

challenges improvement innovation good governance

# Local Government Reform Program - Promoting Better Practice

## FOCUSSED REVIEW REPORT

### WYONG SHIRE COUNCIL

AUGUST 2005



**dlg**

**Department  
Government**

**of**

**Local**

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## 1. ABOUT THE REVIEW

### Focussed Review objectives

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

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

### Focussed Review process

The review process was developed after extensive research into council performance measurements in Australia and overseas. The review process is based upon a range of models including:

- the UK Audit Commission council inspection model
- the ICAC corruption resistance reviews
- LGMA/ICAC governance health check
- LGMA financial health check
- previous programs conducted by the Department of Local Government.

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

Focussed reviews involve the department working with up to four councils in a region at one time. After completing the practice checklist, the council spends a day with departmental staff on site carrying out focussed checking. The council will receive a summary of the key issues identified during the review. The focussed review has a greater compliance focus than the full review strategy.

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

It is expected that a review will only “scratch the surface” of some aspects of council operations. A focussed review will only review specific activities of council and will not necessarily provide an overall picture of council operations.

### **Wyong Shire Council Review**

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

Senior Investigations Officers Katrina Annis-Brown and Angus Broad comprised the review team who conducted an on-site review of council from Wednesday 22 November 2004 to Friday 25 November 2004.

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

The on-site review consisted of a briefing for the councillors, the general manager and some members of council’s senior staff, conducting interviews, attending a

council meeting and the review of a number of council's policies and other documents.

The review focussed on aspects of:

- Governance, including:
  - *Complaint handling*
  - *Pecuniary interest returns*
  - *Payment of expenses and provision of facilities to councillors*
  - *Delegation of council functions*
  - *Reporting to, the conduct of, and recording council decisions*
  - *Legislative compliance*
  
- Planning & Other Regulatory Functions, including:
  - *Council's strategic planning processes*
  - *Section 94 plans*
  - *Providing employment opportunities*
  - *Council's business activities*
  - *Environmental management*
  - *Enforcement practices*
  
- Asset & Financial Management, including
  - *Financial management*
  - *Asset management*
  - *Insurance*
  
- Community & Consultation
  - *Social and community functions of council*
  - *Annual reporting*
  
- Workforce Relations
  - *OH&S obligations*
  - *Workforce strategy*

## 2. RECOMMENDATIONS

### *Governance*

- 2.1 Council's "Customer Response" policy does not adopt service standards, leaving the response times to be determined in council's business rules. While these are incorporated in council's Customer Relationships Management (CRM) system, the council should consider incorporating service standards in its Customer Response policy so that it can measure and report publicly on its performance when dealing with complaints.
- 2.2 Council's policy on the payment of expenses and provision of facilities for councillors makes provision for payment of daily allowances to councillors. This appears to contravene the provisions of regulation 42A of the Local Government (General) Regulation. The council should review its policy to ensure that it complies with the regulation.
- 2.3 Council's section 252 policy should be amended to provide some discretion to meet legal expenses in proceedings falling outside the cover provided by the council's insurance policy, but only if such cover is as envisaged by the department's circular 05/08 "Legal Assistance for Councillors and Council Employees".
- 2.4 The council should ensure that the conditions contained its contracts reflect the terms contained in its policy for the acquisition and disposal of assets.
- 2.5 While the council has recently adopted the Model Code of Conduct as supplemented by its own additional requirements under section 440 of the Act and has provided training to councillors and some members of staff, it should continue to provide supporting training both to the remaining staff and ongoing training to councillors and staff.

- 2.6 The minutes of council meetings record that councillors have disclosed conflicts of interests as well as pecuniary interests. This suggests that councillors may be unsure whether they have a conflict of interests or, possibly a pecuniary interest and may also suggest that they are unsure of their separate obligations.

Councillors should receive further training regarding their obligations where conflicts of interests or pecuniary interests arise as part of the implementation of the new code of conduct.

- 2.7 The minutes of council meetings contain insufficient detail where matters have been dealt with in closed session. The minutes should provide a clear and complete record of the meeting detailing the precise nature of the decision as per council's obligations under section 10D(2) of the Act.

- 2.8 The pecuniary interest returns lodged by certain councillors suggest either a failure to understand the requirements of the Act and the Regulations, or a disregard for their provisions on the part of these councillors. Similarly, returns lodged by some staff suggested a similar failure or disregard on their part.

Councillors and staff should further acquaint themselves with the precise obligations imposed by section 449 of the Act and the Regulations. Where appropriate, councillors and staff should lodge amended returns. Further, council should review its processing system for lodged returns to ensure that dates of lodgment are endorsed on every return.

- 2.9 Council should facilitate the ongoing use of the information provided in the department's circular 04/16 and elsewhere when providing information for staff and councillors to assist them in completing their pecuniary interest returns.

- 2.10 Council should review its procedures for issuing and reissuing delegations to ensure that the process of reissue takes place prior to the expiry of existing

delegations, and that all persons delegated functions provide a written acknowledgement of the delegation promptly.

