able and for more than ten years has provided the administration for the North East Weight of Loads Group.

The focus of the general managers' alliance group is around operational issues that face the councils. For example, this group has recently been discussing the establishment of a regional approach to internal audit. This is encouraged (see Governance section of this report). The Northern Rivers ROC discusses the political and strategic issues facing the region. The Regional Organisation of Councils consists of coastal and inland councils. It is acknowledged that this membership can sometimes make it difficult in coming to a coordinated position, as there is not always a shared interest in all matters.

Overall, Council has demonstrated a sound understanding of the external environmental influences that have the potential to impact on achieving its strategic aims and is organised in such a way to respond to this. The organisation culture demonstrated that Council:

- has the capability to anticipate community need and expectations (for example, through the on-going ward committees process – more about this in the Governance and Community and Consultation sections of this report)
- consults, communicates, listens and responds
- is focussed on its strategic aims
- has a sensible, mature and realistic approach to its business
- monitors what it does
- is a professional and dedicated organisation.

6. DELIVERING AND ACHIEVING

This part of Council's assessment focussed on: capacity and systems to deliver performance improvement; defined roles and responsibilities and accountabilities; delivery through partnership; modern structures and processes; strong financial management; resources follow priorities; performance information; risk managed appropriately; open to external challenge.

Overview

Ballina Shire Council has sound governance practices that are supported by an organisation structure that identifies key positions with responsibility for undertaking its strategic and governance functions. The current General Manager was appointed from the position of Corporate Services Group Manager in 2007. In July 2007 Council redetermined its structure, which removed the Corporate Services Group Manager position and placed many of these responsibilities under the General Manager's position. Council should monitor the workload on the General Manager's position to ensure that the position is suitably supported in relation to the governance function.

Overall, Council has developed good operating systems to ensure that it meets its legislative obligations.

Council approaches its activities in a strategic way and yet has a system that is responsive to local community needs and expectations. While there is a risk management approach to Council activities, Council needs to document and plan this approach, as well as developing a more defined approach to internal controls.

6.1 Governance

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

obligations; and assists in the prevention and detection of dishonest or unethical behaviour.

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

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

What is working well

Management plan

Each year Council is required to prepare a draft management plan with respect to its activities for at least the next 3 years and its revenue policy for the next year. Sections 403 and 404 of the Local Government Act require certain particulars to be included in Council's draft management plan. The draft management plan is to be exhibited in accordance with section 405 of the Act.

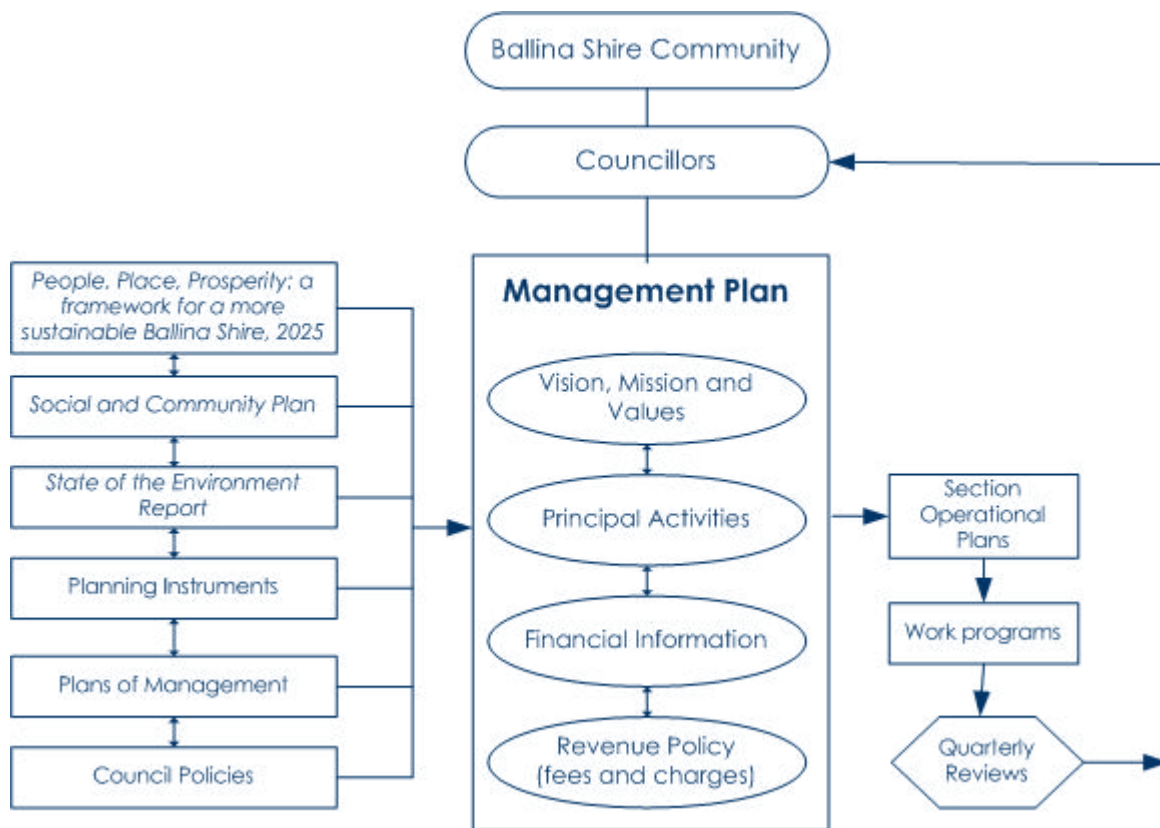
Council's management plan meets the legislative requirements in most areas. A good feature of the management plan is that each principal activity is linked to the sustainability commitments in the strategic plan. Council also shows awareness of how the management plan links and integrates its planning responsibilities. This is illustrated in the diagram included in Council's management plan (on next page).

Council's management plan is easy to understand. An example of this "plain English" approach is the diagram provided in the management plan that shows the distribution of rates according to services that are provided by Council. This gives ratepayers easy to understand information, at a glance, as to where their rates are spent.

Council monitors and reports on the implementation of its management plan in an informative way. Council's quarterly reporting on the implementation of the

management plan is comprehensive and clear. The report also provides reasons why Council is not on target in implementing its strategies, where this is appropriate. Council also reports clearly in its annual report on its performance in relation to the activities in the management plan. It is very clear to see what activities Council undertook in the preceding year and how it has performed.

While the management plan meets the legislative requirements in most areas, there are some areas where Council should provide more information. The management plan does not currently provide specific information on its access and equity initiatives. Additionally, the plan does not meet the environmental information requirements. However, as previously discussed in this report (see section on Council’s ambitions, priorities and future focus) the format of planning and reporting is likely to change in the near future. In this regard, no recommendation will be made regarding the current reporting requirements.



Source: Ballina Shire Council Draft Management Plan 2008/2009

Gifts and benefits

Council officials at some stage in their career may be offered a gift or benefit in the course of their work. The gift or benefit could be offered innocently, or in good faith or could be offered in an attempt to influence the council official.

If council officials accept a gift or benefit, this can give rise to feelings of obligation on their part towards the giver. It can also create perceptions that they are or will be influenced because of the gift or benefit.

It is therefore important that councils develop a policy and procedures to guide and assist council officials in dealing with gifts and benefits and to support the provisions in the Model Code of Conduct regulating gifts and benefits. From 1 January 2005 councils were required to maintain a gifts register to, as a minimum, record the receipt of gifts of more than nominal value.

Council maintains a gifts register that has been in place since 2001. A review of the gifts register indicates that there is evidence of a culture of reporting the receipt of gifts. While Council does not have a separate procedure for the reporting of the receipt of gifts or benefits, other than those provided in its code of conduct, it is evident that staff report all gifts and benefits that are received regardless of the value. There are consistent entries in the register, made by staff, since 2001.

The register also provides information on what happens to the gift or benefit when it is received. In many instances the gift is donated to Council's social club or for other charitable purposes. In addition, a senior Council officer sights the entry and signifies that it has been received.

However, it was observed that there were no recent entries from councillors in the gifts register, other than one entry for the Mayor. This may be because councillors do not receive gifts or benefits. The Mayor advised that he discloses the gifts he receives in his annual disclosure of interests return. A review of his return verified this. It would be pertinent that councillors are reminded of the need to ensure that any gifts or benefits that they receive when undertaking their official duties are recorded in the gifts register.

It is acknowledged that Council has a culture that encourages the disclosure of the receipt of gifts and benefits. However, Council should document its procedures relating to this. **(Recommendation 1)**

Disclosure of interest returns

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

The reviewer inspected the disclosure of interest returns for councillors, senior staff and a sample of designated persons. The returns are generally good with a few areas that need greater attention in the future. This mainly relates to ensuring that the return is dated, that declarations of shares that are not worth more than 10% are made at section B3 and not in section E, that the return relates to either the "period" or the "as at" date, not both, and that section B1 includes information relating to sources of income from occupations.

Council has recently reviewed the recommendations from the ICAC Report on corrupt manipulation of contract procurement procedures at Bankstown and Strathfield Councils. In accordance with a recommendation made in that report, Council has determined that any persons undertaking secondary employment are designated persons. This means that those persons are required to complete disclosure of interest returns annually in accordance with section 449 of the Act.

Council conducted a review of its procedure for the classification of positions as designated persons in January 2008. This procedure provides a definition of those persons who will be defined as designated persons. This includes staff directly involved in determining development applications, those exercising delegations in respect to rezoning requests, those authorised to order goods and services over \$55,000 and the newly added classification relating to staff who have secondary

employment approval. Council is commended on this proactive approach to managing the risks associated with conflict of interests that may arise in relation to secondary employment.

Statement of business ethics

A statement of business ethics can be an excellent tool for raising private sector awareness of public sector values. This is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector.

Council's statement of business ethics is a clear and comprehensive document. The statement accompanies Council's core documents, such as tendering documents, the procurement manual and contract information. The statement covers key issues around the values Council stands by and what contractors need to be aware of in doing business with Council.

Council could expand on this statement further if it wished to provide guidance to developers, staff and councillors in relation to planning and development interactions to avoid situations such as those recently raised by the ICAC Inquiry into Wollongong City Council. In this regard, a similar statement of business ethics for developers who are lodging applications with Council could be developed, with the addition of information on appropriate lobbying practices. Council could refer to the information provided in the ICAC publication dated August 2006, *'Lobbying local government councillors: A guide for councillors, constituents and other interested parties'*.

