

improvement

good governance

capacity building

# Promoting Better Practice Program

## REVIEW REPORT

### CENTRAL DARLING SHIRE COUNCIL

JANUARY 2011



**Division of Local Government**  
Department of Premier and Cabinet

## TABLE OF CONTENTS

<b>EXECUTIVE SUMMARY .....</b>	<b>3</b>
<b>CHIEF EXECUTIVE’S COMMENT .....</b>	<b>6</b>
<b>1 ABOUT THE REVIEW .....</b>	<b>7</b>
<b>2 ABOUT THE COUNCIL AND THE AREA .....</b>	<b>9</b>
<b>3 RECOMMENDATIONS.....</b>	<b>14</b>
<b>4 COUNCIL’S STRATEGIC POSITION.....</b>	<b>19</b>
<b>5 DELIVERING AND ACHIEVING.....</b>	<b>23</b>
5.1 GOVERNANCE .....	23
5.2 PLANNING & OTHER REGULATORY FUNCTIONS .....	34
5.3 ASSET & FINANCIAL MANAGEMENT .....	40
5.4 COMMUNITY & CONSULTATION .....	49
5.5 WORKFORCE RELATIONS .....	54
5.6 ACTION PLAN .....	58

## **EXECUTIVE SUMMARY**

The recommendations contained in this report and the lack of good practice in the organisation could be viewed as poor performance on the part of the Council.

However, the recommendations and commentary in this report should not be viewed alone; but rather, they should be seen in the overall context in which the Council operates.

It is the review team's view that a combination of the remoteness of the Shire, its size, its financial uncertainties and its limited ability to meet both internal and external expectations has weighed heavily on the Council to such an extent that its focus is narrow.

This constriction is evidenced by its belief that its endemic problems may be overcome by the provision of facilities comprising a creative arts centre, a business hub, a residential precinct and a housing display village in Wilcannia, an interpretive centre in Menindee and a heritage program on the social history of the Darling River communities with associated training for the local youth. While these projects may provide short term and some longer term employment, they are unlikely to provide the impetus to meet the issues confronted by the Council in the longer term.

The Council has, but currently fails to draw on, a relationship with Ryde City Council.

In its current form, it is the review team's view that in the longer term Council will find it increasingly difficult to provide the services and facilities expected of a contemporary council.

The Council has and continues to face ongoing financial uncertainty, principally deriving from its meagre rate income. While the Council has typically received substantial grants, uncertainties regarding the amount that may be provided in grants, especially when many grants are tied to works, may not provide adequate security for strategic and financial planning over the longer term.

The community does not appear to have high expectations for the provision of services and facilities by the Council. Councillors, staff and residents with whom the review team spoke do not expect major projects, but many expressed concerns that

the Council provided few services and that it had no ongoing vision for the towns in its area.

Infrastructure provided by the Council is both meagre and poor. Council's focus is chiefly on road construction, the majority of which is for the RTA. Such works should not be the only core function of a council.

The Council needs to confront the issues facing it, to develop a strategic focus and enjoin its community in a vision for its area.

In order to do so, the Council must both review and change its direction as a corporate body and take steps aimed at obtaining recognition that it requires a greater level of financial certainty in the support provided for it.

It is the review team's opinion that external assistance should be sought by the Council, both through its relationship with Ryde City Council, the LGSA and LGMA, and through a mentoring process. Additionally, the Council should consider entering into arrangements, possibly with Broken Hill City Council, Ryde City Council and/or Hay Shire Council (in relationship to services for the Ivanhoe community), for the sharing of resources.

Regrettably, the Council's financial structure provides limited opportunity, in the absence of external funding, for the retention of independent professional or consultative assistance.

Council's current focus on lobbying for funding of specific projects should be abandoned in favour of a strategic approach to long term goals and long term funding to secure those goals.

While these concerns may be at a higher level, the Council also fails to come to grips with a need to perform at a reasonable standard. Council's replies to the checklist record a continuum of failures to adopt or to implement strategies that ensure good governance. Perhaps most importantly, the Council fails to recognise the need to ensure that its business risks are assessed and monitored.

Presently, the Council does not meet general community expectations and it is questionable whether it currently meets minimum service provision for its community.

## **Suggested Outcomes**

This report, which contains a range of individual recommendations affecting a wide range of Council's operation and activities, must ultimately conclude that the overall poor performance cannot be simply dealt with by securing the adoption and implementation of the recommendations alone.

Even if viewed alone, the financial and governance issues affecting the Council are such that the Council is unlikely to overcome them without external assistance. The additional issues raised in this report strengthen this view.

The financial capacity of the Council does not allow it to "buy in" the levels of expert advice that appear to be needed.

There are a number of options that may be explored, including:

- seeking funding through the Rural-Remote and Indigenous Local Government program, which provides a national strategy to address special capacity-building needs of small rural-remote and indigenous local governments
- seeking funding under the Remote Service Delivery National Partnership Agreement. In this regard, it is understood that part of the Council area falls within one of the recognised locations within NSW, as part of the Murdi Paaki region in western NSW
- a stronger relationship with adjoining councils, including Broken Hill and Hay and under its existing relationship with Ryde City Council
- the appointment of 1 or more persons to undertake a mentoring role.

All options should be explored to ensure that the local community is better served by the provision of a higher level of services provided by a council. Council should consider undertaking this work as part of developing its strategic direction for the area.

## **CHIEF EXECUTIVE'S COMMENT**

This review has confirmed the Division's opinion that Central Darling Shire Council is operating at a level well short of what is expected of a contemporary council.

After considering a number of issues raised by the review team, I suspended the review and wrote to the Council expressing my concern that it was unable to give effect to its charter as provided in section 8 of the Act.

My letter also raised concerns regarding financial issues, Council's strategic focus, its compliance with regulatory and other controls, its relationship with its community and staffing and management issues. These issues are repeated in the body of this report.

I asked that the Council provide its response indicating how the various issues might be overcome. I also asked that the Council indicate what external strategies might be adopted to overcome its current difficulties.

In writing to the Council, I emphasised that I was committed to obtaining the best outcome for the Shire's residents.

Council, in its response, did not concede the gravity of the situation and did not indicate strategies that would address my overall concerns.

This report confirms my earlier concerns. It concludes that the overall performance cannot be simply dealt with by securing the adoption and implementation of the recommendations alone. The report recommends that the Council seek external assistance and suggests a number of strategies that might be adopted.

I am deeply concerned that the Council appears to have regressed to a position that it occupied some 20 years ago.

It is now time for the Council to take steps and implement strategies that can take it forward. Accordingly, I require that Council provide advice within 2 months from the date of this report regarding the strategies it will put in place to enable it to obtain the external assistance required to overcome this critical issue.

## **1 ABOUT THE REVIEW**

### **Review objectives**

Promoting Better Practice Reviews have a number of objectives. The objectives include generating momentum for a culture of continuous improvement and the promotion of good governance and ethical conduct. The reviews are designed to act as a "health check", giving confidence about what is being done well and helping to focus attention on key priorities.

### **Review process**

The process involves a review team from the Department of Premier and Cabinet's Division of Local Government (DLG) evaluating the effectiveness and efficiency of the council's operations and giving feedback.

There are essentially five steps in a typical review - preparing, assessing, checking, analysing and reporting. The completion of a comprehensive self assessment checklist by the council is a key element in all PBP reviews.

The review team takes a risk based approach targeting its resources to areas identified as core matters to be examined as part of a PBP review and those matters considered to be important having regard to the circumstances of an individual council. It does not examine every aspect of a council's operations.

All reviews involve checking compliance with a range of statutory requirements, examining appropriate practices and ensuring that the council has frameworks in place to monitor its performance. All reviews seek to identify better and noteworthy practices.

The review team examines local circumstances in order to understand the pressures on the council and how the council has sought to manage that environment.

### **Central Darling Shire Council Review**

Central Darling Shire Council was asked to complete a comprehensive checklist/questionnaire about key Council practices. The review team comprised Senior Investigations Officers Angus Broad and Paul Terrett, who examined these and a range of other source documents prior to visiting Council, in order to gain a

preliminary understanding of the circumstances of Council and how the Council is responding.

The on-site component of the review took place in April 2010. It involved initial interviews with the Mayor and the General Manager, interviews with a cross section of staff, individual meetings with three councillors, a review of Council policies and other documents and visits to Council's main works depot and the towns of Wilcannia, Menindee and White Cliffs.