- 2.11 Council should develop an overarching risk management plan and should regularly carry out risk assessments in its key areas of activity, possibly incorporated as part of its internal audit framework.
- 2.12 Council should develop and implement a fraud control policy or strategy.
- 2.13 Council should undertake a risk analysis of its procurement practices.
- 2.14 Council should develop and adopt a policy supporting legislative compliance, possibly incorporated as part of council's internal audit framework.

#### *Planning & Other Regulatory Functions*

- 2.15 To ensure that it is able to meet the demands associated with its growth and the effect of a continuance of the current prolonged drought, the council needs to determine its approach to enhancing its water supply at the earliest possible time.
- 2.16 The council should adopt an enforcement and prosecutions policy and should also adopt a local orders policy.

#### *Asset & Financial Management*

- 2.17 Council should adopt strategies to achieve an improvement in its unrestricted current ratio.
- 2.18 Council does not have a rates hardship policy in place. Given the demographics of the area, council should consider adopting such a policy.



- 2.19 Council should actively follow up outstanding rates to ensure that the level outstanding does not increase.
- 2.20 The council should carefully review its involvement in its various businesses, the manner it conducts them and its pricing policy to ensure that, given social and other interests, it obtains an equitable return.

*Workforce Relations*

- 2.21 Council should monitor and report on the number of and resolution of employee grievances.
- 2.22 Council should, either as a stand alone strategy or as part of its overall corporate strategy, develop a human resources strategic plan to guide and direct its overall human resources effort in a way that supports the attainment of council's overall strategic goals. This strategy should also address issues of skills shortages and the age profile of council's workforce.

### 3. CONTEXT

Wyong Shire contains an area of 827 square kilometres, extending from Gwandalan to Ourimbah and from the coast to the Yarramalong Valley.

The estimated resident population of Wyong Shire was 138,085 as at June 2002. The Shire is one of the fastest growing areas in New South Wales. The council is growing at the rate of 2.4% per annum, 3 times the State average and making it the 4<sup>th</sup> fastest growth in the State. This growth will, if maintained, result in the shire's population increasing to 199,500 by 2021.

To facilitate this growth, planning is underway for new release areas, including Warnervale/Wadalba. This area will have an anticipated population of 40,000 people.

The shire represents a substantial dormitory area for workers commuting principally to Sydney and, to a lesser extent, the Newcastle area.

High levels of growth place substantial demands on council resources. The council must both provide staff to plan and facilitate development and must also make available the financial capacity to provide the necessary infrastructure.

Ancillary to the growth and its long history as a retirement area is a demographic mix of older people, families with young children, a high proportion of single parents and large numbers of low-income earners.

Council's strategic planning documents recognise the challenges and acknowledge that it must plan to meet a range of issues. The review team focussed on council's strategies to meet future needs and on aspects relating to its current delivery of services.

## 4. 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; whether resources follow priorities;
- performance information; risk managed appropriately;
- openness to external challenge.

### 4.1 Governance

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

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

- *Complaint Handling*
- *Pecuniary Interest Returns*
- *Payment of expenses and provision of facilities to councillors*
- *Delegation of council functions*
- *Reporting to, the conduct of, and recording council decisions*

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

*Complaint Handling*

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

As part of its Policy Manual, the council has adopted a complaints policy in part C4 – “Customer Response”. The policy clearly sets out the council's perceived role in complaints handling. It differentiates between various types of complaints and applies processes and responses according to each particular type.

When interviewed, council's senior complaints officer emphasised her view that the council dealt with complaints in an appropriate manner. The council imposes rules for response and timeframes. These rules are embodied in council's policy. Council sees its response to complaints as important, responding by telephone or by post and providing explanations as necessary.

We were advised that all complaints are initially treated as a “request for service”, subsequent complaints are treated as complaints. This statement appears to be incorrect. Council has subsequently advised that *“customer contacts are recorded and managed in Council's Customer Relationships management (CRM) system.”*

Customer contacts are recorded as one or more of the following categories:

- Request for service
- Request for action
- Request for information
- Complaint
- Compliment

The above customer contacts are sub-categorised by Service Request Type, which are further sub-categorised into Problem Codes. This aspect of council's approach appears to categorise contacts, allowing staff to recognise those contacts that are “complaints” so that they may be dealt with accordingly.

The council operates its own call centre, which provides a sufficient number of trained staff (with backup facilities) to deal with complaints. Separately, the council

conducts its own customer satisfaction surveys and conducts monthly telephone surveys of complainants to the engineering department.

The IT system currently being adopted by the council will further enhance council's capacity.

Council's website provides an opportunity for members of the public to directly contact the council by email through its "Customer Request" facility. The form of "request" is in a simple format permitting the person to nominate whether contact is being made to "make a suggestion", "request information" or "complain". It contains separate boxes to indicate the location and the nature of the concerns. The facility is directly accessed under either of the headings "Customer Request" or "Contact Us", on council's homepage. The same boxes appear on each other page of the website.

All staff in council's customer service department are trained in dealing with agitated customers. Systems are in place to provide support for and to take over dealing with agitated customers with alarm triggers for police assistance.