Tendering, procurement, asset disposal and contract management

Procurement, disposal of assets, tendering and contract management are areas of any organisation's operations where benefits passing between the public and private sectors may provide ample opportunity and incentive for corrupt dealings. These activities should be governed by considerations of probity, transparency and accountability in the expenditure of public funds for public purposes.

Non-existent or weak policies and procedures for these activities, and failure by organisations to conduct risk assessment and regular audits of these policies and practices have been identified by regulatory agencies as areas of the highest risk.

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

Council has a purchase and supply of goods and services policy and procedures, a procurement process policy and procedures and a procurement manual. The procurement process policy and procedures document establishes the overarching approach to procurement, tendering and contracting practices. This is well supported by the detailed procurement manual and purchase and supply of goods and services policy and procedures.

The various documents include information on business ethics, probity, best value for money approach, identification of risks and risk management. All documents identify who is responsible for various aspects of the procurement process.

In addition, the procurement manual provides users with information on the types and key components of contracts. The manual requires that staff complete project plans for formal contracts. All the processes are outlined in flow charts that clearly identify the processes to be followed. Guidance is provided to staff on project management and contract administration. Templates are provided for project plans, risk assessments, tender evaluation and probity plans. There is also a range of standard forms included and Australian Standards contracts are used.

The procurement manual specifies the ethical obligations on persons exercising procurement functions. It provides guiding information on ethical matters faced by persons such as conflict of interest situations and practices such as the splitting of purchase orders to avoid tendering procedures.

The manual was last updated in March 2007 and includes a section that keeps a schedule of amendments, who has requested them and when these were made. Council's processes include post contract reviews that are undertaken at various stages of the implementation of the project or contract. An evaluation form is

included in the procurement manual. Financial performance and time are two factors that are monitored when managing projects and contracts. Council's practices in the area of procurement and contract management are exemplary.

Council uses e-tendering. Council also effectively uses the latest technology to manage this aspect of its business. Council uses 'Contract 5' software as its contract management system. Council's Project and Contract Coordinator also provides probity advice on projects, contracts and tendering processes, where he is not the project manager.

The reviewer looked at a tender process and file in addition to witnessing the process of the opening of the tender box and recording of tenders. Council's tender files are kept electronically. The tender file that was examined was well ordered, contained all the necessary documentation and satisfied the requirements of the Act and Regulation. While the reviewer acknowledges that this is only one file, it was picked randomly and is an indication that Council's tendering practices are sound and well documented. The review of the tender file highlights the ethical principles that Council has followed for the selection and evaluation of tenders and communication with tenderers, as well as for the documentation of the process.

Council's disposal of assets policy covers the disposal of any of Council's assets. This includes land, plant, equipment, goods, low value assets, scrap and redundant materials. The policy is also of a high standard and provides a high level of public accountability. For example, Council has recognised the potential for misappropriation of low value assets, scrap, surplus or redundant materials and has made provision for practices to manage this risk in the policy. This is also an area where Council's practices are exemplary.

Council indicated that it does not conduct risk assessments of its procurement and disposal practices. However, all the policies adopt a risk management approach by raising awareness for the need to assess risks. In addition, the disposal of assets policy provides for stocktakes on an appropriate basis for some of its equipment assets. Council also advised that purchases are monitored to ensure that they are made in accordance with delegations.

While Council's policies in this area are exemplary, there should be a formalised process in place to ensure that practices are in accordance with these policies. In this regard, Council should include its risk approach to its procurement function in an overall risk management plan for the organisation and implement an appropriate monitoring and auditing process. This should form part of an internal audit program and more extensive risk management framework for the organisation (see Recommendations 7 and 8).

Privacy

The *Privacy and Personal Information Protection Act 1998* ("PPIPA") provides for the protection of personal information and for the protection of the privacy of individuals. Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan to deal with:

- the devising of policies and practices to ensure compliance by the council with the requirements of the PPIPA
- the dissemination of those policies and practices to persons within the council
- the procedures that the council proposes for internal review of privacy complaints
- such other matters as are considered relevant by the council in relation to privacy and the protection of personal information held by it.

Council's plan should be read in conjunction with the Privacy Code of Practice for Local Government. Council collects, stores and uses a broad range of information. A significant part of that information is personal information. Council's plan applies to that part of the Council's information that is personal information.

In October 2007 Council reviewed its privacy plan in consultation with the Privacy Commissioner. Council's plan is comprehensive. New staff are provided with a copy of the Privacy Management Plan as part of the induction process. However, Council does not provide training for councillors. Council should consider including training on privacy issues as part of its induction for new councillors following the 2008 election (see Councillor expenses and facilities, induction and training section).

It is evident that Council is aware of its responsibilities in relation to privacy matters and appropriately advises community members about these. For example, when Council calls for submissions, a statement on privacy issues is included. The privacy statement is included on the website and in correspondence when submissions are requested, such as in correspondence notifying of development applications.

Council indicated that it had received one complaint about a contravention of an information protection principle or disclosure of personal information. This was received in February 2008 and will be reported on in the next annual report.

Delegations

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

Council maintains a delegations register in accordance with the Act. The delegations are clear and seem appropriate. While the General Manager's delegations have recently been reviewed, many of the delegations to other staff are still under the signature of the previous General Manager, although this does not invalidate the delegations. All delegations should be updated after the 2008 elections to ensure that:

- legislative reference in the delegations are current
- the delegations remain appropriate
- the delegations have the current General Manager as the delegator, and
- delegations are easy to find, for example, you should be able to search delegations by position title as well as individual name. **(Recommendation 2)**

Council could improve its delegations process by recording when delegations have been reviewed to provide an audit trail. Council should also include an audit of the exercise of delegations as part of its internal audit program (see Recommendation 8).

Policy register and provision of information to the public

Summary of Affairs

Councils are required to publish a "Summary of Affairs" in the Government Gazette each six months. This is a requirement of the *Freedom of Information Act 1989* (FOI). Aside from being a statutory requirement, the preparation of a Summary of Affairs is an important governance and internal control process, as it requires Council to identify and list each of its current policy documents. Agencies (including councils) must have copies of their current policies available for public inspection.

The process of identifying and listing each policy is valuable because it gives Council the opportunity to review the listing for any omissions and any policies that are no longer required. Council should ensure the Summary of Affairs is available to staff and councillors so that they can be kept up to date on the matters on which the Council has a policy.

Ballina Shire Council prepares and publishes its Summary of Affairs in accordance with the requirements of the FOI Act. Council places a copy of its Summary of Affairs on the website that lists all the policy documents that are available for public inspection.

Policy register

Council has a policy manual that is available on its intranet site for staff. In addition, many of Council's policies are available on its website. Council provides hard copies of its policy manual to workplaces where computer access is limited or not available, for example, the works depot.

Council has a written procedure for the creation, amendment and review of policies. This was last reviewed in June 2006. This procedure identifies the Records and Administration Coordinator as the position with the responsibility for maintaining the policy register and distributing completed policies. The way in which staff are notified of policy changes varies and is dependant on the nature of the policy and the changes. For example, Council has advised staff of policy changes through training and by providing information on pay slips.

Council provides a standard template for its policy development. A review of a random selection of Council's policies indicates that many include the standard template information such as, the date of adoption of the policy, the date last reviewed and who is responsible for the policy. However, there are a few policies that lack this information. These tend to be older policies. The reviewer was advised that there is a goal to review at least four policies a year. Generally, Council's policies are up to date and well ordered and Council has a system in place to ensure that staff are notified of policy changes.

Access to information

Councils are required to make their documents available for inspection free of charge under section 12 of the Local Government Act unless they are exempt under that section, or Council is satisfied that allowing access would, on balance, be contrary to the public interest.

Councils are entitled to impose reasonable photocopying charges for reproducing documents under this section.

While Council does not have a policy that governs public access to its documents, it is evident that it makes information available to the public under section 12 of the Act wherever possible. This includes information made available on its website and at its Council offices.

Council received 14 applications for information under the *Freedom of Information Act 1989* (FOI) in the year 2006/07. Council's FOI Coordinator uses a procedures checklist to guide the decision making process when determining an application lodged under the FOI Act.

Council has indicated in its management plan that there may be an inspection fee charged for access to some information. However, the amount of this inspection fee is not indicated. Council staff advised that this fee has not been charged to date. The fee is intended to be charged if information is required to be accessed from its archive storage. Council should clarify the rate of this fee to ensure that it is reasonable and only charged where documents are neither current nor immediately preceding versions of the document and are not reasonably accessible.

Council committees

A council can establish committees to assist it in carrying out many of its functions. Ballina Shire Council has established only a few advisory committees and has developed detailed guidelines for their operation. In addition, all committee members are given a copy of Council's code of conduct.

Council uses the advisory committee system as a way of providing the community with formal access to councillors and Council information on a regular basis. In this regard, Council has three ward committees. These committees are informed of all major activities. In addition to the ward councillors, senior staff attend the meetings. The meetings provide members of the public with an opportunity to directly discuss any Council operational matters with councillors and Council staff.

Council could improve upon its good practices by ensuring that its community committee members are provided with the opportunity to participate in any relevant training being conducted by Council. For example, when staff next receive training on the code of conduct, community committee members could be extended an invitation to participate.

Complaints handling and internal reporting

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

There are a number of attractive elements to Council's complaints policy. Ballina Shire Council defines complaints in a simple and straightforward way, and distinguishes them from requests for service and a number of other requests such as a request for an explanation of a Council decision. The policy provides for a three-tiered approach that involves resolution of complaints at the front line where possible with one level of internal review.

Council's policy allows for the receipt of oral, written and electronic complaints. Council's policy also identifies the complaints that will be dealt with in accordance

with Council's code of conduct. Council's procedures provide for timeframes for responses to complaints.

It is evident that Council monitors its complaints processes. The senior executive meeting agenda has a standing item to review Council's complaints register. The register includes information on the nature of any complaints received, who is actioning the complaint and records the action taken and when completed. Currently, the action taken column contains a staff officer's name. It would be more effective for monitoring purposes if this column contained the action taken to resolve the complaint and the outcome of that action, for example, any changes to Council's practices that may have been made or may need to be made.