### **Implementation and monitoring of recommendations of final report**

The overall assessment is that the Council appears to be performing poorly. The review has identified many significant issues that the Council needs to address. In its response to the draft report, the Council failed to indicate its intended actions in implementing the recommendations in this report. While the Council has already implemented some of the recommendations, it must provide both an action plan and indicate the strategies it will put in place to enable it to obtain the external assistance.

Council is asked to indicate the strategies it will put in place to enable it to obtain the external assistance necessary to overcome its core issues within two months.

Council is asked to provide its action plan to implement the recommendations within six months time and will, thereafter, be required to report each six months on its progress towards implementing the outstanding recommendations.

## 2 ABOUT THE COUNCIL AND THE AREA

Central Darling Shire Council has the largest area of any council in NSW and is situated in the western region, bounded on the north, east and south by the Bourke, Cobar, Carrathool, Balranald and Wentworth local government areas. Land to the west of the Shire has not been incorporated into council administered land. With an area in excess of 53,000 square kilometres, the Council's area equates to approximately 85% of the land mass of mainland Tasmania.

Conversely, the Council serves a small population of approximately 2000. The 2006 census provided the following population figures for the main towns:

Wilcannia	596
Menindee	332
Ivanhoe	265
White Cliffs	119

Council's website provides the following snapshot of the economic base of the area:

*... economic activities within the Shire include pastoral, horticultural, agricultural, mining and tourism. Rural grazing properties represent the largest land use within the Shire, accounting for 97% of the entire area.*

The major towns within the Shire, other than White Cliffs, have significant Indigenous populations, ranging from nearly 1/2 to over 2/3rds of the population. Menindee, White Cliffs and Wilcannia have high unemployment levels of about 20% in both Menindee and White Cliffs and slightly over 10% in Wilcannia. Overall, family income levels within the Council area are just over 1/2 of the national average.

The Shire and its residents face significant local and regional issues, including:

- remoteness from major population centres
- low population density
- a low rate income
- a dependence on grants
- high levels of unemployment, lack of employment opportunities and limited educational opportunities

- susceptibility to financial pressure resulting from natural disasters
- limited ability to attract skilled and experienced staff
- a limited economic base
- a high susceptibility to climatic and adverse weather events
- pressure to meet specific needs generated by low income levels, high unemployment and housing shortages
- a declining and ageing population
- high maintenance costs, particularly affecting road infrastructure
- a low capacity to fund local infrastructure
- a generally poor local road infrastructure, other than the Barrier Highway, the White Cliffs Road and the Menindee Road.

The Council area is divided into three wards with three councillors being elected from each ward. While perhaps not an intended consequence of the ward boundaries, this has resulted in the election of three councillors from Wilcannia and its surrounds, three councillors from Menindee, one councillor from White Cliffs and two councillors from Ivanhoe and its surrounds. The effect is to provide local representation for each of the major towns within the Council area.

The size of the Council area presents challenges for the Council. Menindee is some two hours travel by unsealed road from Wilcannia. At the time of the on-site component of the review, the road was impassable due to damage caused by local flooding and the alternate route via Broken Hill involves nearly four hours travel. Similarly, travel from Wilcannia to Ivanhoe takes approximately two hours. Travel from Wilcannia to Tilpa in the north of the Shire takes approximately two hours. Night travel is not recommended and councillors commonly stay overnight when attending meetings.

Council's administration is based in Wilcannia. The Council operates transaction centres in both Menindee and Ivanhoe, providing limited Council services and facilities to undertake dealings with State and Federal government departments. The Council also operates a transaction centre in Wilcannia which provides banking facilities and a RTA agency, in addition to those provided in the other towns.

The Remote Control Communities report of March 2009 contained the following assessment:

*“The Central Darling Shire suffers a chronic lack of employment opportunities, poor health, low educational attainment, public order and safety issues, lack of transport, housing, communications and lack of access to services.*

*Community members are frustrated by their immersion within a cycle of disadvantage. They would like to see change, because without change they know they will continue to experience severe disadvantage.” (page 5)*

The Council employs 62 full-time equivalent staff, with the majority based in Wilcannia. Some staff operate the transaction centres in Menindee and Ivanhoe and other staff, based in these towns, undertake local works. Engineering staff are also based at White Cliffs.

In 2008 the Council entered into a partnership with Ryde City Council. When interviewed, councillors and staff appeared to undervalue the opportunities that might be available to the Council under the arrangement.

The minutes of the second meeting of the partnership steering committee records that the meeting divided into 5 working parties, comprising:

- Community Development
- Infrastructure
- Environment
- Economic Development, and
- Governance.

Issues that were identified as possible areas of mutual co-operation included:

- Records management
- Procurement
- Human resources
- Councillor support
- Mentoring
- Analysis of assets

- Floodplain management
- Building and safety compliance
- Carbon credits
- Environmental education in schools
- Cultural projects
- Tourism promotion, and
- Staff exchange.

Although the committee established projects that it would focus on in the 2008/2009 year, the subsequent minutes suggest that the implementation of the projects has fallen far short of what was anticipated.

The Council needs to follow up and to build on the initial focus of the arrangement.

Regrettably, the Council's current position has significant parallels to the issues and the concerns in the reports of the 1989 investigation, the 1991 inspection and the 1994 post-implementation review.

Such are the parallels that it appears that the Council, rather than moving forward as might be suggested in the 1994 review, has regressed and remains suborned by its challenges.

The earlier reports had expressed concerns regarding:

- Inability to attract staff
- Remoteness
- Councillor involvement in operational matters
- Lack of community consultation
- Reliance on grants
- Avoidance of financial imposition on ratepayers
- Sustainability
- Lack of long-term financial planning
- High levels of outstanding rates
- Council's management structure
- Lack of provision for employee leave entitlements
- Contracting out engineering services.

Some 20 years on, this report again focuses on these issues.

### 3 RECOMMENDATIONS

As indicated in the Executive Summary, it is the view of the review team that the overall poor performance cannot be simply dealt with by securing the adoption and implementation of the following recommendations alone.

Only through a fundamental change in the direction of the Council and by the implementation of 1 or more of the outcomes listed in the Executive Summary is the Council likely to be able to implement the recommendations within a reasonable time.

#### Recommendations

1.	Council should review and/or develop and adopt those policies referred to in the tables in part 5.1.3 and such other policies that support good governance.
2.	Councillors and senior staff should jointly undertake training with the view of identifying their roles and responsibilities more clearly and in the development of a better understanding of strategic planning and budgetary planning.
3.	Council should review the fraud risks faced by it and to adopt an appropriate fraud prevention strategy and an ongoing program to audit these risks as part of its internal audit function.
4.	Council's fraud control strategies should complement and form part of Council's overall internal audit function.
5.	Council staff undertaking tendering should receive training on tendering.
6.	Council should consider centralising its tendering functions.
7.	Council should subscribe to the LGMA tendering toolbox.
8.	Council should adopt an asset disposal policy.
9.	Council should monitor its disposal of assets through its internal audit function.
10.	Council should take steps to ensure its compliance with the <i>State Records Act 1998</i> .
11.	Council should adopt appropriate records management practices and policies.
12.	Council needs to ensure that it meets its disclosure obligations under the

	<i>Government Information (Public Access) Act 2009.</i>
13.	Council should undertake a review of its Councillor Expenses and Facilities Policy to ensure that it fully complies with the 2009 Guidelines issued by the Division.
14.	Council needs to implement a systematic training program for councillors and individual councillors need to take the necessary steps to obtain a better understanding of their roles.
15.	Due to remoteness, the attendance of councillors at face to face training sessions may be difficult and the Council should explore alternatives to face to face attendance.
16.	Councillors should pursue closer ties with councillors of nearby councils, their region of councils and/or councillors of Ryde City Council with a view to obtaining a wider support group.
17.	Council should draw the attention of staff and designated persons to the particulars to be included in section 449 returns and Council should endorse the date of receipt on each return.
18.	Council's draft Complaints Handling Policy should be reviewed in the light of the Division's and Ombudsman's Guidelines and an appropriate policy adopted.
19.	Staff dealing with complaints should then receive training on the application of and procedures in the policy.
20.	Council should review its current information brochure and take steps to inform its community of the complaint processes available to them.
21.	Council needs to acquire IT packages or to adopt alternative strategies that will assist it to undertake its work in the most efficient manner.
22.	Council should consider whether resource sharing arrangements can be pursued with Ryde City Council and/or Broken Hill City Council, to facilitate reviews pursuant to section 82A of the <i>Environmental Planning and Assessment Act 1979</i> .
23.	Council should consider adopting a policy of fixed development consent levies.
24.	Council needs to ensure that reports on development applications contain sufficient detail as will allow the Council or staff to determine the application under section 79C of the <i>Environmental Planning and Assessment Act 1979</i> .