Staff undergo annual training and are rotated through different departments to widen their knowledge. The council has introduced flexible work practices, to avoid losing its trained staff, by permitting them to work from home.

Management prepares and receives regular reports on the number, progress and outcome of complaints. Steps are being taken to upgrade and enhance council's systems.

It is clear that the council is applying resources to its complaint handling services and is committed to improvements in its processes. The process represents a high standard for complaints handling.

Given this, it was surprising that the council had not adopted service standards in its "Customer Response" policy, leaving the response times to be determined in council's business rules. While these are incorporated in council's Customer

Relationships Management (CRM) system, the council should consider adopting service standards in its policy to better measure and report on this aspect of council's performance. (See *Recommendation 2.1*)

Despite these concerns, the review team was advised that all complaints are entered onto council's IT system. Further, that this system automatically provides prompts where complaints recorded on the system have not been dealt with in prescribed periods. These periods are determined by the nature of the complaint.

### *Meetings*

#### *Reporting to and the conduct of council's meetings*

We attended council's meeting on 24 November 2004 and observed the way that it was conducted. Prior to the meeting we had been provided with a copy of the business papers. We were informed that some contentious matters were to come before the meeting and that a number of people had asked to address the council. Staff expected a large number of residents to attend.

The business papers adopt a common format, providing for disclosure of pecuniary interests, advising future inspections and briefings, indicating the attendance of any invited speakers and proposing confirmation of previous minutes at an early stage.

The business papers identify the matter before council, the recommendation and then contain a report providing appropriate commentary on the matter, including reference to relevant legislation and a plan of the land, as appropriate. The reports appear to contain sufficient clearly stated information to base a determination.

Councillors are also provided information relevant to the operations of the council including staffing, performance financial and other matters.

#### *Code of Meeting Practice*

The council adopted its code on 8 December 1999. It remains in force with minor amendments.

### *The Meeting*

We observed the meeting on 24 November 2004. A number of residents were present, interested in different issues. Members of the public and the local federal representative were invited to speak. Procedures adopted by the council both enabled speakers to address the council and applied flexible limits to the time allowed for each address.

The council displayed each item of business, the mover and seconder of motions is shown on a screen during the meeting as a “PowerPoint” type process. Amendments were also recorded as the meeting continued. This approach assists public participation, as the gallery is able to easily see the particular item being dealt with and to follow its progress.

### *The Minutes*

Other than the matters subsequently raised regarding the reporting of decisions made in closed session, the minutes appear to contain sufficient detail to provide a clear and complete record of the meeting.

### *Payment of expenses and provision of facilities to councillors*

Section 252 of the Local Government Act requires that councils adopt policy on the payment of expenses and provision of facilities to the mayor, deputy mayor and councillors. This policy serves to notify residents and ratepayers of the entitlements of councillors and the circumstances in which council funds will be applied towards expenses incurred by councillors. Importantly, the policy recognises the benefits of continuing training given to councillors.

The review team looked at the way that the council provides for the payment of councillor expenses and its provision of facilities for them. The council has adopted a principal policy with additional guidelines for appropriate use of email and internet facilities.

The policy has been adopted to meet council's requirements under the Act. The policy is clearly written; setting out the various requirements of the Act contained in sections 248 – 252 and 428. It covers key topics, including:

- Expenses incurred in attending committee meetings, inspections and official functions
- Expenses incurred in attending community meetings and inspections
- Expenses incurred in attending conferences seminars training and travel outside the council area
- Eligibility to attend conferences and procedures to be adopted
- The nature of the expenses and fees that are payable
- The facilities and equipment provided to councillors
- Indemnity insurance

The policy records a series of amendments in May 2001, September and October 2003 and February 2004. This suggests a process of continuing review by the council.

The policy provides a background, giving context to its adoption. The facilities provided to councillors include laptop computers, fax machines, mobile telephones and cameras.

The policy places limits on matters, including:

- The fees and expenses that will be met by the council
- the cost of telephone access fees and calls that will be met
- the private use of the Mayoral vehicle

Importantly, the policy caps the amounts that council will meet for telephone usage and other expenses.

Again, there are limits on the extent of travel that may be undertaken. The policy requires councillors to travel in economy class. The policy spells out the processes for obtaining approval.



Part 1.4 of the policy makes provision for payment of daily allowances to councillors undertaking official business, attending conferences or undertaking training. This appears to contravene the provisions of Regulation 42A of the Local Government (General) Regulation, which provides that a policy under section 252 of the Act must not include any provision enabling a council to pay any councillor an allowance in the nature of a general expense allowance. (See *Recommendation 2.2*)

The policy provides that the council will take out insurance “to protect the interest and welfare of all councillors”. The policy is limited by an apparent assumption that insurance cover will be sufficient. It does not appear to consider that councillors may be joined as a party to, or may initiate, other proceedings that fall outside the cover provided by the insurance policy. The policy could be amended to provide some discretion to meet legal expenses in such situations, provided they are appropriate having regard to the departmental circular 05/08. (See *Recommendation 2.3*)

#### *Review of Organisation Structure*

Pursuant to section 333 of the Local Government Act 1993, council is required to re-determine its organisation structure within 12 months after any ordinary election of the council.