Council's policy and procedures are good practice. However, Council could improve these by analysing trends in complaints to help identify any areas for improvement or change. Council could also make information on the complaint process more explicit on its website for members of the public. This information could assist members of the public to use the appropriate process to lodge a complaint, that is, it could distinguish between the process to register a service request and a complaint about a service.

The *Protected Disclosures Act 1994* aims to encourage and facilitate the disclosure - in the public interest - of corrupt conduct, maladministration and serious and substantial waste in the public sector. All public sector agencies should have an internal reporting policy to ensure that protected disclosures are properly made, that the agency complies with its statutory obligations in dealing with them and that complainants enjoy the protections afforded under the Act.

Council has a protected disclosures policy that was adopted in 1997. Council has also developed guidelines for the registration of protected disclosures in its records management system. The policy does not appear to have been reviewed since it was adopted. The policy contains inaccurate information in relation to the role of the Director General of the Department of Local Government. Council should review the policy to ensure that the information contained within it is up to date. The NSW Ombudsman's Protected Disclosures Guidelines, 5th edition, May 2004, provides a model internal reporting policy that could be used. **(Recommendation 3)**

Information technology

Ballina Shire Council has an information technology strategic plan in place to support its goals. The plan has recently been adopted and will operate from 2008 - 2011. Council has followed best practice in preparing the plan as defined by the NSW Department of Commerce - Office of Information and Communication Technology (OICT) Information Management and Technology (IM&T) Strategic Planning Guideline.

The strategic plan is comprehensive and identifies relevant issues facing Council's information technology systems and has documented strategies to address these. The plan includes a section on information services project planning and management. A business continuity plan is also included in the document.

Council has included information technology in its management plan and should ensure that this information is consistent with the relevant actions and strategies identified in the information technology strategic plan.

Record keeping

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

Council has adopted a records management plan and a records management policy and procedures. These documents have been recently reviewed in 2007. The records management plan includes a records strategic plan up to 2008/09. These documents effectively meet the operational business needs, accountability requirements and community needs applicable to the organisation. The way Council staff use the electronic document management system, 'Dataworks', is impressive.

Council's records management documents do not refer to any business continuity issues that may impact on Council's records. This should be considered as part of an overall approach to Council's business continuity planning (see Recommendation 9).

Additionally, Council's records management documents do not refer to councillors' records. State Records NSW recently issued a recordkeeping publication for local government councillors, 'Sample records management policy, procedures, leaflets and templates for local government councillors', that provides guidance about the keeping of records that relate to the councillors' role. Council should review its records management policy and procedures to ensure that councillor records are included. **(Recommendation 4)**

Challenges to improve

Code of conduct

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

Ballina Shire Council reviewed its code of conduct in July 2008 and adopted the revised Model Code of Conduct dated June 2008 as its code, without amendment. This necessitated a substantial change to the text of the draft report. Previously, the report had commented on some inconsistencies with Council's adopted code and the previous Model Code of Conduct. As a result of the adoption of the revised Model Code of Conduct, a recommendation to review Council's code of conduct was removed.

Council has received and dealt with complaints alleging breaches of its code of conduct by councillors. Discussion with Council's General Manager indicates an awareness of the requirements of the Model Code of Conduct in managing conduct complaints. One report from the conduct committee to the Council was reviewed. This report provided sufficient detail for councillors to assess the recommendations by the conduct committee and decide on any action.

Council indicated that staff, other than new staff at induction, had not received any training on the provisions of the code of conduct since 2004. This means that there may be many staff who have received no training on the mandatory code of conduct

that was introduced in January 2005. Council should ensure that staff receive training on the code of conduct. **(Recommendation 5)** Council should include training on the code of conduct for its councillors following the 2008 election (see Councillor expenses and facilities, induction and training section).

Council also has a policy on 'Interaction between councillors and staff'. This policy does not appear to have been reviewed since the introduction of the Model Code of Conduct. Some of the information included in the interaction policy is now inconsistent with the requirements of the Model Code. This particularly relates to the reporting of breaches of the interaction policy to Council meetings.

Breaches of the policy may be considered to be breaches of the code of conduct and should be dealt with in accordance with the procedures established by the Model Code. This policy should be reviewed to ensure that the reporting and resolution processes are consistent with the requirements of Council's code of conduct. **(Recommendation 6)**

Internal controls (risk management, internal audit, fraud control, legislative compliance)

Internal control processes, such as internal audit, fraud control, risk management and legislative compliance provide for systematic assessment of the adequacy and weaknesses of Council processes and systems. This, in turn, enables the organisation to ensure, on the one hand, that statutory and service level requirements are met, and, on the other, to test organisational processes for risks or vulnerabilities and to strengthen its processes and systems.

Risk management is about the systematic identification, analysis, evaluation, control and monitoring of risks. While risk cannot be entirely eliminated, Council should aim to establish a risk aware culture and to continually work towards establishing structures, processes and controls that cost effectively reduce Council's risk profile and thereby protect the interests of Council, the public and other key stakeholders. There should be a balance between the cost of managing risk and the benefits expected from engaging in an activity that has inherent risks.

Councils are exposed to a wide range of risks as a consequence of their diverse functions. The significance of specific risks will vary from council to council. A risk management plan should provide a council with a framework to proactively identify, communicate and manage generic and specific risks.

Council is a member of the Northern Rivers Risk Management Group that is sponsored by Statewide Mutual, which is the public liability insurer for many councils. This group won a Regional Group Risk Management Excellence Award in 2006 for the program that was developed for footpath inspections. Council completes an annual self-assessment that is conducted by Statewide Mutual, which is aimed at providing financial incentive for councils who rate well. These activities only relate to insurable risks. There are a number of other risks that are not insurable that should be included in Council's approach to risk management.

Council has a risk management policy that identifies that a risk management action plan will be developed to guide the implementation of risk management activities. Council does have some actions in its risk and human resources strategic plan. Risk management forms part of many of the plans and activities of individual sections of Council's operations, such as procurement of goods and services, the management and disposal of assets and Council service sections such as civil services.

Council has not undertaken a systematic fraud risk assessment. It is important that fraud risks are identified and managed effectively and that processes are put in place to ensure that the existing and emerging risk areas are managed appropriately. While some of Council's risk practices appear sound, Council needs to develop an overarching risk management plan to bring the practices together. This should include a risk profile and register and include governance and fraud risks as well as insurable risks. **(Recommendation 7)**

Council indicated that its internal audit committee is currently the senior management group, but that Council does not have a systematic approach to the internal audit function. Council should develop an internal audit program to review relevant sections of its operations on a regular basis, such as, procurement processes and the exercise of delegations. The establishment of a regional approach to internal audit is an issue that has been discussed at the general

managers' alliance group. Council is encouraged to formalise its approach to the internal audit function and develop an internal audit program. **(Recommendation 8)**

Council advised that it monitors its compliance with its legislative and regulatory responsibilities by using the strategic tasks document that is issued by the Department and has expanded upon this list to include other regular activities that require monitoring. Council's Records and Administration Coordinator is responsible for distributing relevant legislative changes to Council's groups. This approach to managing its compliance responsibilities could also be included in Council's risk management plan as part of the governance risk strategies.

Business continuity planning

Business continuity management is an integral part of business risk management, corporate governance and quality management. A business continuity plan can be an effective map and record for Council to minimise the impact of an emergency or adverse event on its activities. Council should ensure that it has in place a well developed business continuity plan that addresses the key risks to Council's continued activities and provides a well articulated plan to minimise the potential impact of these risks.

Ballina Shire Council has a disaster recovery and business continuity plan that relates to impacts on its main administration centre. This mainly deals with physical risks that may affect the operation of the centre. Council has also included a business continuity plan in its information technology strategic plan. There is currently no business continuity component in Council's records management plan, policy and procedures. Council should develop an organisation-wide disaster recovery/business continuity plan that is inclusive of all business continuity risks that the organisation may face. **(Recommendation 9)**

Council meetings

Council meetings are the primary means by which Council makes its decisions. Council last adopted a code of meeting practice in June 2007. This code, in combination with the Council's code of conduct, regulates the behaviour of councillors and staff.

A review of Council's code of meeting practice raises concerns about inconsistencies with some of the clauses and the provisions of the Local Government Act. This is particularly in the area of pecuniary interests, clauses 47 to 51. In addition, it is concerning that Council has included a clause in the code that allows Council to determine whether or not a person can participate in a matter in which the councillor or member of the committee has an interest.

The recognition and disclosure of conflict of interests is a matter for each individual. In accordance with the Model Code of Conduct, the onus is on the individual to identify a conflict of interests and take the appropriate action. This is not the responsibility of the Council. The Act and the Model Code make provision for complaint procedures should it be alleged that a person has not managed a conflict of interests appropriately. Council should review its code of meeting practice, taking into account these comments and the comments included below, to ensure that it is consistent with the requirements of the Act, Regulation and Model Code of Conduct.

(Recommendation 10)

Council meetings are held once a month. The reviewer inspected a sample of Council's minutes and had previously attended the Council's meeting on 24 January 2008. Attendance at the meeting revealed that, while there were clearly councillors who had differing views on matters, these views were expressed in a mature and respectful manner. The meeting was chaired effectively by the Mayor, and during his absence, the Deputy Mayor.

The Council uses an overhead projector to type up the minutes as the meeting progresses. This enables councillors, staff and members of the public to see the outcomes of the meeting straight away and have the minutes clarified immediately.

Council has a public deputation section at the beginning of its meetings where members of the public may speak on matters that are included in the business paper. In addition, Council has a public question time that is generally held prior to its lunch break. Information about the procedures for these sessions is included on Council's website and at the front of the business paper for each meeting. Council should incorporate these procedures in its code of meeting practice (see Recommendation 10).