25.	Reports on development applications should attach draft conditions of consent, whether consent is recommended or not.
26.	Council needs to undertake significant work on its development assessment procedures and should consider whether it should delegate the review and assessment of development applications to another council, such as Broken Hill or Ryde; or whether it should enter into other arrangements.
27.	Council needs to implement programs to ensure compliance with relevant regulatory requirements, particularly those that may affect public safety and health.
28.	Council should develop its State of the Environment report in partnership with other councils in the region and continue to work with catchment management authorities in its area.
29.	Council should ensure that it adopts a companion animals management plan.
30.	Council should review its euthanasia practices to ensure that they comply with relevant legislation.
31.	Council must complete the program to obtain “fair value” valuations for the remainder of its assets.
32.	Council should develop and implement an assets maintenance program.
33.	In light of its remoteness and vulnerability to natural disasters, Council should provide for an unplanned maintenance budget.
34.	Council should apply itself to the task of developing a long term financial plan and resourcing strategy as required by the Integrated Planning and Reporting Framework.
35.	Although Council incurs significant administrative costs in the collection and administration of rates, it needs to ensure that it pursues and maximises its rate income.
36.	Council needs to ensure that it maximises its sources of revenue other than rates.
37.	Council re-consider its stance of classifying all Council-owned land as operational and undertake a review of its holdings to determine what land should be re-classified.
38.	Council should prepare and adopt either a generic or specific plans of management for its community land.

39.	Council must comply with section 411 of the <i>Local Government Act 1993</i> in relation to money and property required to be held in trust.
40.	Council should make provision for employee leave entitlements and set aside at least the amount recommended by the Division.
41.	Council must ensure that it maintains sufficient reserves to meet its debts as they fall due.
42.	Council must adopt policies and employment practices that ensure that its contract management and supervision is carried out in a satisfactory manner.
43.	The review of Council's contract management and supervision processes should be included in Council's internal audit program.
44.	Council should review its community consultation practices.
45.	Council should take the opportunity to consult with its community to ascertain what facilities and services it desires so that it undertakes effective planning in its move to adopt the Integrated Planning and Reporting Framework.
46.	Council should review its economic development priorities and expenditure.
47.	Council needs to take a longer-term view and to determine how it can provide for long term economic growth.
48.	In order to provide services to its community at a reasonable standard it is necessary for the Council to focus on its current staffing weaknesses and to adopt strategies that can overcome these weaknesses in order to reduce the current burden on staff.
49.	Council needs to look at alternatives, such as resource sharing, to overcome the problems of attracting suitably skilled and experienced staff.
50.	As part of the development of its human resources strategy, Council should explore a number of strategies, including job sharing, delegation and/or divesting of core and other functions to or with Ryde City Council and/or Broken Hill City Council.
51.	Council should adopt a succession plan.
52.	Council should provide training to ensure that existing staff can take over the role of more senior staff in managerial and specialist positions.
53.	Council should develop a training plan and budget as required by the Local Government (State) Award.
54.	Council should undertake regular employee surveys and take steps to respond to issues that may be disclosed in such surveys.

55.	Council should withdraw its Senior Staff Selection policy immediately.
56.	Council should consider the designation of staff who are employed on performance based contracts as “senior staff” in order to give effect to the reporting provisions under the section.

## 4 COUNCIL'S STRATEGIC POSITION

This part of the review focussed on Council's strategic intent and how it has involved its communities and other stakeholders in developing long term strategic plans. The review assessed the clarity of Council's strategic direction, whether its plans reflect a shared and realistic vision and its overall approach to corporate planning. Monitoring and reporting progress to promote continuous improvement was also an integral consideration in regard to Council's performance in this area.

A new planning and reporting framework for NSW local government has been introduced to improve local councils' long term community planning and asset management as well as streamline reporting to the community.

The new framework aims to improve the sustainability of local communities by encouraging councils, residents and State agencies to work together on long term plans and appropriate delivery programs. Community strategic plans will be supported by a resourcing strategy which includes a long term financial strategy, asset management plan and workforce strategy. The framework is set out in the following diagram.

**Diagram 1: Proposed planning and reporting framework**



Central Darling Shire Council demonstrates poor strategic planning and a limited view of its role in the local community. Both the elected and corporate bodies express frustration at the current inability of the Council to implement programs and to provide for the community.

Currently, Council appears to be focussed on annual financial survival rather than planning for the longer term. The management plan currently provides limited town budgets, which appear to be little more than the provision of a small budget to provide for some local improvements rather than an ongoing budget to be applied towards a strategically planned program of works.

If the Council is to move away from its current constraints, this approach must fundamentally change.

The Council is in the third group of councils for the implementation of the Integrated Planning and Reporting Framework, which is required by 30 June 2012. The Council will have to undertake significant work in order to be able to achieve this aim.

To its credit, the Council indicates that it has commenced this process and undertaken the initial strategic planning.

A review of Council's other processes, including development of the plans necessary to underpin its resourcing strategy, suggests that considerable work needs to be undertaken.

Council presently demonstrates poor civic leadership, including conflict between councillors and the general manager and an overriding failure of both the elected and corporate bodies to understand their role. Most importantly, the Council has not charted a course for the longer term and is currently transfixed by a limited annual plan.

The root causes of the current position stem from a combination of financial uncertainty, remoteness and an adherence to past processes and practices.

Given Council's poor overall position and particularly a current poor sustainability prognosis, it needs to apply significant resources and significant expertise to this task. It is the review team's view that strategic planning is the most fundamental issue confronting the Council.

In the absence of the development and implementation of a strategic vision and of well developed strategic planning, the Council is unlikely to overcome the other issues that confront it.

All of the evidence available to the review team, whether it is a lack of long-term financial planning, budget blow-outs, the failure to make provision for employee leave entitlements or concerns over failure to pay superannuation contributions, indicates a need to ensure the long-term financial viability of the Council.

Current funding processes do not provide for this. The March 2009 Remote Control Communities report, a research project undertaken by Ms Lee-Anne Drewery who is the Community Services Project Officer for Central Darling Shire Council, encapsulates the problem in the following terms:

*“Funding programs delivered in the Shire should be a minimum three to five years.”*  
(page 4)

In turn, this lack of certainty reflects in both limited community infrastructure development and poorly developed management plans. The absence of a sufficient measure of financial certainty will undermine the adoption of the processes and plans necessary to implement the Integrated Planning and Reporting Framework. This is particularly important as future grant funding may be dependent on implementation of the framework.

Additionally, there is concern that Council does not have the capacity to undertake the required work to implement the Integrated Planning and Reporting Framework. Council could consider reviewing its priorities for the allocation of resources so that funds are allocated to the commencement of the Community Strategic Plan and the community engagement strategy. It may be that Council could call on its sister city relationship with Ryde City Council for assistance with this process.

### ***Council response***

***Council acknowledge that further work needs to be undertaken on Councils Strategic Plan in line with the Integrated Planning and Reporting Framework guidelines and understand that it is an extremely large task to have all necessary documentation ready for implementation.***

***Council is generally accepting of the need for a long term strategic planning and will ensure that all financial activities are kept under close scrutiny to provide for future training needs. Council also recognises the need for detailed financial budgets and analysis in order to further develop future planning.***

## 5 DELIVERING AND ACHIEVING

This part of the review focussed on examining key structures, systems and processes involved in delivering the stated outcomes of Central Darling Shire Council's management plan. This included considering the means by which Council:

- governs its day to day operations
- undertakes its planning and regulatory obligations
- manages its assets and finances
- involves the community, and
- recruits and retains its workforce.

### 5.1 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.

#### 5.1.1 Scope of review

- *Ethics and values*
- *Management planning*
- *Procurement, disposal & tendering*
- *Privacy management*
- *Code of conduct*
- *Communication devices*
- *Disclosure of pecuniary interests*
- *Risk management, legislative compliance & internal control*
- *Council's decision-making processes, including delegations and conduct of meetings*
- *Support for councillors*
- *Records management*
- *Access to information*
- *Complaints handling*
- *Information technology*

### **5.1.2 Overview of Central Darling Shire Council's governance practices**

The Council demonstrates poor management planning, with little contribution from both the corporate and elected bodies. Both bodies effectively abrogate their responsibilities to guide the longer term path of the Council, attributing this failure to each other. Additionally, senior staff appear to have been disenfranchised from the development of the management plan.