The last local government election was held on 27 March 2004. As such, council was required to conduct a review of its current structure by March 2005. Council advised that it was in the process of conducting a review of its organisational structure. The council subsequently advised that it completed this task in December 2004. The council adopted a new structure and is currently implementing the new structure.

#### *Acquisition and Disposal of Assets*

The council has adopted policies and procedures for its acquisition and disposal of assets. These are contained in a draft purchasing policy and an online interactive manual. A copy of the online interactive manual was provided to the team.

Council's processes were discussed with the Director of Corporate and Community Services, who emphasised various aspects of the manual and their organisation, including:

- That the interactive manual required staff to carry out a risk assessment
- That the interactive manual embodied standard documents
- Council's contracting was concentrated on persons with the requisite skills
- Vetting of tender documents by an independent member of staff
- Strict adherence to contracting and tendering requirements, including independent financial checking
- Assessment of tenders carried out by a panel not involved in the tendering process
- Independent audit of contracts during performance
- Personal sign off of all contracts by Director of Corporate and Community Services
- That current weaknesses seen in the system, including follow up and written orders were being rectified

The interactive manual contains a clear and simple step-by-step procedural path, built around a "decision tree" approach. It links to other documents within the manual, such as the risk assessment module, with jump links. The forms contain highlighted sections that are required to be filled out, with some having stipulated alternatives.

This approach is to be commended as it seeks both to direct staff attention to relevant considerations and to adopt a pro-forma document. Regrettably, at the time of the review, the interactive manual was not complete and did not cover contracts for minor works.

The council developed a draft purchasing manual, dated May 2003. This has been supplanted by the interactive manual previously referred to. The interactive manual retains and embodies this and previous manuals, joining them with its procurement manual and contract shells.

This manual had provided a clear and precise statement of staff duties and obligations regarding the purchase of goods and services. Additionally, it provided policies for the disposal of assets. It differentiated between surplus, obsolete, worn-out and written off assets. It provides for methods of disposal and a step-by-step guide and a flowchart for such disposals. The manual specifically provided that staff may only purchase through an arms length competitive process.

The interactive tool brings council's processes into an all encompassing tool.

### *Tendering*

When discussing disposal of assets, council's Director of Corporate and Community Services advised that currently it disposes of its cars and smaller plant at auction and its heavy vehicles through trade-in. He acknowledged that such policies change according to market influences.

The council was asked to review whether, in the previous year, it had relied on the provisions of section 55(3) of the Act (extenuating circumstances), when considering a contract. Council identified a single instance, that for water drilling services. Council's review indicated an urgent need due to the prevailing drought, a lack of alternative contractors and an urgent need to secure the services of the one available contractor who would otherwise become unavailable.

A review of council's processes suggests that the council is giving effect to the provisions of section 55 of the Act.

While the council has endeavoured to provide clarity in its policies, there is some discrepancy between the position adopted in the manual and that contained in its purchase order, particularly regarding acceptance of goods that have been delivered. The council should ensure that the conditions contained its contracts reflect the terms of its policy for the acquisition and disposal of assets. (See *Recommendation 2.4*)

## ***Challenges to improve***

### *Code of Conduct*

When the review was being conducted the council was considering adopting a new code. Although this draft code appeared to be a substantial improvement over the then existing code, the enactment of the Local Government (Discipline) Act, 2004 had supplanted the draft, requiring that each council review and adopt a code consistent with the department's model code.

Discussions with councillors during the review and subsequently suggest that the then existing code was deficient. In particular, from discussions with the councillors, the review team formed the view that councillors appeared to be unsure of their obligations. (See *Recommendation 2.5*)

### *Disclosure of Interests*

We reviewed the minutes of council's meeting held on 3 November 2004. Item 527 called upon councillors to disclose pecuniary interests (as required by section 451). The minutes record that councillors disclosed both conflicts of interests as well as pecuniary interests.

While conflicts must be disclosed, the minutes suggest that councillors may be unsure of the requirements of this part. This view was reinforced in discussions held with the councillors at a briefing session and from a subsequent conversation with a councillor. We believe that not all councillors may fully appreciate the difference between conflicts of interests and pecuniary interests. This may impact on the actions taken by them, particularly having regard to the obligatory nature of the pecuniary interest provisions. (See *Recommendation 2.6*)

### *Closing Meetings*

The council advised that its meetings had been closed to the public on 10 occasions. None of its committee meetings had been closed to the public.

The minutes of the meeting of 3 November 2004 record that the council closed the meeting at one stage to deal with one matter. The minutes record:

- the intention to deal with the matter in closed session – reciting the relevant section of the Act
- the reason why that part of the meeting is being closed
- the matter that was to be discussed during the closed part of the meeting as required by section 10D(2)(b) of the Act.