The reviewer makes the following observations after inspection of a sample of Council's minutes and attendance at the Council meeting, for Council's consideration:

- Council provides an excellent record of disclosures of conflict of interests at the beginning of its minutes. This includes the type of interest (pecuniary or non-pecuniary), the nature of the interest and the action proposed to be taken by the councillor to manage the conflict.
- Council includes a 'business without notice' section at each of its meetings. The Department issued a circular to councils in 2007 (07-14) in relation to this issue. The general provision of the Act and Regulation is that Council must not transact business at a meeting unless a councillor has first given notice of the business in writing within the period fixed by Council's code of meeting practice or by Council resolution (cl241). Clauses 241 and 243 provide limited exceptions to the general provision. It is noted that the business generally relates to a question and no decisions are made during this section of the meeting. However, Council should clarify this practice to ensure that it is consistent with the Act and Regulation requirements. Council has made provision for 'business without notice' in its code of meeting practice, which needs clarification as to the difference between the 'operation of Council' and 'operational matters' (see Recommendation 10).
- Council has adopted formal meeting procedures for its meetings, but it was noted that some councillors were allowed to speak on the same item on more than one occasion.
- Council moves into closed (confidential) session and appears to also move into committee of the whole where the rules of debate are relaxed. This assumption is made because recommendations are then made from the closed session to Council for adoption. Council can consider matters in closed or open committee of the whole. However, Council does not record any resolution to resolve itself into committee of the whole. If Council considers the matters in closed session of Council, then it is taken to have passed resolutions during this time and needs to report on the resolutions,

not make recommendations when it opens its meeting. Council needs to clarify this practice.

- Some councillors appear to come and go from the Council meetings on a frequent basis. At one meeting it is recorded that one councillor left the meeting on six separate occasions not relating to conflict of interest issues. On some occasions the absences were for a half hour period or longer. Councillors are reminded of their responsibilities as members of the governing body of Council to participate fully in Council's decision making processes.
- As a general rule, meetings of the Council and its committees are required to be open to the public. Where Council determines that a matter should be dealt with in closed session, Council is required to state the ground for closing the meeting (section 10D of the Act). While Council identifies the matter to be discussed and the relevant provision of section 10A(2) of the Act in its grounds for closing the meeting, it has not included the public interest test as required by section 10D. Council should review the Department's Circular to Councils 07-08 titled 'Closed council meetings' for assistance in this regard. A sample of the matters dealt with in closed Council meetings indicates that Council appropriately applies the provisions of section 10A(2) of the Act.

Councillor expenses and facilities, induction and training

A policy on the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and councillors is a requirement under section 252 of the Local Government Act. Councils are required to submit their expenses and facilities policies to the Department by 30 November each year. Policies are required to comply with the provisions of the Act, the Regulations and relevant guidelines issued under section 23A of the Act.

The Department issued updated guidelines for the preparation of policies under section 252 in May 2007. Council has recently reviewed its policy based on the findings of the Department's review of sample policies that was undertaken in 2007. Council adopted its revised policy in April 2008.

There are some good aspects of this policy. Council has set limits for most expense categories and has a good reimbursement process in place for expense claims. A statement on private use of equipment and facilities is included that identifies that Council resources are not to be used for political purposes. It is generally a well structured policy.

There are some aspects of the policy that need to be reviewed to ensure they are consistent with the guidelines issued by the Department. This includes:

- Further information should be provided as to the approval process for authorising the payment of expenses or provision of facilities for the Mayor. This should be done in consultation with the Deputy Mayor or another councillor nominated by Council.
- The policy sets the contribution rate for the private use of the Mayoral vehicle at nil. This is inconsistent with the requirements of the guidelines.
- The policy makes a general statement in relation to legal expenses and obligations requirements, that decisions will be guided by the Department's Circular 05-08. The policy should provide more specific information in relation to legal costs. For example, there should be a statement that makes it clear that there are no circumstances in which legal expenses should be met by Council for proceedings initiated by a councillor. Council should refer to the Department's guidelines in this regard.

Council should take these comments into account when it undertakes its next review of the policy as required by the Act. **(Recommendation 11)**

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

Council does not have an induction program and has not developed a structured training and development program for councillors. Many of the councillors are long serving. However, as previously identified in this report, councillors have not received training on the privacy legislation. This is an important issue. Councillors should be supported with relevant training and development opportunities to assist them to keep up to date with changes in local government and in undertaking their role.

The Department is currently preparing a councillor development strategy and has recently issued a circular (08-22) in this regard. As part of the councillor development strategy, all councils are being strongly urged to develop and implement both a councillor induction program and an on-going professional development program for councillors. (**Recommendation 12**)

Councils are similarly asked to ensure that their policies on the payment of expenses and the provision of facilities to Mayors and councillors provide for an appropriate level of support for councillor training and professional development when next reviewed for 2008/2009.

Council should take action to implement the recommendations in this circular.

6.2 Planning and other regulatory functions

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

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

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

Overview

Council has taken a long-term, strategic approach to the area of land use planning, similar to its other areas of responsibility. In addition to its local environmental plan, Council has a number of land use strategies and structure plans. Council views its strategic plan as having a pivotal role in guiding land use planning in the Shire and in this regard the strategic sustainability framework underpins this planning.

What is working well

Strategic land use planning instruments

Council is required by section 73 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to keep its planning instruments and policies, such as local environmental plans (LEP) and development control plans (DCP), "under regular and periodic review". In addition, under amendments to the EP&A Act, the Department of Planning has sought to standardise planning instruments throughout the State by issuing a prescribed LEP template that councils are required to use.

Ballina Shire Council has commenced work on its new LEP and is aiming to have this completed by March 2009. Council was well placed to undertake this work due to the work already completed on the strategic sustainability framework. Council undertook a risk appraisal of the project that assisted in constructing the work program for the LEP process.

The approach taken by Council to engage all the stakeholders in reviewing the LEP is a strength of this process. The strategic services group is responsible for managing strategic planning processes. This group prepared "toolboxes" for each councillor about the requirement for a new LEP and provides regular updates on the process. In this way, councillors have a ready reference on the development of the LEP and are well informed and up to date. In addition to this, workshops have been held with councillors to keep them abreast of issues.

Council's engagement with the community has been equally as impressive. Council has prepared a number of discussion papers, attended meetings with industry and community groups, and kept the local ward committees informed about the process. Council established a community policy forum consisting of approximately 25 community participants. Councillors did not participate in the forum processes, but were invited to attend the final briefing sessions. The forum was an important component of the community's participation and involvement in the LEP development.

The community policy forum members were provided with comprehensive discussion papers around central themes. Council is currently preparing a report on the detail of the process followed and the outcomes. Council's approach to the development of its LEP is exemplary.

Up until recently Council had a number of development control plans (DCPs). These have been made into one plan. The strategic services work plan includes the review of the DCP. The DCP includes information on exempt and complying development and on public notification and exhibition of development proposals. The LEP also contains information on notification of some developments.

The DCP describes the circumstances and the types of developments to be notified and to whom they will be notified. It provides for a "three tier" public notification system.

The first level is targeted notification where letters are sent to specific properties likely to be adversely impacted upon by the proposed development. The second level is termed a "three step notification". This involves letters, site signage and advertisements in the local newspaper. The third level is for developments where there is a legislative requirement for the development to be publicly exhibited. In each case, the scale and impact of the development on the local amenity are the determining factors as to which level of notification is used. The DCP also provides examples of the types of development that may fit under each level. This information is very clear and comprehensive.

Development assessment

Council indicates that 95% of its development applications (DAs) are dealt with under delegated authority. These delegations identify what must be referred to Council for determination. In addition, developments that are likely to be controversial or have local significance are often referred to Council. Staff exercise their judgement in this regard.

According to the Department of Planning Local Development Performance Monitoring: 2006-07 report, Council determined 796 DAs in that year. Council's gross mean time for determining DAs was 60 days. The group councils' average was 66 days. Council's net mean time for determining DAs was 58 days, which is above the group average of 46 days. The statutory benchmark is 40 days. The net mean determination time is calculated by subtracting the number of stop the clock days and referral days from the gross determination time.

Council is aware that its net DA processing time is higher than its group councils' average. Council understands the reason for this to be partly that it has only just started using the 'stop the clock' provision. Up until recently, Council had a practice of keeping applicants informed of assessment progress and not using the 'stop the clock' provisions. This will have an affect on the days counted in the processing time.

Council is also currently auditing its DA system, so it is likely that processing times will change. The audit has already identified applications that have been completed that need to be removed from the system. Council should continue this work.

Council has a series of standard forms and checklists to assist applicants and staff with the development application process. This includes information sheets for builders and developers once their development is approved, such as, sediment and erosion control guidelines.

Council is utilising computer software applications to assist it and the community to monitor the progress of DAs. Council currently has on-line tracking of DAs that is comprehensive and useful for applicants to be able to see the status of their application at any time. Council has also developed an 'electronic whiteboard' system so staff can easily search for DAs and monitor their progress. The whiteboard provides colour coding to indicate the processing time at a glance, for example, green for under 20 days, red for over 40 days and blue when 'stop the clock' has been initiated.

Council is mindful of the need to manage conflict of interests appropriately and to conduct its development assessment in an open and accountable way. It has separated the assessment and consent processes whereby the planning officer who undertakes the assessment of a DA is not the officer who gives the consent. Staff are reminded that they cannot exercise their delegations in cases where they have a conflict of interest nor where they have been the principal assessment officer. This advice is provided in the letter that notifies them of the delegations they have been given. The separation of duties in the decision-making process is effective practice for corruption prevention in this area.

Council has also put arrangements in place to separate its role as consent authority and applicant for its own development applications. Council has an arrangement with Clarence Valley Council for the assessment of applications where Council is the developer. Recently Council has engaged an independent planning consultant to evaluate Council's assessment of applications where Council has an interest that may be seen to conflict with the interest of the applicant. For example, where Council

is a nearby land owner or competitor. These arrangements are further examples of Council's ethical practices when exercising its functions.

Section 94 contributions plans

Council is able to collect contributions from developers, in accordance with section 94 of the Environmental Planning and Assessment Act, if it is satisfied that a development is likely to require the provision of, or increase the demand for, public amenities and public services within the area. Any contribution imposed must be in accordance with a contributions plan that has been publicly exhibited and adopted by Council. Council can have more than one contributions plan. Council is required to keep its contributions plans under review. In addition, Council must maintain a contributions register that is available to be viewed by the public.

Ballina Shire Council has a number of section 94 contributions plans. Some of these are for long term projects such as major roads and large community facilities. It was evident that Council has a process in place to regularly monitor and review its plans. Council has established a section 94 staff committee that consists of members from the finance, planning and engineering sections of Council. The committee's role is to monitor the utility and operation of the plans. Council advised that some of the older plans are currently being reviewed and updated.

Council's contributions register contained the information required by the Environmental Planning and Assessment Regulation. The financial accounting records to monitor the receipt and expenditure of the contributions funds are extensive.

Environmental management

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

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

The Department has issued guidelines that emphasise the involvement of the community (including environmental groups) in monitoring changes to the environment over time. The guidelines suggest that councils consult their community through State of the Environment working groups.