### **5.1.3 Policy Development**

The review of Council's policies suggests that there has been little or no review of them. Many are significantly out of date, many are poorly developed or incomplete and many appear to have sat idly for significant periods without being adopted. Other policies, while adopted, appear to be inadequate or poorly conceived. Council has failed to adopt many policies that it would normally have been expected to.

The Council needs to undertake a comprehensive review of all policies.

#### **Recommendation 1**

The table below highlights a number of policies that require specific review.

<b>Policy</b>	<b>Assessment</b>
Asset Management Policy	Draft - Not Developed
Procurement Policy	Only refers to local preference - adopted in 1993
Purchasing Policy	Contains poor controls – query if adopted
DA Notifications Policy	Purports to be in accordance with s.114 of the Act, which deals with approvals for filming; contains a number of other errors – is not really a policy but a pro-forma letter
Disposal of Asbestos Waste	Adopted in 1990 – query if Council's depots are licensed to receive asbestos waste – procedures do not comply with clause 42 of the Protection of the Environment Operations (Waste) Regulation 2005
Secondary Employment	Conflicts with section 353 of the Act, as it imposes further constraints than those contained in the Act –

	adopted in 1993
Outdoor Staff – Procedures for Employment	Provides for preference for local residents. Appears to contravene s. 349 of the Act, which requires that the applicant who has the greatest merit is to be selected.
Removal Expenses	Fails to impose caps on amount of assistance and lacks detail – adopted in 1995
Rental Council Properties	Rental amounts are significantly out of date – adopted 1990, reviewed 1993, apparently not reviewed since
Risk Management Policy	Adopted in 2004 – anticipates the preparation and adoption of procedures – query if ever implemented
Senior Staff Selection	Provides for the involvement of Mayor and at least 1 councillor on the selection panel and provides for Council to make recommendations for appointment to GM - adopted in 1994 - appears to contravene sections 335 and 337 of the Act
Smoking in the Workplace	Appears to have been adopted in 1991 – the <i>Smoke-free Environment Act 2000</i> appears to have rendered it irrelevant
Complaints Handling Policy	Draft only - appears not to have been adopted – appears to have been drafted many years ago
Enforcement Policy	Draft only – appears not to have been adopted
Motor Vehicles – Private use	Adopted 1991, reviewed 1992 and 1993 – appears significantly out of date

A review of the Council's processes suggests that the Council has failed to adopt many policies that would be expected of it; and the table below provides an indication of these:

<b>Governance</b>	
	Fraud Control
	Disposal of Assets
	Records Management
	Councillor/Staff Interaction

<b>Asset and Financial</b>	
	Plant Replacement
	Overdraft Facilities
	Borrowings/Use of Loans
<b>Community and Consultation</b>	
	Ageing Population
	Communication
	Community consultation
<b>Workforce Relations</b>	
	Succession Plan
	Training Plan

#### **5.1.4 Exercise of Functions**

Members of both the elected and corporate bodies expressed concerns regarding the manner in which the other was carrying out its functions. Each expressed concerns that the other was failing to fulfil their roles or that their performance was unsatisfactory.

The particular challenges faced by the Council places even greater importance on the ability of all members of both bodies to undertake their responsibilities and to work conjunctively and constructively towards a common goal.

It is the review team's view that both bodies are currently failing to maximise their potential. To a large extent, this arises from the lack of a clear understanding of their respective roles and a lack of strategic and operational focus.

Councillors and senior staff should jointly undertake training with the view of identifying their roles and responsibilities more clearly and to develop a better understanding of strategic planning and budgetary planning. **Recommendation 2**

#### **5.1.5 Fraud Control**

The Council is in the throes of developing an internal audit process and had called for expressions of interest for membership of its committee and for persons or companies to carry out the functions of internal auditor.

At the time of the review, Council was dealing with the apparent theft of a motor vehicle and other equipment installed in the vehicle, by a former member of staff. At Menindee and Wilcannia, the review team was able to obtain direct access to the Council works depots and was able to drive in and around the Menindee depot without being challenged.

A review of Council's fraud prevention procedures, including inadequate auditing of fuel cards, suggests that the Council fails to place sufficient emphasis on fraud control.

The Council needs to review the fraud and security risks faced by it and adopt appropriate prevention strategies and an ongoing program to audit these risks as part of its internal audit function. **Recommendation 3**

The Council is currently developing an internal audit function. It is anticipated that Council's overall fraud control strategies will complement and form part of the internal audit program. **Recommendation 4**

#### **5.1.6 Tendering**

As part of the on-site component of the review, a number of tenders sought by the Council were reviewed. As might be expected with a small number of staff, the Council does not have a dedicated member or members of staff responsible for tendering for the whole of the Council. Rather, staff in various branches undertake tendering processes. For example, tendering for restoration works associated with the Wilcannia Post Office and the Council administration building was undertaken by the Environmental Services Division and tenders for roadwork by the Engineering Division.

A review of 2 tenders undertaken by the Environmental Services Division suggested a poor understanding of tendering processes and of poor planning.

A review of tenders undertaken by the Engineering Division suggested a greater understanding of the process. Notwithstanding this, the review team expresses significant concerns regarding the processes of awarding a contract for the construction of a bridge to a tenderer that had, when tenders closed, only indicated an overall cost. Despite having failed to provide all other information, including concept design drawings, the tender was adjudged to have both the highest

technical and weighted scores. A review of the file also suggested that another non-complying tender was also considered and assessed.

Other tender files demonstrated poor record keeping processes.

Council staff undertaking tendering should receive training on tendering and the Council should consider whether it centralises its tendering functions. The Council should also consider whether it should subscribe to the LGMA tendering toolbox.

### ***Recommendations 5, 6 & 7***

#### ***5.1.7 Disposal of Assets***

The Council has not adopted policies relating to the disposal of assets nor does it have processes for monitoring and auditing the disposal of assets. Council had not undertaken a risk assessment of its disposal practices in the 2 years prior to the review.

The failure to both adopt a disposal policy and to monitor disposal of assets represents a significant fraud risk, the extent of which is currently unknown. Council should take steps to deal with these issues. ***Recommendations 8 & 9***

#### ***5.1.8 Records Management***

The Council keeps its records off-site in what appears to be little more than a disused shipping container. Staff were unwilling to provide access to the facility, acknowledging that the records were poorly kept. The Council does not have a records management policy, records management procedures or a records disposal plan.

A review of the checklist answers provided by the Council also suggests that it may not be complying with the provisions of the *State Records Act 1998*.

Council should take steps to ensure its compliance with the *State Records Act 1998*, to adopt appropriate records management practices and policies.

### ***Recommendations 10 & 11***

Council also needs to take positive actions to meet its disclosure obligations under the *Government Information (Public Access) Act 2009*. ***Recommendation 12***

### **5.1.9 Councillor Expenses and Facilities Policy**

Central Darling Shire Council's previous Councillor Expenses and Facilities Policy was rated as a 'Very Poor' policy and did not comply with the Act, Regulations and the DLG Guidelines on which it is based. Aspects that do not comply are failure to make provision for many expenses (insurance, legal, child care, communication) or for any facilities.

An earlier policy was reviewed in 2007 and was also rated as 'very poor' then.

The 2010-11 policy has been reviewed. Unlike previous policies, it was submitted to the Division in a timely manner. It is not clear from the documents received by the Division whether or not the policy was placed on public exhibition and submissions considered as required by the Act.

The policy contains aspects of good practice, including, that the policy clearly articulates local arrangements to allow councillors to travel long distances to attend council meetings that are appropriate.

However, the policy still has several important deficiencies that need to be addressed. In particular it lacks clear limits for almost all expenses and facilities; but contains a generic constraint that they be 'reasonable'. While there are some exceptions, including reimbursement for use of private vehicles and that the minimum standard for accommodation, the policy fails to state clear monetary limits or limits on the standard of provision for all expenses and facilities.

The policy also lacks statements disallowing general expense allowances, significant private benefit from council facilities and use of any expenses and facilities for political purposes. Additionally, the policy lacks a statement that any gifts and benefits provided by councillors to visitors should be of token value only.

Further, the policy appears to mistake its role, as the policy now includes detailed provisions about councillor fees. Councillor fees are neither determined by reference to section 252 nor affected by it.

Aside from the need for limits, all of the above deficiencies may be addressed by Council by adding simple, single sentence statements. **Recommendation 13**

### **5.1.10 Councillor Training**

Council does not have a structured training program for induction or development of councillors.

Councillors and staff interviewed by the review team raised concerns over training provided to councillors. Both groups acknowledged that there were weaknesses in councillor knowledge and both agreed that there should be more opportunities provided to councillors to improve their skills. Members of staff were concerned that opportunities provided to councillors were not taken up.