Subsequently the minutes record:

- the resolution to close the meeting
- the resolution to move into open session
- the report of the decision

While the matter was generally well dealt with, the minutes record the resolution as being:

*“That the general manager implement the decision of the council”*

The minutes do not record whether the offer of compensation (the purpose of the motion) was accepted, rejected or the subject of a counter offer or further negotiations. It would be appropriate for council to record the nature of the outcome of council’s consideration of matters (albeit so as not to disclose information that would compromise the confidentiality of the item) in the minutes. (See *Recommendation 2.7*)

### *Pecuniary Interest Returns*

The Local Government Act imposes obligations on councillors to disclose interests that may give rise to pecuniary interests, by requiring that councillors and designated staff (and certain advisers) complete and lodge pecuniary interest returns.

It is important that councillors and staff observe these requirements, as a failure do so may undermine the community’s confidence in the integrity of local government and its decision-making processes.

The review team requested that the council make available all councillor returns. These returns were made available and the team members inspected them.

Councillors Best, Eaton, Forster, Graham, Pavier, Rose and Stewart had been part of the earlier council. Councillors Stevens, Veugen and Welham had been elected in the April 2004 elections.

Those councillors who had been part of the previous council were required to lodge a return for the period 1 July 2003 to 30 June 2004 (see section 449(2) & (3)). The reporting provisions of section 449(1) require that the newly elected councillors lodge an initial return within three months of election.

Conversely the continuing councillors were only required to lodge their returns by 30 September 2004. Each of the councillors had lodged returns. The date of receipt had been endorsed on all returns other than Councillor Veugen's. It was not possible to confirm, other than seeking an explanation from the councillor, whether the return was lodged within time. The failure to record the date of receipt is an issue that council should address.

Two councillors who had been councillors in the previous council (and were required to complete and lodge a return within 3 months after 30 June 2004) lodged their returns outside the prescribed period.

A newly elected councillor who was required to complete and lodge a return within 3 months after his election, lodged a return dated 25 August 2004. This is outside the prescribed period.

Another councillor in the previous council lodged a return that lacked detail in part D, indicating the dates on which travel was undertaken as "*various*". This is insufficient.

A councillor in the previous council lodged a return within the prescribed period that failed to detail the principal objects of a company in which he had an interest, as required in part E.

It appears necessary for councillors to further acquaint themselves with the precise obligations imposed by section 449 and the Regulations. (*See Recommendation 2.8*)

The general manager, senior staff and other persons who fall into the classification of “designated persons”, are also required to lodge returns. The review team examined a number of staff returns, chosen at random.

One member of the staff had failed to complete particulars of real estate owned. Otherwise, the returns appeared to be in order.

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

It is important that councillors and staff who are identified as designated persons complete the pecuniary interest returns accurately and in a timely way. Council advises that the information provided in the department’s circular 04/16: Pecuniary Interest Returns is provided to staff and councillors to assist them in completing their returns. Council should reinforce the need to use this and other relevant information when requesting that councillors and designated persons provide pecuniary interest returns. (*See Recommendation 2.9*)

#### *Delegation of council functions*

The delegation of council’s powers to staff 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 regularly reviewed to ensure they remain current.

We inspected a number of the instruments of delegation issued to staff and were told that delegations were:

- Position based
- Broken up into the different sections of the council

- Given to all staff
- Financially limited to the needs of the particular staff position. Financial limits are currently manually checked – although this will occur automatically with the adoption of the new IT system
- Updated every 2 years
- Signed by the general manager and the member of staff
- Subject to 4 levels of scrutiny

Signed copies are kept on the individual's human resources file.

The form of the delegations are clear and concise – they set out the powers and the functions with clarity indicating the nature and extent of the various functions that have been delegated,

- by reference to the particular Act the functions are derived from, and
- where expenditure is involved, the amount that may be involved.

They remind the delegate that the functions should be exercised in “*a courteous, non bureaucratic manner*”. The delegations all remain in force for 2 years, expiring on 1 October 2006.

Previous delegations were provided that had been drawn to expire on 31 July 2004. Earlier delegations were also provided; these expired on 31 July 2002.

As all the current delegations reviewed were sent out after 31 July 2004, we assume that the previous delegations had expired some time before the new delegations were granted. Accordingly there may have been a period when the council transacted its business without its delegations in place.

There are benefits in limiting the period of delegations, as it may ensure continuing review. However, council practices must ensure that fresh delegations are in place prior to the expiration of the existing delegations.



Additionally, the review process indicated that one member of staff had failed to provide a response, acknowledging that they had “*read and received*” the delegation. The person’s acknowledgement was subsequently provided and appears to have been obtained in response to the team’s request for a copy of the delegation, suggesting a failure to take follow-up action where an acknowledgement had not been received. (*Recommendation 2.10*)

### *Risk Management*

A risk management plan provides council with a framework to proactively identify and manage generic and specific risks so that ethical behaviour and practice can be promoted.

While the council has not adopted a risk management plan, it has adopted a number of strategies support risk management and internal control, including an internal audit program and appointment of an internal audit committee.