Ballina Shire Council's 2007 supplementary report is generally an adequate, well presented report that complies with most of the reporting requirements. Council's report uses the state-pressure-response model for each environmental section.

In a couple of areas Council has identified issues or challenges that do not have a specific response, for example, the issue of acid sulphate soils is identified as a major land issue but with no response. However, discussion with Council staff identified that Council has programs in place to deal with this issue. Council includes standard conditions of consent in its development approvals and staff participate in an annual audit program. Where appropriate, acid sulphate soil management plans are required. This information should have been provided in its SOE report.

As previously discussed, Council's management plan does not meet the requirements of clauses 198 and 199 of the Local Government (General) Regulation 2005 that require specific information to be provided in the management plan relating to the SOE report. It is difficult to find this information in the management plan. However, as previously discussed in this report (see section on Council's ambitions, priorities and future focus) the format of planning and reporting is likely to change in the near future. In this regard, no recommendation will be made regarding the reporting requirements.

Council indicated in its completed review checklist that it does not formally consult with the community when it developed its SOE report, nor does it include the community formally in monitoring changes in the environment. However, discussion

with Council staff identified a number of environmental projects where the community has been an integral part of the particular program. For example, the development of a management and implementation plan to treat a blue-green algae problem at Lake Ainsworth and a stormwater contamination study at Shaws Bay. In addition, these plans and studies are used by the Marine Studies Unit at Ballina High School. Council should consider reporting on this involvement when it compiles its next SOE report (or similar report under the changed format).

Council has adopted a number of strategies and plans to manage its environmental responsibilities. In addition, Council has established a number of registers, using computer software applications, to help guide its activities to monitor compliance with the relevant health and environment legislation. The registers are comprehensive and up to date.

Council adopted an on-site sewage management strategy in July 2007 and has established a register that provides the required information on each system. However, this strategy is more a questions and answers document than a strategy. Council indicated that this strategy is currently under review. Council's 2007 SOE report estimated that 50% of the area's 4,000 on-site sewage/septic systems were failing, but had only conducted 150 inspections in the past year and only issued 20 orders. While Council staff indicated that a risk analysis had been undertaken, there is no strategy to guide this work, to identify the dimension of the problem and ensure the correct targeting of actions. This strategy should be reviewed and revised as a priority.

Council advised in its response to the draft report that it had revised its on site sewage management strategy and had placed it on public exhibition. The revised strategy is an improved document. It provides, among other information, objectives for on-site sewage management and a design guideline. As a result of this, the recommendation that Council review its on-site sewage management strategy has been removed. In addition, Council adopted a compliance work program in June 2008 that should ensure that on-site sewage systems are regularly inspected.

Challenges to improve

Enforcement

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

Councils must properly deal with allegations about unlawful or non-compliant activities, which include activities that are prohibited or unauthorised, or contrary to the terms of a consent, licence or approval, or other instrument of permission issued pursuant to lawful authority. Failure to properly deal with such allegations, quite apart from being poor administrative practice, could expose a council to liability for compensation and the expense of litigation. The way in which councils exercise their enforcement powers also plays an important part in the public's perception of councils. Alleged inconsistencies in responses to non-compliance issues are a major source of complaints about councils.

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

Ballina Shire Council does not have an organisation-wide enforcement policy. It is evident that Council undertakes investigations into matters and proceeds to issue orders or penalty infringement notices. Council also undertakes routine inspections in a range of its areas of regulatory responsibility. It is evident that there are a range of protocols to guide enforcement practices, for example, there are relevant procedures in place in the development services procedures manual. Additionally, staff advised that they use the Department of Environment and Climate Change prosecution guidelines for environmental matters.

However, Council should develop a single enforcement and prosecutions policy to guide its enforcement activities and to ensure there is a consistent approach to compliance activities across the different areas of Council. It is suggested that Council may refer to the *Enforcement Guidelines for Councils* issued by the NSW Ombudsman. **(Recommendation 13)**

Up until now Council's enforcement actions have been largely reactive, being complaint driven. Council has very recently established a dedicated position to focus on a pro-active approach to compliance activities. The compliance officer should develop a program to routinely investigate high-risk compliance areas.

Council advised in its response to the draft report that a compliance work program was adopted at its meeting on 26 June 2008. As a result, the recommendation that Council's compliance officer develop a program, has been removed.

Companion animals

The primary aim of the *Companion Animals Act 1998* is to provide for the effective and responsible care and management of companion animals. The adoption of a local companion animals management plan assists councils in achieving a balanced relationship between companion animals, humans and the environment. Such a plan also provides councils with an opportunity to identify the future direction of these services and strategies to meet the challenges faced in the provision of these services.

Council does not currently have such a plan. Council works closely with the Northern Rivers Animal Service on the re-homing of seized unwanted animals and in micro-chipping of animals. Council is a member of the Northern Region Companion Animals and Compliance Committee. Council uses the local newspaper to address companion animals' issues or provide general information to the public.

Council should undertake these activities in a planned and strategic way. To this end, a companion animals management plan will provide the framework, and identify the resource needs, to effectively undertake its companion animals' responsibilities. Council should refer to the Department's *Guide to Preparing Strategic Companion Animals Management Plans* when developing its plan. **(Recommendation 14)**

Swimming pools

Councils have a range of obligatory functions under many Acts and laws. One of these Acts is the *Swimming Pools Act 1992* that confers on councils the responsibility to take such steps as are appropriate to ensure that they are notified of the existence of all swimming pools that are within their area to which the Act applies. The Act also requires councils to promote awareness within their area of the requirements of the Act in relation to swimming pools.

Council does not currently undertake any activities in this area. Council is encouraged to promote water safety in its area. This could include conducting pool safety campaigns, dissemination of existing education materials emphasising key issues such as the supervision of children near water and fencing requirements for swimming pools. Council should develop a compliance and awareness program for its area. **(Recommendation 15)**

6.3 Asset and financial management

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

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

- *Financial management*
- *Asset management*
- *Capital works*
- *Business and commercial activities*

Overview of financial position

Council has a ten year financial plan that has been developed and predicted on the directions set in the management plan, asset plans and its capital works program.

Council's surplus from all activities for the 2006/07 financial year was \$5.495 M. Council had an operating deficit of \$1.6 M before capital items in 2006/07. Council has achieved surpluses, after capital items, for the last three years.

Council's unrestricted cash for 2006/07 was \$2.69 M. Council has made significant allocations to internally restricted cash funds to provide for short and long term commitments. Council's internal restrictions include \$116,000 for plant and vehicle replacement, \$1.3 M for employee leave entitlements, \$22.14 M for town centre embellishment and \$1.17 M for garbage plant. Council has almost \$4.4 M externally restricted for water supply and \$4.6 M for sewerage assets.

Council's performance ratios were considered satisfactory.

Council's unrestricted current ratio for all its funds for the 2006/07 period was 3.39%, a decrease on previous years. This ratio measures the adequacy of working capital and the ability to satisfy obligations in the short term. It does not include externally restricted activities such as water, sewer or specific grants. A ratio greater than 2 is considered to be good.

Another important ratio is the debt service ratio. This measures, as a percentage, the amount of money that Council is spending to service any debts. As at 30 June 2007, Ballina Shire Council has a satisfactory debt service ratio of 3.39%. A ratio of less than 10% is considered good.

Council's rates and annual charges outstanding reflect the percentage of money that has not yet been collected for rates and annual charges. The percentage of rates and annual charges outstanding decreased for 2006/07 to 8.79%. Council has developed a debt recovery procedure that identifies the actions to be taken to recover outstanding monies. However, Council needs to continue to monitor this and take appropriate measures to decrease the amount outstanding. A benchmark for city and coastal councils is less than 5%, while a benchmark for rural council is less than 10%.

Council has been granted special rate variations for 2006/07, 2007/08 and 2008/09. Council reported on its expenditure of the funds raised by the rate variation in its annual report in 2006/07. This is commendable.

Overall, Council's financial position is considered to be satisfactory.

What is working well

Financial planning

Council is required to develop a budget each financial year as part of the management plan. Also, Council is required to provide estimates of revenue and expenses for the following two years within the management plan.

Councils are encouraged to develop longer term financial plans that are integrated with their strategic plan. Longer term financial plans allow Council to forecast the revenue and expenses that are associated with Council's strategic direction. By undertaking longer term financial planning, Council is able to forecast its financial position and measure the sustainability of its proposed activities and whether it can fund additional activities and services.

As previously stated, Council has a ten year financial plan that has been developed and predicted on the directions set in the management plan, asset plans and its capital works program. Council indicated that the financial plan is updated quarterly. Council staff indicated that not all areas of its asset plans are integrated into the financial plan as yet. However, the financial plan is reviewed regularly and as the asset plans are completed they will be integrated into the financial plan.

In addition to its water and sewer businesses, Council has developed financial models for its waste service, airport, buildings, plant and roads. Its revaluations of assets for fair value for this year are complete.

Registers of assets and land assets

Council maintains a number of registers that identify its assets including public facilities, plant and land. Council's land register is an excellent example of good practice in this area. The register identifies all parcels of land owned by Council or under its care and control.

The register includes maps and all relevant details to identify each parcel of land. This includes: the address, lot and DP number; identity of the owner; the relevant zoning; which plan of management applies to the land; the purpose of the land, if Crown land; whether there is a trust appointed; whether the land is operational and if so the date so made; whether the land is leased and if so by who.

The register also includes a pending actions section that identifies future planned use of the land. All the plans of management that apply to public land are listed in the register. The register includes a history of the development and implementation of the document and this includes copies of public notices for the relevant plans of management that relate to the land. There is evidence that Council regularly updates the register and version control information is included. Council has recently converted its paper register to an electronic register. Council's registers are further examples of Council's good practices in relation to record keeping and procedures to manage and monitor its activities.

The Local Government Act stipulates how Council is to govern the use and management of community land. Council is required to have plans of management for all land that is categorised as community.

Council has a principal generic plan of management that applies to all community land in its area. In addition, there are a number of specific plans that apply to certain classifications of land or specific parcels of land. As stated above, the land assets register identifies the relevant plan of management that applies to each parcel of land.