These responses were somewhat surprising as:

- representatives of the Division attended Council and provided face to face training, and
- the minutes of the Ryde City Council partnership committee dated 26 November 2009 record that Ryde City Council's councillor induction kits had been provided to and utilised by Central Darling Shire Council.

Overall, some training appears to have been provided to councillors, although some, for example on privacy legislation, dates back to 2001.

The Council needs to implement a systematic training program for councillors and individual councillors need to take the necessary steps to obtain a better understanding of their roles and functions. **Recommendation 14**

Due to remoteness, the attendance of councillors at face to face sessions may be difficult and the Council should explore alternatives to face to face attendance.

#### **Recommendation 15**

Councillors should pursue closer ties with councillors of nearby councils, their region of councils and/or councillors of Ryde City Council with a view to obtaining a wider support group. **Recommendation 16**

### **5.1.11 Pecuniary Interest Disclosure**

A number of the section 449 written returns of interests lodged by the councillors were not lodged within the statutory timeframe, ie, by 30 September 2009. Certain details, such as property descriptions, appeared to be inadequate and unnecessary

declarations of debts to banks were provided. The date of receipt by the Council had not been endorsed on any return. **Recommendation 17**

#### **5.1.12 Complaints Handling**

Council's draft Complaints Handling Policy appears to have been prepared many years ago. It has never been adopted.

The draft policy should be reviewed in light of the Division's and Ombudsman's Guidelines and an appropriate policy adopted.

Staff dealing with complaints should then receive training on the application of and procedures in the policy. **Recommendations 18 & 19**

Council should review its current information brochure and take steps to inform its community of the complaint processes available to them. **Recommendation 20**

#### **5.1.13 Information Technology**

Council currently operates 3 business systems. Council's Manager Technical and Engineering Services indicated that the IT and GIS packages were poor and that the GIS package was not suitable for engineering works. It is noted that Council proposes to update its CAD software packages as part of its integrated water management plan.

Council currently utilised Windows 2003, which is considered to be significantly out of date.

At the time of the review, Council was in the throes of appointing a new member of staff to look after its IT needs.

Council has prepared a draft IT strategy for the next 5 years. The strategy recognises the weaknesses in the operating systems and the need for new hardware. The strategy recognises that the Council will need to pay a minimum of \$100,000 for a new enterprise system.

The Council needs to acquire IT packages or to adopt alternative strategies that will assist it to undertake its work in the most efficient manner. **Recommendation 21**

***Council's response***

- 1. Council accepts overall the comments of the reviewers.***
- 2. Remote Service Delivery applies only to Wilcannia.***
- 3. Travel time Wilcannia to Tilpa is 2 hours not 5 as indicated.***
- 4. Wilcannia Customer Service Centre also operates a RTA Agency out of this facility.***
- 5. There are engineering staff also based in White Cliffs.***
- 6. Council acknowledges that many of the current policies are outdated and in need of review and will ensure that the policies listed in the review report are to be focused on in 2011.***
- 7. Council has long identified a need to review its record management systems and will shortly be analysing the State Records Act 1998 to ensure that Council begin to comply with this.***
- 8. Since the conduct of the review, in relation to the Councillor Expenses and Facilities Policy, Council provided the Department with an updated version in July 2010 as a result of the adoption of this policy by Council on the 29th June 2010.***
- 9. It should be noted in relation to 5.1.13, Council does not employ a Director of Engineering Services, this position since October 2009 has been known as the Manager Technical and Engineering Services.***
- 10. In reference to the poor GIS packages currently utilised by Council, Council has recently been approved funding for the Integrated Water Management Plan which includes a component for water and sewer asset management upgrades. This involves the purchase of GPS surveying equipment, CivilCAD and AutoCAD software packages, this will greatly benefit the Council in all aspects of infrastructure asset management, plan production and electronic data recording.***

***Reviewers' comments:***

*Council's comments have been noted and the Report has been amended to incorporate the comments in 3, 4, 5, 9 & 10.*

*The Councillor Expenses and Facilities Policy referred to in item 8 has been reviewed and the Report now comments on the most recent policy.*

## **5.2 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.

### **5.2.1 Scope of review**

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

- *Council's planning instruments and policies*
- *Development assessment*
- *Section 94 plans*
- *Companion animals*
- *Environmental management*
- *Compliance and enforcement practices*
- *Swimming pools*

### **5.2.2 Overview of land use planning, development assessment and regulatory practices**

The Council does not receive a significant number of development applications. Between 30 and 40 are processed annually, of which most are predominantly of a domestic nature.

The Council has a small number of staff in its Environmental Services Division and at the time of the on-site component of the review, there was one vacant position. The limited number of staff has meant that the Council does not presently have the capacity to independently undertake reviews under section 82A of the Environmental Planning and Assessment Act 1979 (EP&A Act). While the Council recognises that such reviews can be delegated to a consultant planner, the Council should consider whether resource sharing arrangements can be pursued with Ryde City Council and/or Broken Hill City Council, to facilitate reviews pursuant to section 82A of the EP&A Act. **Recommendation 22**

The Council was in the process of amending its local environmental plan to incorporate provision of the underground dwellings at White Cliffs and the provision of the existing permissive occupancies to leasehold and, in turn, freehold title.

The Council is currently working in conjunction with Bourke and Brewarrina Councils to develop its new local environmental plan in accordance with the “model” plan and is preparing the draft plan.

The Council has no adopted development control plans and proposes to utilise State Environment Planning Policy No. 60 for exempt and complying development.

The Council has not adopted a contributions plan, nor has it adopted fixed development consent levies. Accordingly, it does not levy any contributions on developments that are likely to make demands on existing public amenities and public services within the area or for other public amenities and public services within the area. Council suggests that the costs of administering a section 94 plan outweigh the benefits that might otherwise be gained. Given Council’s poor financial position, the Council should consider adopting a policy of fixed development consent levies.

***Recommendation 23***

The Council has adopted a policy of placing development applications before Council for determination where the development is contentious, ie, where there are three or more objections received. A number of reports on development applications were reviewed. They were found to be exceptionally poor.

The reports failed to provide assessment of or advice to councillors on many issues required to be considered under s.79C of the EP&A Act. The draft conditions of consent were not included in the report, with the imposition of consent conditions being left to Council staff. This approach could have affected the validity of the consents. In light of the importance of this issue, advice was immediately provided to staff. The Council has responded to these concerns and the Council will be utilising report templates provided by Ryde City Council. ***Recommendations 24 & 25***

Council has indicated that it has not evaluated its development assessment process in the last two years.

Issues such as those noted above suggest that the Council needs to undertake significant work on its development assessment procedures and should consider whether it should delegate the review and assessment of development applications to another council, such as Broken Hill or Ryde, or whether it should enter into other arrangements that will ensure that it overcomes its current problems. Given its current difficulties in attracting suitably qualified and experienced staff, its poor overall financial situation and the limited number of applications that it processes, this approach appears preferable to the appointment of further staff.

***Recommendation 26***

**5.2.3 Monitoring Compliance**

Council provides water to Wilcannia, Ivanhoe and White Cliffs, although the supply to White Cliffs is not potable. All towns within the Shire, other than Wilcannia, rely on on-site sewerage management systems.

While the Council indicates that it has a proactive program for monitoring compliance with environmental requirements for which it has regulatory responsibility, apart from regular water sampling and annual food premises inspections, it does not:

- have a system for investigating reports of non-compliance or unauthorised development
- have a strategy to ensure the safe operation of on-site sewerage systems through an inspection and monitoring program to ensure that on-site sewage systems are operating properly and that they are regularly inspected
- monitor other regulatory compliance.

Perhaps not surprisingly, the Council advised that no penalty infringement notices relating to regulatory control had been issued.

The Council needs to implement programs to ensure compliance with relevant regulatory requirements, particularly those that may affect public safety and health.

***Recommendation 27***

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

The review of Council's State of the Environment Report has identified problems that should be addressed when the Council moves to adopt the Integrated Planning and Reporting Framework.

The Integrated Planning and Reporting Manual and Guidelines detail how Council should consider consulting with the community during the Community Strategic Plan process in the context of the state of the environment. The State of the Environment Report is now due once every four years. This should provide opportunity for Council to monitor and report on the environmental objectives in the Community Strategic Plan.

The current State of the Environment Report lacks evidence that the Council has used the Division's Guidelines. The current report fails to meet the minimum requirements.