Importantly, council does not have an overall plan to guide its risk management activities. There is no systematic scrutiny or assessment of council’s operations, systems and performance, including purchasing, the disposal of assets or tendering. Council should develop an overarching risk management plan and should regularly carry out risk assessments in its key areas of activity. (*See Recommendation 2.11*)

The council has put in place a number of policies and procedures for purchase and disposal of assets, (dealt with separately in this report), however, it has not adopted a number of strategies and/or policies that would provide greater control, or that would provide an indication that identify potential risks. These include:

- The adoption of a risk management plan
- A fraud control policy and/or strategy

While staff were emphatic that council’s processes were sufficiently robust, it was interesting to note that the council had not undertaken a risk analysis of its

procurement practices in the last 2 years. This is a key area of risk that requires regular review.

Council should consider implementing a risk management plan and a fraud control policy or strategy. (See *Recommendation 2.12*)

Additionally, the council should undertake a risk analysis of its procurement practices. (See *Recommendation 2.13*)

### *Legislative Compliance*

The council has not adopted a system for reporting of legislative or regulatory non-compliance. A fundamental principle of good public administration is that public officials comply with both the letter and spirit of applicable law (be it statutory or common law). No public official has an unfettered power or discretion.

To facilitate compliance with legal requirements, council should ensure that:

1. Management commitment to compliance is clear and unequivocal;
2. The legal requirements which apply to each activity for which they are responsible are identified (including updates reflecting changes to the law) and documented (preferably in detailed, but as a minimum by reference to relevant provisions);
3. All staff are kept fully informed, briefed and/or trained about the key legal requirements relevant to their work;
4. Staff are made aware of the potential repercussions of non-compliance with legal requirements that apply to them, and
5. Record keeping systems and practices that capture evidence of compliance and non-compliance are in place.

Essentially there are two areas that a policy on legislative compliance could cover. The first is in regard to implementation. When legislation changes, council should have a system in place to ensure that, where necessary, steps are taken to ensure that it complies with the legislation.

The second area is in regard to a review process. Council should review its current processes to ensure that that it is complying with legislative requirements.

This aspect could be incorporated with an internal audit function, where periodic examinations are conducted into key operational areas. Council should develop and adopt a policy supporting legislative compliance. (See *Recommendation 2.14*)

## 4.2 Planning & 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 strategic planning processes*
- *Section 94 plans*
- *Environmental management*
- *Enforcement practices*
- *Cultural planning*

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

#### *Strategic Planning*

The Shire is one of the fastest growing areas in New South Wales. The population growth has been sustained over the last 15 years with approximately 750 new residential lots subdivided each year.

The council is therefore experienced in planning for and meeting the growth and, in turn facilitating the release of the new residential lots that are required. Importantly, it has benefited from an overall plan for new release areas adopted in 1988. This plan has set and continues to dictate those areas to be released for future urban growth. Council staff emphasised the value and the importance of this plan. The overall plan is a concept plan, with council undertaking review, assessment and planning of new release areas as they become available.

Council's Social Plan records the impact of this population growth and the consequent demands placed on the council. It indicates the impacts include high

unemployment, significant numbers of families with income of below \$35,000 per annum and a high proportion of residents travelling outside the central coast for work.

Council's Management Plan highlights other problems, including a significant backlog of council and government services, a range of social problems and a lack of local employment opportunities.

Land in the new release areas is predominately privately owned. Subdivisions in areas outside those in the strategic plan are dealt with on their individual merits.

The growth requires that the new release areas be serviced by appropriate infrastructure, including, water, sewerage, drainage, transport and the like. Council undertakes overall planning for such areas and more intensive planning as they become ripe for subdivision.

In order to undertake these tasks the council operates a strategic planning unit. A vision document is being prepared that is looking 25 years into the future. The document was described as much broader than a land use plan, establishing an umbrella for the direction that the shire intends to take.

The council currently maintains a land bank of about 6,000 residential lots, sufficient to meet 8 year's need. The council utilises a 2(e) zoning to facilitate higher densities.

Having interviewed a number of staff from the strategic planning unit, it is clear that the council has taken and continues to take an active role in planning to meet the future residential needs of the shire.

#### *Provision of infrastructure – Section 94 Plans*

Council's 2002 Community Plan recognised the need for additional funding to overcome weaknesses in the provision of infrastructure. Council's section 94 background paper (June 2000) recognised that the majority of council's existing

facilities had been developed as a preliminary response to an urgent need for some basic facilities.

The council levies developers under section 94 plans. The rate of development of “green fields” areas requires both planning for and the provision of infrastructure facilities. This is important, as the council is also the shire’s water provider.

Staff acknowledged that the council was always behind on section 94 contributions, due to the delay between the provision of the services and the recovery of contributions from developers. The council assigned increases in the value of property as the primary reason for being caught out.

In order to overcome this problem the council has adopted a number of strategies, including:

- regular review of the section 94 plans (18 months – 2 years),
- adopting forward land values in the to reflect the land value when the property would be obtained
- quarterly adjustment of contributions in accordance with CPI

Staff complained that council’s ability to recover costs under developer servicing plans is limited by IPART regulatory requirements, which permit only 85% to be recovered, giving rise to an annual shortfall of \$1m. Ratepayers meet the difference.