Capital works program

Council has developed an extensive capital works program that is underpinned by a number of long term plans for capital works in various areas of Council's activities. This includes plans for plant replacement, water, sewer, footpaths and cycleways, for example. The information on Council's capital works program that is provided in the management plan is comprehensive. The forecast capital works program is included in Council's long term financial strategy.

Council's ethic of consulting and involving the community is evident in the development and monitoring of its capital works program. For example, a community reference group was established to participate in the development of the urban water management strategy and community consultation occurred on the effluent re-use management plan. Council's approach to the development and monitoring of its capital works program is good practice.

Council business and commercial activities

Council has a number of business activities. Council's water and sewer operations are category 1 businesses (annual sales turnover of more than \$2 M) for National Competition Policy purposes. The Council has adopted the strategies anticipated by the policy, including full costs recovery and has paid a dividend from the operations of the businesses. The auditor has noted in Council's 2006/07 annual report that future dividends may be limited due to the expected increase in depreciation charges for water and sewer as a result of revaluation of these assets to fair value.

Council has a number of category 2 business activities (annual sales turnover less than \$2 M). This includes the airport, commercial property and land development. Council has previously sold its concrete batching plant business and recently leased its quarry operation to Lismore City Council. Council has business plans or financial models for its business activities.

Council has recently established a commercial services manager position to manage its commercial activities. For some time Council has undertaken land development activities. A strategy plan will be prepared for the future development of Council's commercial activities. It is anticipated that these activities will provide Council with additional sources of revenue. The development of this strategy is encouraged to ensure that Council's activities in this area do not pose uncertain risk to Council's on-going operations.

Asset management and infrastructure maintenance

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

Council has a person in a dedicated position working on asset management. Council is currently preparing a long term asset management strategy, which is expected to be completed by the end of June 2008. Council is using 'NAMS.PLUS' that provides a structured program for writing asset management plans. The strategy is being prepared in accordance with the International Infrastructure Management Manual, recognised as best practice.

Council's Group Manager Civil Services has been a representative on the National Asset Management Steering Committee and is the current National vice-president and NSW Branch president of the Institute of Public Works Engineering Australia (IPWEA). Council has also utilised the services of a leading expert in asset management, Jeff Roorda and Associates, to assist in preparing aspects of the

strategy. Council clearly has the expertise and understanding to develop best practice asset management strategies.

Council has undertaken a planned and systematic approach to the development and monitoring of its asset management responsibilities. This approach has included the establishment of a specific position that is responsible for the maintenance of asset registers, the development of asset management plans, optimising maintenance and renewal strategies and undertaking condition assessments. In addition, Council established an asset management working group, representing the engineering, finance and information technology sections of Council, to coordinate its approach to asset management.

At the time of the review, Council staff had completed asset management plans that included financial models, conditions assessments, age of assets data (where appropriate) and asset registers for its roads, stormwater, swimming pools, water, sewer, airport, plant and vehicle assets. Waste, buildings, open spaces and reserves asset plans were in various stages of completion at the time of the review. All these plans were expected to be completed by 30 June 2008. These plans will underpin the overarching asset management strategy for Council.

The work being undertaken on asset management planning is impressive. Once the strategy is developed, Council's asset management planning will be fully integrated with its long term financial strategy. **(Recommendation 16)**

An important aspect of asset management is the regular re-assessment of the useful life of assets and the provision of the appropriate level of maintenance and renewal resources. Council's estimated cost to bring infrastructure assets to a satisfactory condition was \$77.146 M in 2006/07. This is an increase on the previous two years.

Council estimated that annual costs to maintain its infrastructure at a satisfactory standard in 2006/07 was \$6.306 M. Council spent \$6.030 M on maintaining its infrastructure assets in 2006/07, producing a shortfall of approximately \$300,000 in maintenance spending. Gaps between estimated and programmed maintenance have the potential to pose significant long term challenges for Council. Council's financial audit report identified the need for Council to ensure that maintenance

expenditure satisfies asset usage patterns and to improve asset replacement and maintenance budgeting processes.

At the time of the review, Council had in place a number of maintenance programs for its assets. This included defined programs for roads, footpaths, cycleways, stormwater, water and sewer. Council also has a 15 year program for plant replacement. This has recently been reviewed and updated. Maintenance is generally carried out in accordance with these programs.

In addition, Council also conducts routine inspection programs for its assets. This includes the inspection program for its footpaths that won the Council (along with the other members of the Northern Rivers Risk Management Group) a risk management excellence award in 2006 (see Internal controls section). Other inspection regimes include routine inspection of trees identified as high risk in public areas and playground inspections. One playground audit and inspection resulted in the removal of a playground that did not meet the standard required.

Council does not have a budget for unplanned maintenance. However, Council staff advised that unplanned maintenance is regularly monitored and reviewed each quarter as part of the review of the implementation of the management plan. At this time, decisions are made as to any variations to budget that may be required.

6.4 Community and consultation

A council's charter requires that a council:

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

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

- *The methods council uses to involve and determine the views of its community*
- *Social and community planning*
- *Annual reporting*
- *Cultural planning*
- *Reporting to the community and keeping the State government informed about its activities*

What is working well

Social and community planning

Clause 200(2) of the Local Government (General) Regulation 2005 requires all councils to develop a social/community plan. This plan must be prepared in accordance with guidelines issued by the Department. The guidelines require councils to prepare a social/community plan that examines and prioritises the needs of the local community, as identified through research including a demographic analysis and consultation with the local community. The guidelines require a plan to be prepared at least every 5 years. The plan must also specifically discuss the needs of seven target community groups.

The needs analysis must result in the formulation of access and equity activities that Council and/or other agencies could implement to address identified needs. Priority initiatives identified in the social/community plan must be considered for inclusion in Council's management plan for implementation. Progress should be reported on in Council's annual report.

Ballina Shire Council's social/community plan covers the period 2004 to 2009. The plan is available on Council's website and is easy to find. The plan is comprehensive, informative and well presented. The plan includes an executive summary, comprehensive demographic information, information on the implementation of strategies from its previous plan and detailed strategies for each of the seven mandatory key focus areas.

Council is not a provider of community services and as such only has one community services staff member. Instead, Council provides facilities for use by community service providers. There is a strong community based service provider in the area and Council is looking to strengthen its alliance with this group.

Council's management plan provides a brief outline of Council's community services functions, but does not report in any detail on the strategies of the social/community plan. In addition, Council is required to provide an 'Access and Equity Statement' in its annual report. While there are many community services activities listed in the 2006/07 annual report, they are identical to those listed in the 2005/06 annual report, and only a few relate to the strategies contained in the social/community plan.

Council should improve on the manner in which it reports on the implementation of the plan's strategies and initiatives. However, as previously discussed in this report (see section on Council's ambitions, priorities and future focus) the format of planning and reporting is likely to change in the near future. In this regard, no recommendation will be made regarding the reporting requirements.

One of the few strategies from the social/community plan that is identified in Council's management plan is relating to the issue of housing affordability. The social/community plan's executive summary identifies housing affordability as a key issue affecting all sectors of the seven key focus groups and recommends that

Council develop an affordable housing policy. Council's 2007/08 management plan identified that this was to be implemented by June 2008. However, Council has included the development of an affordable housing strategy in its 2008/09 management plan with a target date for completion of December 2008. Council staff advised that Council has entered an agreement with the Office of Affordable Housing, is aware of the national approach and has reviewed what is happening in Queensland.

When it next reviews the social/community plan, Council should ensure that the strategies that are adopted are costed and realistic. For example, the social plan recommends that Council employ a community development officer to focus on the needs of elderly people. This has not been implemented. See further discussion on this below.

Responding to and planning for the major changes and service demands that will be created by Australia's ageing population is a major challenge for all levels of government.

In terms of the mean population age, Ballina Shire Council is NSW's 10th oldest local government area. Approximately 19.6% of the area's population is currently aged 65+ years, and this is projected to grow to 27.4% by 2022. This rate of ageing is somewhat faster than the rate for most of NSW. Council's population aged 85+ years will almost double in that time. (*Population Ageing in New South Wales and its Local Government Areas*, Dr. Natalie Jackson, Director, Demographic Analytical Services Unit, University of Tasmania.)

The impact on the demand on services, facilities and infrastructure will be significant and will impact on virtually all aspects of Council's operations. For example, in 2004 Ballina's labour market 'entry:exit ratio' was at approximately 1.0. This means that for every ten persons at labour market entry age there were ten people approaching retirement age. This figure was projected to be negative by 2005 and to decline to around six entrants to ten exits by 2022. By comparison, the crossover to more exits than entrants for NSW is expected to be in around 2018.

Council's human resources staff are very aware of the impact of the ageing community on the workforce. Staff have compiled an excellent analysis of data and trends in a workforce strategic age management plan. Council needs to raise awareness of this issue across all sections of Council's operations. In addition to the affect on the workforce, Council needs to consider the impact that this will have on the provision of services. Council should prepare long term strategies to meet the challenges that the ageing of the population will bring. This should be a focus of Council's future social/community planning. **(Recommendation 17)**

Community participation and consultation

Community engagement is an important element of Council's operations and planning processes. Involving representatives of the community throughout the planning process ensures that community views and ideas are incorporated into the development of the plan and provide for greater ownership of the process and the outcome. Effective community engagement can mean greater community support for the planned directions and resultant actions that are taken.

The way in which Council engages with its community when undertaking its activities is also important. Engaging the community needs to be a collaborative, inclusive, dynamic and responsive process. Community engagement processes should aim to effectively involve all members of the community. The engagement processes that are developed need to be sustainable and ongoing.

While Ballina Shire Council does not have a formal, written approach to engaging with its community, it is evident that Council has an ethic of involving the community and has many practices that ensure the community is consulted and involved in Council decision-making processes.

Council uses a range of methods to inform, consult and involve the community. Many examples of these have been explained in this report. In addition, it is evident that this ethic is not confined to one section of Council's operations. There were examples of community engagement across all functional areas including administration, strategic services, civil services and regulatory services. Council's efforts are commendable.

Council also has some formalised mechanisms to ensure there is on-going dialogue between councillors, Council staff and community members. For example, this includes the ward committees, specific advisory committees, the support for the Ballina Youth Council and the development of a draft memorandum of understanding with local Indigenous groups.

Council staff are discussing better ways to engage the community to build upon the already excellent approach. Council is encouraged to formalise its practices and develop an organisation-wide community engagement policy and framework to guide its practices. This should provide staff with clear guidance in relation to community consultation, engagement and communication. For example, it should include information for staff about when community engagement is appropriate, the level of engagement needed, the methods of engagement, the appropriate communication strategies, managing and evaluating the engagement processes.