Council should consider developing its State of the Environment Report in partnership with other councils in its region and continue to work with catchment management authorities in its area. Environmental monitoring and reporting is more useful when done at a regional and/or catchment level. State of the environment reporting at a regional and/or catchment level provides opportunities to draw from a wider range of data, to form memoranda of understanding or data sharing arrangements, and to develop shared arrangements for environmental monitoring with State agencies and other organisations to achieve efficiencies and lead to more consistent environmental monitoring and reporting across NSW. ***Recommendation***

**28**

#### ***5.2.4 Companion animals***

Issues surrounding companion animals occur within the Shire. Council employs one ranger who has responsibility for companion animals.

While the Council facilitates de-sexing and microchipping clinics, it does not have a companion animals management plan. Discussions with Council's ranger suggest that euthanasia practices may need to be reviewed to ensure that they are in compliance with relevant legislation.

Council should ensure that it adopts a companion animals management plan. The Council is referred to the Division's guide of July 2001 to preparing such plans.

**Recommendation 29**

Council should review its euthanasia practices to ensure that they comply with relevant legislation. **Recommendation 30**

**Council's response**

- 1. Council has a small Environmental Services team, and any section 82A reviews would be required to be undertaken by a person not involved in the initial assessment and determination. Council has not received any requests under section 82A of the Environmental Planning & Assessment Act 1979 and have recognised that the request can be delegated to a consultant planner at that time.**
- 2. At the time of the review, three staff members were in the process of obtaining the required certification. Currently these staff members are accredited under the Building Professionals Board as A1 – Accredited Certifier – Building Surveying Grade 1, A3 – Accredited Certifier – Building Surveying Grade 3 and A4 – Accredited Certifier – Building Inspector. The Manager Environmental Services is one of these staff members. Council has sufficiently qualified staff to check and advise on certificates.**
- 3. Council was previously providing poor assessment and/or advice to Councillors on many issues required to be considered under s.79C of the EP&A Act. Upon advice provided from the Senior Investigator, Council have since made contact with the City of Ryde and are now utilising the templates provided for future reports on these matters.**
- 4. Food premises inspections are undertaken on an annual basis by Council officers under our Food Partnership agreement with NSW Food Authority to the level of Category B. This has been occurring for a number of years.**
- 5. Council is in acceptance of the information provided at recommendations 30 and 31.**

***Reviewers' comments:***

*Council's comments have been noted and the Report has been amended to incorporate the comments in 1, 3 & 4.*

*The comments in 2 have been noted and the previous recommendation relating to this has been removed.*

### 5.3 ASSET & FINANCIAL MANAGEMENT

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

#### 5.3.1 Scope of review

A review was conducted of a range of aspects of Council's asset and financial management practices, including:

- *Financial management*
- *Asset management, including land assets, plant replacement and capital works*
- *Management of community land*

#### 5.3.2 Overview of asset and financial management practices.

Council's financial report card may be summarised as follows:

- Operating Results before capital grants and contributions

	Surplus/(Deficit)
2000/01	\$239,000
2001/02	(\$491,000)
2002/03	(\$267,000)
2003/04	(\$832,000)
2004/05	\$121,000
2005/06	(\$1,956,000)
2006/07	(\$1,190,000)
2007/08	(\$1,597,000)
2008/09	\$27,000

- No reserve provision for staff leave entitlements for the last 4 years
- Significant reliance on grant income to support operations (grant income increased from \$5,941,000 to \$7,472,000 in 2008/09)
- Rates income over the last 4 years forms 10% of total income

- At the time of the on-site component of the review, infrastructure for stormwater, roads and bridges was reported at 40% or less of useful lives
- Pricing for water and sewerage is not in accordance with best practice pricing and operates with a deficit in its operating result
- No internally restricted funds and no plant replacement reserves.

Council, like many others, draws heavily on grant funding. The Council differs from other councils because it has a significantly low rate income and serves such a large area.

While the Council regards itself as financially sustainable in the longer term, the extent to which it is reliant on ongoing grant funding, its size and its need to maintain roads and other infrastructure in such a large area sets it apart from other councils in the State.

Council currently exhibits poor overall asset management.

Council has not developed a long-term asset management plan or strategy. Without a plan or strategy there is no capacity to create links to other strategic documents.

It is noted that Council has obtained “fair value” valuations for stormwater drains and pits, sealed and unsealed roads and for bridges.

The condition of the 61km of sealed roads within the Shire appears to be generally good.

Conversely, the condition of the 1541km unsealed roads and the condition of bridges remains a cause for concern.

Further, at the time of the on-site component of the review, the Council advised that it lacked a township plan for Wilcannia and was Council aware of the specific location of pipes and other in-ground infrastructure.

Since the on-site component of the review, Council has obtained “fair value” valuations for stormwater drains and pits, sealed and unsealed roads and for bridges. Council must complete this program. **Recommendation 31**

Council does not have an asset maintenance program in place and should develop and implement a program. **Recommendation 32**

The review team was advised that there had been two natural disasters in the month prior to the on-site component of the review. While not necessarily as frequent, natural disasters appear to be common. Despite this, Council has not adopted an unplanned maintenance budget.

Council needs to apply significant resources to ensure that the maintenance needs of its assets are both planned and budgeted for. Additionally, particularly in light of its remoteness and vulnerability to natural disasters, Council should provide for an unplanned maintenance budget. **Recommendation 33**

Like many councils in the Western Division, Council is largely dependent on grants.

Grants provided to the Council under the Financial Assistance Grants scheme reflect a high component for disadvantage. The CPI adjusted grants have risen by 128% since 1990, despite a decline in population from 3,160 to 2,019 persons over the period. This compares with a state-wide increase of 89% over the period.

In large part, the grants reflect the extremely low land values and the isolation of the area. As grants include a per capita measure, overall increases have been moderated by the decline in population.

In May 2010 the Western Division of Councils wrote to the Minister for Local Government in relation to the formula for assessing grants, advising:

*The 13 Western Councils, which cover 40 percent of the State, receive a total of \$46,535,026 under the formula....*

*This represents 7.6% of the revenue to cover 40% of the state.*

The letter also stated:

*Although the population is decreasing Local Governments are still required to maintain and upgrade the same length of roads and bridges and provide community infrastructure.*

It is not the function of this review to enquire into or to comment on the grant process or the formulas adopted by it, but it emphasises the nature of the constraints imposed on councils such as Central Darling Shire Council and the obligations cast upon them.

While the level of grant received may have risen by more than the State average, the overall grant is principally reflective of population and a smaller population will result in a smaller overall grant. Collaterally, an above average level of increase should not be considered as sustainable in the longer term. This lack of certainty emphasises the need for the Council to apply itself to the task of a long term financial plan, a resourcing strategy and ultimately a considered Integrated Planning and Reporting strategy. **Recommendation 34**

While the Council was able to show an operational surplus of \$27,000 before capital grants and contributions in the last financial year, it had sustained losses of \$1.6m, \$1.2m and \$2m in the previous three years. The slight surplus in the last financial year may be attributed to an early payment of Financial Assistance Grants of \$816,000. It might also be noted that the accounts record that community infrastructure grants increased by \$350,000 due to the Federal Government's economic stimulus package.

The Council advised that it has budgeted for a surplus of \$338,000 in the year ending 30 June 2010. However, this sum must be tempered by a similar early payment of the Financial Assistance Grants and by re-valuing its CDOs to increase their value by \$452,000. This notional benefit is reflected as a positive cash-flow item in the accounts and counteracts what would otherwise have been a loss.

Council does not own its own plant and currently contracts out its engineering works. This approach may be seen as beneficial or as detrimental, for the following reasons. The approach saves Council from meeting the capital cost of equipment and employee wages and on-costs. However, it comes at an additional cost as contractors necessarily build a profit component into their costing. It was suggested that the arrangement provides flexibility for the Council, allowing it to cease works in times where funds are low.

### **5.3.3 Rates**

The Council has the lowest rate income in the State, being \$667,000 for the financial year ended 30 June 2009. The Council has demonstrated ongoing difficulty in collecting rates, with almost 30% uncollected in that financial year. In the three previous financial years, it had outstanding rates exceeding or approaching 30%.

Council has not applied the rate peg increase for a number of years and as a consequence Council has not only forgone income, it has also reduced its income base for future years. This amounts to a reduction of \$123,816 or 18% of its 2009/10 permissible rates.

During the on-site component of the review, the review team was advised that the Council had currently suspended works due to a current cash crisis. Other staff indicated that the works program was regularly halted to overcome cash crises. While the current suspension was denied, it raises concerns that the Council has to deal with ongoing cash crises.