The council conducts regular reviews to test budget costs against actual costs.

#### *Council’s Water Supply and Sewerage Business*

The council provides water supply and sewerage services for its residents and ratepayers. These services are operated as a separate business. The council and its co-supplier, Gosford City Council, are each designated as Water Supply Authorities under the Water Management Act 2000. Strategies for forward planning, construction and maintenance of infrastructure, as well as demand management and costing falls under the responsibility of Gosford-Wyong Councils’ Water Authority.

While this may strictly be a separate entity, the council retains an overriding responsibility to ensure that the Authority is able to meet the community's requirements.

It advised that it had implemented all of the following strategies for its water supply and sewerage business:

- adopting a strategic business plan,
- pricing with full cost-recovery, without significant cross subsidies
- imposing complying charges for residential and non-residential
- adopting a demand management strategy
- adopting a drought management plan
- adopting an integrated water cycle management strategy
- imposing complying trade waste charges
- adopting a Development Services Plan with commercial developer charges
- liquid trade waste approvals and policy
- completing its performance reporting form by 31 October

This suggests that the council is endeavouring to meet its responsibilities associated with the operation of its water supply and sewerage business.

### *Companion Animals*

Council has adopted a companion animal management plan, which is recognised as good practice. Such a plan provides council with an opportunity to identify the future direction of these services and strategies to meet the challenges faced in providing these services.

Additionally, the council runs community education programs, has in place strategies to reduce euthanasia rates, proactively pursues registrations, provides micro-chipping services and provides a range of services designed to meet its obligations under the Companion Animals Act.

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

At the time of the review, the region had been suffering from a prolonged drought. At that time newspapers were reporting that the council was considering alternative sources of potable water, including desalination. During the review the council indicated it preferred to purchase water from the Hunter region. It was exploring other potential sources.

It is clear that the future population growth will place further strains on the water supply. The council has advised that the water supply scheme is being developed in stages to meet the increasing arising from population and commercial growth.

The council has also advised that it is undertaking long term modelling and is currently undertaking a major review of options including reduced usage, effluent re-use, further extractions from river flows, the use of groundwater and desalination as a basis for consideration of its long term options.

While the council requires that all new houses pipe roof water into water tanks, these facilities are not likely to overcome the water supply problems already apparent. Council needs to resolve water supply issues at the earliest possible time. (See *Recommendation 2.15*)

#### *Enforcement practices*

Council indicated that it has a separate system for reporting and investigating reports of non-compliance or unauthorised development and provides information to the public on how to report suspected non-compliance and unauthorised development. Council also advised that it had not adopted an enforcement and prosecutions policy or a local orders policy under section 159 of the Act, suggesting that where Council receives notification of non-compliance it is investigated.

It is important that councils are seen to respond appropriately where allegations of non-compliance or unauthorised development are raised and that council's response is not arbitrary. The council should adopt an enforcement and prosecutions policy and a local orders policy. (See *Recommendation 2.16*)



### 4.3 Asset & Financial Management

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

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

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

#### *Overview of financial position*

Council has made operating surpluses (before capital items) for three of the past five years. In the other years the council sustained minor deficits. The surplus before capital items for 2003/04 was \$12 million and, after allowing for capital items, \$41.8 million. The unrestricted current ratio for council as at 30 June 2004 was 1.92:1. This indicator is a measure of council's ability to meet its current financial obligations. A ratio of 1.5:1 is considered satisfactory: a ratio of 2:1 or better is generally viewed by the industry as good. Council should work on improving this ratio. (See *Recommendation 2.17*)

Council's debt service ratio for 2003/04 was 9.94%, showing a general reduction over the last 4 years and a marked reduction from a level of 22.75% in 1999/2000. This indicator assesses the degree to which revenues from ordinary activities are committed to the repayment of debt. There is no set benchmark for the debt service ratio given debt is influenced by a range of factors including the level of growth in a local government area. The use of loan funds for infrastructure improvements and other capital purposes is considered to be a prudent financial strategy, particularly in an area such as Wyong.

The rates and annual charges outstanding percentage assesses the effectiveness of a council's revenue collection. The percentage of rates and annual that are unpaid at the end of the year is a measure of how well a council is managing debt recovery.

The council advises that it has an active credit management program that provides follow up of each rates instalment through reminder notices, final notice or the threat of legal action.

For the financial years 1999/00 to 2002/03 council had an outstanding rates and annual charges percentage ranging between 6.94% and 8.41%. The council has advised that its current percentage is 6.32%.

Council has not applied for a special variation to rates in the past 5 years.

The comparative information provided by the department indicates that the council has a slightly lower than average residential rates than other councils within the same grouping as the council. Average rates were \$598.73 compared to the group average of \$617.83. Council levies significantly lower rates for farmland and business categories in the group. Average farmland rates were slightly lower than the group average and similarly, average business rates were again slightly lower than the average.

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

Council's overall financial position is deemed to be satisfactory. Council has a number of key elements to a good financial planning framework, including long term financial modelling, identifying new/additional revenue streams, and asset maintenance programs and registers. Additionally, the council has undertaken long-term asset planning for its infrastructure by asset class and had updated its plan in June 2004.