(Recommendation 18)

Annual report

Council is required to prepare an annual report of its activities within five months of the end of each financial year. Section 428 of the Local Government Act requires that Council furnish a copy of its annual report to the Minister. Council is required to submit its annual reports to the Department by 30 November each year. Council is required to include a copy of the audited financial report in its annual report. A summary of Council's financial position is not adequate.

Ballina Shire Council's annual report has some excellent elements. It is largely compliant with the legislative requirements, easy to read and informative. Council provides clear reporting on progress in implementing the principal activities outlined in its management plan. In addition, Council provides comprehensive information on the expenditure of monies obtained from its approved special rate variation.

To improve its reporting, Council should be mindful of the comments made in this report in relation to its reporting on its social/community plan. In addition, Council is required to report on the total remuneration packages for **each** senior staff member. These should not be aggregated to one total.

Challenges to improve

Customer service standards

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

While it was evident that Council has set some customer service standards for some of its practices, for example, complaint handling times, development assessment times, there was no documentation evident or available to customers that would tell them what they could expect from Council services.

Council is currently developing a customer service charter and the General Manager is assembling a multi-disciplinary team to work on this. Council's various software programs already provide support to enable Council to monitor customer service standards, such as escalating tasks that are not attended to.

Each Council division should identify the standards customers can expect of their services and make those available to their customers. It is important that once these are developed they are monitored and reported on to ensure accountability to the community and to provide feedback to the Council. **(Recommendation 19)**

Cultural planning, tourism planning and economic development

The Department of Local Government and NSW Ministry for the Arts publication '*Cultural Planning Guidelines for Local Government*', 2004, identifies cultural planning as a "strategic process which illuminates and gives significance to the values, material and process dimensions of culture in a community in a way which informs a council's thinking, policies and programs".

Cultural planning should integrate with Council's key social, environmental and economic development priorities and strategies. A cultural plan aims to strategically align cultural assets, resources and services with Council's overall directions and priorities. "Local cultural planning should help Council understand the unique

character of its community and encourage local pride, especially in those places of symbolic significance to people, such as landmark buildings and sites, lookouts, meeting places, significant streetscapes, monuments and public art."

Council has not developed a cultural plan. However, Council has recently adopted a public art policy, has renovated and restored the old council chambers to be used as an art gallery and is undertaking work to identify heritage items in its area. Council's sustainability framework identifies the recognition and valuing of the natural, cultural and built heritage as one of its aims. Council currently does not have a strategic approach to its cultural planning.

One of the items in a council's charter, as defined under section 8(1) of the Act, is to exercise community leadership. In fulfilling their charter in this respect, councils will often be required to take on an economic development leadership role. Council has identified a diverse and prosperous economy as one of its sustainability visions. However, Council does not have a documented economic development plan or strategy.

Tourism is also an area where councils are actively involved. Ballina Shire Council developed a tourism strategy for the period 2002 to 2005. This strategy has not been reviewed or revised since that time. Council indicates that it expends approximately \$410,000 on tourism activities. The majority of this money is spent on providing a visitor information centre.

There are strong links between some of Council's other activities, such as land use planning, the operation of the airport and caravan parks, and the need to have a strategic approach to tourism, cultural and economic development planning. Council needs to consider the risks of not having a strategic approach to these areas of its operations. It is suggested that consideration be given to developing a strategy that encompasses these three activities. **(Recommendation 20)**

6.5 Workforce relations

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

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

- *Human resources strategy*
- *Consultative committee processes*
- *Job descriptions and job evaluation*
- *Recruitment and selection processes*
- *Employee remuneration*
- *Staff development*
- *Grievance management*
- *Occupational health and safety*
- *Secondary employment*

Overview of the organisation

Ballina Shire Council reviewed its organisation structure and adopted its current structure in July 2007. There are three senior staff positions, being, the General Manager, the Civil Services Group Manager and the Regulatory Services Group Manager positions. The executive team consists of the three senior staff and the Strategic Services Group Manager. The General Manager has a number of areas directly reporting to him, including commercial services, human resources, financial services, tourism and information technology.

At the time of the review, Council employed 265 full time equivalent staff comprising:

- 27% women
- 4% Aboriginal and Torres Strait Islander, and
- 6% people with physical disabilities.

Council makes extensive use of traineeships and apprenticeships. Council indicated that it had a high retention rate for its apprentices/trainees. Apprentices and trainees

have been engaged in the areas of planning, building, mechanics, horticulture, surveying, administration, electrical, welding and road construction.

Council has also worked very hard to provide employment opportunities for individuals with disabilities within the community.

In 2002 Council was made aware that a local disability organisation called "Spectrum Landscaping" was unable to continue with the employment of eight individuals with low to medium intellectual and physical disabilities. At that time, Council decided to take over the employment of this crew, which involved employing these people and their supervisor at that time.

In 2006/2007 Council built a new nursery building at Alstonville and employed five more individuals with a range of intellectual and physical disabilities and an additional supervisor. Council has also employed a support worker to assist both of these supervisors.

Council works closely with the local high schools and Biala Special School to provide work experience opportunities for students with intellectual and physical disabilities. This enables confidence building and skills for these individuals to progress into the workforce.

These programs are excellent examples of Council's role as a responsible employer and a good corporate citizen.

What is working well

Workforce planning

All councils are, to varying degrees, required to respond to workforce issues such as:

- an ageing workforce
- changes in workload for certain sections as Council's and government priorities change
- retention of experienced staff
- remuneration/market pressures for higher wages

- societal demands for a better work/life balance.

Ballina Shire Council is located in an area where it finds itself competing with employers on the Queensland/New South Wales border and those in South East Queensland. The north coast employment market is a competitive one. Attracting and retaining staff is a challenge. In addition, staff indicated that the cost of housing and lack of affordable rental accommodation contributes to the difficulty in attracting staff to the area.

Council has recently developed a risk and human resources strategic plan for 2008-2012 and this is in the early stages of implementation. It is underpinned by a recently revised strategic age management plan that analyses a range of data and trends and identifies the issues facing Council in attracting and retaining staff. The focus of the age management plan is on the issue of the ageing workforce and makes recommendations for strategies to deal with this.

Council's human resources strategic plan focuses on twelve areas:

1. Risk management
2. Health safety and well being
3. Human Resources planning
4. Employee attraction and retention
5. Employee learning and development
6. Organisational change and development
7. Performance Management
8. Recognition and Reward
9. Workplace Diversity, Equal Employment and Anti-Discrimination
10. Employee Relations
11. Human Resources Information System (HRIS)
12. Consultation and Communication

While Council does not have a separate succession plan, the strategic age management plan has identified this as an issue that requires action. Council is in the process of developing action plans to implement the strategies in the human resources strategic plan.

Council should ensure that its human resources strategy is aligned to its sustainability framework.

Human resource policies and practices

Council has well documented procedures in place to manage its human resource needs. It is evident that these policies and procedures guide Council activities. The policies and procedures are contained in a human resources policy manual, which is available to staff through the Council's internal infonet.

Council has a range of good practices, such as well documented recruitment and selection practices, job descriptions for every position that are reviewed at least every 12 months, ongoing staff performance assessment processes and an exit interview policy.

Council has a well organised induction program that includes an initial session with human resources staff followed by training in Council's data and records management systems. Following that there is a site induction by the person's supervisor and Council safety officer, if appropriate. The program is guided by a checklist and the new staff member is required to verify that they have received the information. The completed checklist is retained on the personnel file. Council staff advised that they get good feedback on the induction process when they conduct exit interviews with staff when they leave.

Human resource staff conduct exit interviews with staff leaving the organisation as a matter of routine. There is a checklist and set of standard questions to guide this process. In addition, records are kept of why people are leaving and this is monitored and used to review practices. The reviewer saw evidence that issues raised in exit interviews had been followed up. This is an excellent practice.

Council human resource staff attend meetings of the Northern Rivers Regional Human Resource Interest Group. This enables staff to share resources and discuss issues. In addition, Council has been supportive of other councils in its region. For example, Council contracted its Manager Risk and Human Resources to Kyogle Council to assist it to establish its employee salary system.

Council's human resource policies and practices are commendable.

Occupational health and safety (OH&S)

Although the review did not involve a comprehensive audit of Council's occupational health and safety practices, the review examined a number of Council documents in this area. Council has developed a manual that includes a comprehensive set of policies and procedures. The manual was last reviewed in 2004. The occupational health and safety committee is currently reviewing the manual and specific procedures.

The manual provides policies and procedures on a range of OH&S issues. It includes an OH&S checklist for the purchase of goods and services; handouts for contractors outlining their OH&S responsibilities; grievance handling policy and procedures; and information on bullying.

Council's OH&S committee meets regularly. Standing agenda items include discussion on policies and procedures as well as the monitoring of accidents and incidents. The committee undertakes safety inspections between meetings. Routine "toolbox" meetings at the depots include risk assessments of continuing activities. The reviewer was advised that Council staff have a culture of reporting incidents and near misses are routinely reported.

Secondary employment

Section 353 of the *Local Government Act 1993* and the Model Code of Conduct for Local Councils in NSW both provide obligations on Council staff in relation to engaging in secondary employment.

The Act and Model Code of Conduct place an obligation on members of Council staff who are considering outside employment or contract work that relates to the business of Council or that might conflict with their Council duties to notify and seek the approval of the General Manager in writing. The Model Code imposes additional obligations that Council staff must consider before engaging in any outside employment or business.

Council should have processes in place to manage the risks associated with secondary employment of Council staff. Councils should implement strategies to resolve any conflicts that arise between outside employment or business and the performance of Council duties.

Council maintains a secondary employment register. Information contained in the register includes a list of employees undertaking secondary employment, when approval was given, when it expires and whether the employment has ceased, and a copy of the application form. The issue of secondary employment is covered with staff in the induction process.

Council has recently determined that any staff undertaking secondary employment are to be considered designated persons for the purposes of providing annual disclosure of interests returns (see Governance section of this report). Council is commended on its record keeping in this area and the proactive approach to managing the secondary employment of its staff.

Challenges to improve

Employee attitude survey

An employee attitude survey is a useful tool in identifying what is working well at Council, areas of concern to employees or areas that require improvement.