There were other suggestions that the money from tied grants was being utilised to meet Council's operational costs. No evidence was provided to confirm this. If the Council is utilising such funds to overcome cash shortages, it should immediately refrain from doing so.

Although Council incurs significant administrative costs in the collection and administration of rates, it needs to ensure that it pursues and maximises its rate income. Again, it needs to ensure that it maximises its other sources of revenue.

### ***Recommendations 35 & 36***

### **5.3.4 Community Land**

The Council does not have plans of management for all of its community land. This was discussed during the on-site component of the review and the review team were advised that the Council was in the process of re-classifying community land to operational land.

The Act requires that all public land be classified as either community or operational. All community land must be managed in accordance with a plan of management.

It seems surprising that the Council should move towards re-classifying all of its community land to operational, as this is contrary to the spirit and intent of the Act.

It is recommended that the Council re-consider this stance, to undertake a review of its holdings to determine what land should be re-classified and to prepare and adopt either a generic or specific plans of management for its community land.

**Recommendations 37 & 38**

**5.3.5 Trust Fund**

Section 411 of the Act requires that all money and property received by a council in trust must be held in the council's trust fund. Council indicates that it is not doing so. Council must amend its practices and comply with the Act. **Recommendation 39**

**5.3.6 Leave entitlements and Superannuation**

There is no provision for employee leave entitlements in the accounts. Council's liability as at 30 June 2009 totalled \$802,000, of which \$740,000 was current.

This is a significant amount when viewed in the light of Council's cash and investments, which total \$1.6m.

The Division recommends that provision is made for the equivalent of 20% of the overall liability and Council needs to set aside at least this amount.

**Recommendation 40**

During the course of the on-site component of the review, staff complained that superannuation contributions had not been paid by the Council for a period of about 9 months. This information had come from their superannuation fund, which had written to them asking if they had changed employment. While it appeared that superannuation arrears had subsequently been paid, some staff indicated that they had just received a similar notification from their fund manager.

These issues were taken up with Council's General Manager who appeared to be aware of the earlier matter but unaware of the latter.

Employers are under strict obligations to pay superannuation contributions on behalf of staff and the Council must ensure that it has both the funds to pay and does pay such contributions. **Recommendation 41**

### 5.3.7 Contract Management

The auditor's report of Council's accounts for the period ending 30 June 2009 indicates that the Council overspent \$500,000 on the Wilcannia-Menindee road.

This is a significant amount and suggests that Council's contract management may be unsatisfactory. **Recommendations 42 & 43**

#### Council's response

1. **Since the conduct of the review, Council has obtained the 'fair value' valuations as required. Fair values have been provided by "Australian Pacific Valuers" effective 1st July 2009 for roads, drainage, sewer, water and other structures. Fair values for plant, equipment, fittings and furniture are considered similar over the longer term to historical cost.**
2. **The initial indication provided by the Department that Council infrastructure for stormwater, roads and bridges is reported at 40% or less of useful lives is incorrect. Below is a table of the remaining useful lives from the APV Valuations:**

<b>Stormwater Drains</b>	<b>50%</b>
<b>Stormwater Pits</b>	<b>48%</b>
<b>Roads – Sealed Formation</b>	<b>75%</b>
<b>Roads – Sealed Pavement</b>	<b>62.5%</b>
<b>Roads – Sealed Surface</b>	<b>50%</b>
<b>Roads – Unsealed Formation</b>	<b>62.5%</b>
<b>Roads – Unsealed Surface</b>	<b>37.5%</b>
<b>Bridges (Local)</b>	<b>31%</b>

- 3. Council does not agree it suffers from a cash flow crisis. During the time of the review, Council acknowledges that funds were stretched due to the flood damage work that was being undertaken to ensure that as many of the Shire roads were accessible where possible. As a result of the declaration of a Natural Disaster by the State Government, Council has received the majority of funding for the works carried out.**
- 4. Council has acknowledged for many years that the collection of rates is a large issue that is faced. Yearly, Council endeavours to ensure that it pursues and aims to maximise its rate income however given the isolation and low income of the communities in the Shire, many moral and ethical issues are encountered. Land generally within the Shire has little value so more traditional attempts to collect rates are not effective.**
- 5. Council does not receive any monies in trust, however since the conduct of the review has opened a Trust Account.**
- 6. It was acknowledged that due to computer issues the payments of Employee superannuation entitlements were not paid for a period. Since this issue was rectified, superannuation payments are made weekly at the time of the pay run.**

**Reviewers' comments:**

*Council's comments have been noted and the Report has been amended to incorporate the comments in 1 & 2.*

*The Division remains concerned that Council continues to rate land below permissible levels.*

*While Council has indicated that it endeavours to ensure it pursues and aims to maximise its rate income, it has not applied the rate peg increase and has lost and will continue to lose ongoing income. Council's farmland rate is approximately one half of the amount levied by councils in its group and its residential rate is approximately two thirds of the amount levied by the group.*

*Council's approach has a significant compounding and permanent impact on its rating base.*

## **5.4 COMMUNITY & CONSULTATION**

A council's charter requires that a council:

- provides services after due consultation
- facilitates the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and coordination of local government
- actively promotes the principles of multiculturalism
- plans, promotes and provides for the needs of children, and
- keeps the local community and State Government informed about its activities.

### **5.4.1 Scope of review**

A review was conducted of a range of aspects of Council's community and consultation practices, including:

- *The methods council uses to involve and determine the views of its community*
- *Ageing population*
- *Social and community functions of council*
- *Annual reporting*
- *Customer service standards*

### **5.4.2 Overview of community and consultation practices**

Discussions with both councillors and staff indicated a view that the Council does not communicate well with its community. Councillors described members of the community as having a poor opinion of the Council and attributed blame to the corporate body. Conversely, staff were critical of the failure to enjoin the community and attributed blame to the elected body.

There appears to be significant feeling that towns, other than Wilcannia, are being overlooked. Meetings are held in towns other than Wilcannia, however, there appears to be a view that other towns, particularly Menindee, are being ignored.

Discussions with councillors and staff indicated a lack of input from the community into strategic planning and in respect of the development of the Management Plan.

Whether this stems from an acceptance by the community that the Council is unable to provide infrastructure or whether it stems from a long-term inability to do so is not directly ascertainable, but it suggests that Council's consultation processes are poor and that it has lost the interest of its community.

The "needs and gaps" assessment in Council's 2006/2009 Social Plan emphasises the need for programs for

- public order and safety
- health
- housing and community
- water supply
- recreation and culture
- transport and communication, and
- tourism and economic development.

The Remote Control Communities report raises significant concerns regarding the delivery of human services programs in the Shire and the Council should be instrumental in taking steps to implement the recommendations of the report in conjunction with other providers in the local community.

#### **5.4.3 Management Plan**

Councillors and staff expressed concerns regarding the development of and the consultation processes surrounding the Management Plan. Each attributed blame to the other body.

Some councillors indicated that there had been no effective community consultation on the draft plan and expressed concerns that a previous year's plan had taken less than 30 minutes to debate. Conversely, some staff expressed the view that responsibility for consultation lay with the councillors and not with the staff.

During the on-site component of the review, a divisional head indicated an inability to plan future works, as the Division's budget had not been advised.

The issues outlined above suggest that Council's consultation processes, at all levels, are significantly flawed and the Council should review and alter its practices.

***Recommendation 44***

**5.4.4 Social Plan**

Council's current Social Plan is intended to cover the period 2006 – 2009. It has expired.

Council's current budget permits little discretionary spending on community projects and the Council should take the opportunity to consult with its community to ascertain what facilities and services it desires so that it can undertake effective planning in its move to implement the Integrated Planning and Reporting Framework.

***Recommendation 45***

**5.4.5 Economic Development**

The Council employs a member of staff tasked with pursuing economic development. Council also retains the services of a lobbyist.

Special schedule 1 of Council's financial statements for the year ending 30 June 2009 indicates that the Council expended \$565,000 on tourism and economic development. Special schedule 1 records Council's expenditure on all operations over the year at \$12.1m.

The Council has prepared a draft community and economic development strategy, which has not yet been adopted. There are a few strategies for economic and business development, comprising:

- possible reduction in the barriers for the establishment of new industries and business investment
- identifying the types of industries acceptable to each town
- determining appropriate zoning issues relevant to each town and industry

- establishing caveats requiring commercial land purchasers to undertake development within a prescribed period
- identifying and developing land for technology and industrial parks
- developing comprehensive information kits for prospective investors
- applying a whole of Council approach to development where councillors become actively involved in lobbying, presentations to prospective investors and escorting prospective investors and developers through their towns
- operating the Economic Development Department as a business unit
- establishing links with economic organisations and continuing the already established links
- producing a prospectus of the Shire's strengths and opportunities that can be distributed to development organisations.