Council has a program of quarterly reporting of financial performance against benchmarks, which is satisfactory.

## ***Challenges to improve***

### *Rates hardship policy*

Section 577 of the Local Government Act 1993 allows council to extend concessions to avoid hardship in relation to its rates and charges.

Council does not have a rates hardship policy in place. Given the demographics of the area there appears to be a need for council to consider adopting such a policy. (See *Recommendation 2.18*)

### *Rates and charges outstanding*

While the level outstanding rates and charges is improving, council should implement measures to actively follow up outstanding rates to ensure that this indicator does not increase.

Council should actively follow up outstanding rates to ensure that the level of outstanding rates and charges as a percentage of total income from those sources does not increase. (See *Recommendation 2.19*)

### *Business Activities*

The council operates 5 major commercial businesses, comprising water, sewerage, waste management, child-care and caravan parks services.

Water services are also referred to elsewhere in this report and are an important consideration for council, particularly as there is a need to resolve supply issues for this fundamental service. Importantly, the council has effected a major improvement from the losses previously suffered by this business.

While the council has been able to favourably turnaround its water supply business, its sewerage business has suffered operating losses. Council appears to be providing substantial financial support for its child-care services. At the time that we undertook the review, the council was considering raising its daily child-care

charges. The proposed increase was a contentious issue with many members of the public attending the meeting to oppose any increase.

The demographics of the council area, particularly the significant numbers of residents travelling outside the area for employment make this a difficult issue for the council.

In light of the foregoing, the council should review its involvement in these various businesses, their manner of conduct and its pricing policy to ensure that, given the social and other interests, it obtains an equitable return. (See *Recommendation 2.20*)

#### 4.4 Community & Consultation

A council's charter requires that a council:

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

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

- *Social and community functions of council*
- *Annual reporting*

##### **Overview**

Council has a range of planning tools to assist its community service activities. Council has in place a social and community plan. Council also has a pleasing level of commitment to consultation with social justice groups.

Council conducts community surveys, which include specific feedback on council's performance including its customer service performance. This level of engagement is pleasing, and there is evidence that results are important indicators for council in reviewing and improving its performance.

While the council does not currently have a formal agreement or memorandum of understanding with the local aboriginal community, the council has resolved to prepare a memorandum of understanding.

At the time of the review, council was preparing a cultural plan. The council advises that the draft plan has now been placed on exhibition with a view to its adoption.

##### *Providing Employment Opportunities*

The council has recognised the social issues facing it. It has undertaken a multi-pronged attack on these issues directly through:

- Educational strategies, including providing kindergarten facilities, mentoring programs, attracting the central coast campus of Newcastle University, working with other levels of government, providing community facilities in schools, running a trial homework help facility in its libraries and conducting direct education programs.
- Prioritising development application processing where 10 or more jobs are involved.
- Adopting a development control plan for its industrial estate facilitating a wide class of uses as “*complying development*”.
- Attempting to build on the council’s regional advantages by attracting commercial, agricultural and industrial development specifically benefiting from such advantages.

## 4.5 Workforce Relations

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

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

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

### *Overview of the organisation*

Council had, at the time of the review, a full time equivalent staff of 901. Council's overall staff profile by age and gender is heavily concentrated in the 25 – 54 age band, with a gender spread indicating higher numbers of females in the lower age group and a greater concentration of males in the older age bands. A total of 40% of council staff are female.

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

#### *Human Resources Framework*

Council appears to have a solid policy framework across its human resources area, including a human resources policy/procedure manual, a documented recruitment and selection policy. All positions have written job descriptions. Council has a documented salary system. Council appears to have an active consultative committee.

Council appears to have a well-developed OH&S policy and procedural framework. Council has a practice of conducting systematic OH&S risk assessments and has adopted triggers for the development of such assessments. The council does not, however, currently monitor and/or report on the number and resolution of employee grievances, and should do so in the future. (Recommendation 2.21).

Council has recognised the need to ensure that skilled staff are not lost through maternity and other issues. It has made provision for some staff in its complaints section to work from home. Additionally, we were advised that the council rotates staff through different divisions.

Council has also recognised the need to foster local employment through various programs undertaken by it.

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

#### *Human Resources Strategy*

Like many other councils, Wyong is exposed to a number of workforce issues, such as:

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

Council needs to consider a long-term workforce plan that looks at the staffing needs of each section of council and allocates staff according to workload and priorities.

The long-term plan should also address the issues of:

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



Council advised in its response to the checklists of council practices that it does not currently have a separate human resources strategy or plan. Such a strategy is a key part of effective modern strategic management. Its importance is underlined by the requirement to report annually in the management plan on council's human resource activities (section 403(2)).

A human resources strategy can integrate and guide council's overall human resources effort, particularly in the areas of recruitment and retention and staff training and development. A strategy of this kind may exist alone or be integrated into other council strategic documents. This is to ensure that, consistent with the council's view on the future direction of the organisation, planning is underway to support that direction at the human resources level. (*See Recommendation 2.22*)