Council has undertaken a number of surveys with staff on specific topics or areas of interests, such as travel, nine day fortnight and waste. Council's human resources staff are currently working with Byron Shire Council staff to develop an organisation-wide employee attitude survey. This is supported and Council is encouraged to undertake such a survey. **(Recommendation 21)**

Equal employment opportunity (EEO)

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

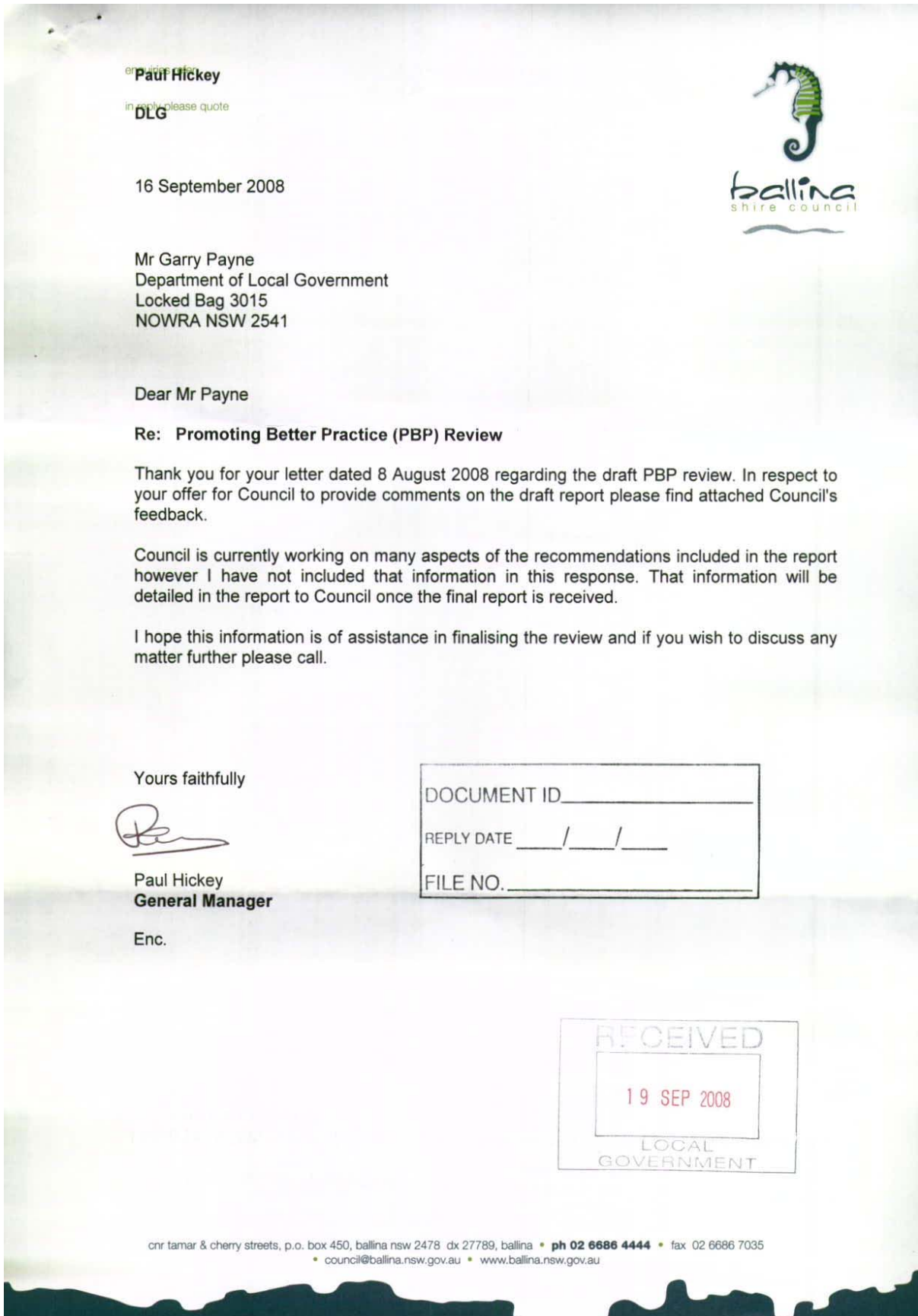
Section 345 of the Act outlines what the Council's EEO plan is to include. Of particular significance are the requirements related to collection and recording of appropriate information, review of personnel practices within the organisation, the setting of goals and targets, the means of evaluating the program and the revision and amendment of the plan.

Council's EEO management plan is more a policy statement than a plan. It was last reviewed in 2004. It is evident that Council has many practices in place to meet its equal employment opportunity obligations. However, Council needs to document these in an EEO management plan that is consistent with the requirements of the Act. Council has identified a range of data in its strategic age management plan that would be useful for the development of the EEO plan. **(Recommendation 22)**

Staff training and development

Council has developed a training plan in accordance with the relevant legislative requirements. However, it is notable that much of the training is focussed on professional and work related skills and not on governance areas. As previously raised in this report, staff have not undertaken training in the code of conduct since the implementation of the Model Code of Conduct on 1 January 2005. Council should expand its staff training and development program to include governance topics such as the code of conduct, privacy and record keeping. **(Recommendation 23)**

7. COUNCIL'S RESPONSE



Promoting Better Practice Program - Draft Report

Ballina Shire Council - Comments

Governance (page 7)

Point 5 - This point refers to Council's Code of Conduct. Following the release of the new model code by the Department, Council adopted that code at the ordinary meeting held 24 July 2008. The adoption of this model code may supersede the comments outlined in point five. A copy of the report to Council and the minutes of the meeting are available on our web site (www.ballina.nsw.gov.au)

Planning and Other Regulatory Functions (page 8)

Point 14 - A revised on-site sewerage management strategy was presented to the ordinary meeting held 26 June 2008 (refer to web site for a copy of the report and minutes). Council resolved to exhibit that document for public comment and it is anticipated that the report recommending adoption of this strategy will be submitted to the October meeting of Council.

Points 15 and 16 - A compliance work program for 2007/08 was presented to the ordinary meeting held 26 June 2008 (refer to web site).

Delegations (page 25)

There is a comment here that many of the delegations "to other staff are still under the signature of the previous General Manager". There is concern that this may imply the delegations are not valid. It would be appreciated if a comment could be included that the delegations are still current, even though they may have the signature of a previous General Manager.

Code of Conduct (page 31)

As Council has recently adopted the revised model code of conduct, elements of this section may need to be reworded.

Council business and commercial activities (page 55)

There is an error in the report as it states that "Council.....recently sold its quarry operation to Lismore City Council". This information is incorrect as Council has actually leased its quarry operation to Lismore City Council. Council has retained ownership of the quarry.

Council provided its response to the draft report on 16 September 2008. Council advised of the requirement to amend part of the text to fix two inaccuracies. Changes have been made to the text at the appropriate places to correct these.

Council made comment on four of the recommendations in the report, as indicated above. Changes have been made to the draft report text in the appropriate places.

Three recommendations have been removed as a result of Council's feedback. The recommendations related to the review of Council's code of conduct, the revision of the on-site sewage management strategy and the development of a compliance work program. Council adopted the revised Model Code of Conduct in July 2008 removing the need to review its previous code of conduct. In addition, Council reviewed and revised its on-site sewage management strategy and placed this on public exhibition. In June 2008 Council adopted a compliance work program to guide the compliance officer's work.

Council should be congratulated for commencing action on a number of the recommendations in the report prior to its finalisation.

8. SUMMARY- WHAT'S WORKING WELL & CHALLENGES

COUNCIL'S PRIORITIES AND FOCUS

What is working well

- Council has a strong strategic focus that is evident in the way the organisation is structured and in the activities that it undertakes.
- Council's plans and strategies are reasonably well integrated.
- Community engagement has been a strength of strategic planning and continues to be a feature of the way Council conducts business.
- It is evident that Council monitors its performance and has adopted a number of performance indicators to drive its business.
- Council works well in the region.

GOVERNANCE

What is working well

- Council has sound governance practices.
- Council monitors and reports on the implementation of its management plan in an informative way.
- Council has a culture that encourages the disclosure of the receipt of gifts and benefits.
- Council has been proactive in managing the risks associated with conflict of interests that may arise in relation to secondary employment.
- Council's statement of business ethics is clear, comprehensive and included in Council's core documents.
- Council's practices in the area of procurement, tendering and disposal of assets are exemplary.
- Council's complaint handling policy and procedures are good practice.

Challenges to improve

- Provision of training to staff on the code of conduct.
- Review of the code of meeting practice.
- Development of a councillor induction and development program.
- Formalisation of the approach to the internal audit function and development of an internal audit program.

REGULATORY

What is working well

- Council's strategic land use planning is linked to its strategic sustainability framework.
- Council's approach to development of the new LEP is thorough and consultative.
- Council is aware of and effectively manages conflict of interests situations in its development assessment processes.
- Council's SOE report is adequate and well presented.
- Council monitors and effectively manages its contributions plans and register.

Challenges to improve

- Development of a single enforcement and prosecutions policy.
- Development of a companion animals management plan.
- Development of a swimming pools compliance and awareness program.

ASSET AND FINANCIAL MANAGEMENT

What is working well

- Council has a long term financial strategy.
- Council is progressing well with implementing its asset management system.
- Council's capital works and maintenance programs are well documented and proactive.
- Council monitors how its special variation funds are utilised against approvals.

Challenges to improve

- Gaps between estimated and programmed maintenance.

COMMUNITY, COMMUNICATION AND CONSULTATION

What is working well

- There is evidence Council has a strong ethic and practice of engaging the community in its planning and operational activities.
- Council has a comprehensive, informative and well presented social and community plan.
- Council's annual report has some excellent elements.

Challenges to improve

- The development, monitoring and reporting on customer service standards.
- A strategic approach to tourism, cultural and economic development planning.

WORKPLACE RELATIONS

What is working well

- Council's employment practices indicate it is a responsible employer and a good corporate citizen.
- Council has good data and trend analysis to support its human resources strategic plan.
- Council has good secondary employment record keeping and management.
- Council has well documented human resource policies and procedures.
- Council's approach to effective OH&S practices is evident.
- Council has effective exit interview processes.

Challenges to improve

- Review of the EEO management plan.
- Provision of training to staff in the area of governance topics.
- Conduct of regular organisation wide employee attitude surveys.