The policy, as drafted, is suggestive only and does not contain timeframes, performance criteria or other criteria by which performance can be assessed.

Expenditure on tourism and economic development appears to be disproportionately high. There is little physical evidence of outcomes derived from the expenditure. By comparison, Cobar spent \$203,000 on tourism and economic development in the same year. Regrettably, the review team were not able to interview the relevant Manager. **Recommendation 46**

Discussions with Council's General Manager suggested that it was the Council's view that the provision of commercial accommodation through targeted works programs and other programs, including provision of community housing, could provide the economic stimulus to turn the local economy around.

While such programs may provide short term gains, the Council needs to take a longer-term view and determine how it can provide for long-term economic growth. **Recommendation 47**

***Council's response***

***The comments and recommendations provided by the Department have been duly noted by Councillors and staff.***

***The statement that Council expended \$565,000 on tourism and economic development compared to that of \$203,000 spent by the Cobar Shire requires explanation. As the Council are largely reliant on grant funding, there are a number of items included in the \$565,000 expenditure that related to funded projects, for example the Health Transport \$150,000, the Menindee Rural Transaction Centre \$120,000 and the wages for the staff in that department. When reviewed on a direct comparison, the figures are very similar.***

***Reviewers' comments:***

***Council's comments have been noted.***

## 5.5 WORKFORCE RELATIONS

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

### 5.5.1 *Scope of review*

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

- *Human resources strategy and workforce planning*
- *Employee attitude surveys*
- *Job descriptions and job evaluation*
- *Recruitment and selection processes*
- *Equal employment opportunity*
- *Occupational health and safety*
- *Secondary employment*

### 5.5.2 *Overview of the organisation*

Council's organisation structure, adopted on 14 May 2009, provides for the employment of 62 staff, of which 50 are full-time staff and 12 are part-time staff.

The review has indicated that the relatively small number of staff is struggling to provide what are, in reality, inadequate levels of service. This is not directly the fault of staff, but rather stems from the diversity of the tasks that must be undertaken by individual members of staff and an overall inability to attract suitably qualified and experienced staff.

As an example, the Manager of Environmental Services undertakes planning, development and certification roles under the EP&A Act, as well as having responsibility for enforcement, asset management and some aspects of procurement. She is supported by staff without specialist qualifications.

In order to provide services to its community at a reasonable standard, it is necessary for the Council to focus on its current staffing weaknesses and to adopt strategies that can overcome these weaknesses in order to reduce the current burden on staff. **Recommendation 48**

Council has ongoing difficulties attracting skilled and experienced staff. It is not alone in this respect and many councils that are remote and sparsely populated particularly suffer from this difficulty. It is unlikely that this will change in the short term.

The Council needs to look at alternatives, such as resource sharing, to overcome this issue. **Recommendation 49**

### **5.5.3 Workforce Strategy**

The Council is in the throes of preparing its workforce strategy as part of its move to implement the Integrated Planning and Reporting regimen.

Council's current workforce strategy centres on on-site employment of all staff other than Council's payroll officer, who resides in Broken Hill.

As indicated earlier in this report, the Council is having difficulties attracting suitable staff.

The Council has an alliance with Ryde City Council, one of the larger Sydney metropolitan councils. Discussions with staff and councillors suggest that this relationship has not developed to its full potential.

As part of the development of its workforce strategy, the Council should explore a number of strategies, including job sharing, delegation and/or divesting of core and other functions to or with Ryde City Council and/or Broken Hill City Council.

**Recommendation 50**

### **5.5.4 Succession**

Twenty-two percent of Council staff are aged between 55 and 64. While Council indicates that it is not expected that key managers/specialists are expected to retire in the next 18 months, the demonstrated difficulty in attracting skilled and experienced staff reinforces the need for the Council to adopt a succession plan and to provide training to ensure that existing staff can, where possible, take over the role of more senior staff in managerial and specialist positions. **Recommendations 51 & 52**

### **5.5.5 Training**

Discussions with staff and review of a number of Council documents emphasise the need for staff training and development.

The Council has not developed a training plan and budget as required by the Local Government (State) Award 2007 and should develop, budget for and implement ongoing training for staff. **Recommendation 53**

### **5.5.6 Staff morale**

In the course of the on-site component of the review, issues affecting staff morale came to the attention of the reviewers. Given the small size of the community, Council's role as the largest employer has significant economic overtones. While staff morale issues were not unexpected in a small community closely tied to and largely dependant on the Council, the Council appears to be doing little to obtain the views of its staff.

The Council should undertake regular employee surveys and take steps to respond to issues that may be disclosed in such surveys. **Recommendation 54**

### **5.5.7 Senior Staff**

In 1994 the Council adopted its Senior Staff Selection Policy. The policy anticipates that the selection panel comprise the Mayor, another councillor and the General Manager and that interviews be conducted before the full Council. The policy then anticipates that Council would make the recommendation for the appointment of such staff to the General Manager.

This policy is at odds with section 335 of the Act, which provides that the General Manager has to power to appoint staff in accordance with an organisation structure and resources approved by the Council. Section 337 of the Act provides that the General Manager may appoint or dismiss senior staff only after consultation with the council. The role of the elected council in the appointment or dismissal of senior staff is limited to this consultation.

The Council should withdraw its Senior Staff Selection Policy immediately. **Recommendation 55**

The Managers of each of the Technical and Engineering Services, Environmental Services and Community and Economic Development are employed under performance-based contracts. It is noted that at the time the checklist was provided, performance reviews of two of the staff had not been conducted in accordance with the terms of their contracts.

Despite this and the nature of their positions, none are designated as “senior staff” for the purposes of section 338 of the Act. Council should consider the designation of these staff as “senior staff” in order to give effect to the reporting provisions under the section. **Recommendation 56**

**Council’s response**

- 1. Firstly it is noted that it is Council’s Payroll Officer that resides in Broken Hill and not the Bookkeeper.**
- 2. Council acknowledges the Departments recommendations to utilise the services of the City of Ryde and Broken Hill City Council. A re-appraisal of possible synergies needs to be carried out.**
- 3. Council has recognised that the ability to attract suitably qualified, experienced staff to positions is difficult given the isolation of the workplace, it is for this reason that many staff are frequently required to have a ‘grasp’ on a number of varying positions and broader skills bases are required than in larger Councils.**
- 4. Council does allocate funds each financial year for the training requirements of staff which are identified upon the conduction of yearly performance appraisals. It is noted 25.8% of Council staff are conducting employment based apprenticeships.**

**Reviewers’ comments:**

*Council’s comments have been noted and the Report has been amended to incorporate the comments in 1.*

## 5.6 ACTION PLAN

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
1. Council should undertake a comprehensive review of all policies with particular reference to those in the tables in part 5.1.3 and such other policies that support good governance.				
2. Councillors and senior staff should jointly undertake training with the view of identifying their roles and responsibilities more clearly and in the development of a better understanding of strategic planning and budgetary planning.				
3. Council should review the fraud risks faced by it and to adopt an appropriate fraud prevention strategy and an ongoing program to audit these risks as part of its internal audit function.				
4. Council's fraud control strategies should complement and form part of Council's overall internal audit function.				
5. Council staff undertaking tendering should receive training on tendering.				
6. Council should consider whether it centralises its tendering functions.				
7. Council should consider whether it should subscribe to the LGMA tendering toolbox.				
8. Council should adopt an asset disposal policy.				
9. Council should monitor its disposal of assets through its internal audit function.				
10. Council should take steps to ensure its compliance with the State Records Act.				

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
11. Council should adopt appropriate records management practices and policies.				
12. Council needs to ensure that it meets its disclosure obligations under the Government Information (Public Access) Act.				
13. Council should undertake a review of its Councillor Expenses and Facilities Policy to ensure that it fully complies with the 2009 Guidelines issued by the Division.				
14. Council needs to implement a systematic training program for councillors and individual councillors need to take the necessary steps to obtain a better understanding of their roles.				
15. Due to remoteness, the attendance of councillors at face to face training sessions may be difficult and the Council should explore alternatives to face to face attendance.				
16. Councillors should pursue closer ties with councillors of nearby councils, their region of councils and/or councillors of the City of Ryde with a view to obtaining a wider support group.				
17. Council should draw the attention of staff and designated persons to the particulars to be included in section 449 returns and Council should endorse the date of receipt on each return.				
18. Council's draft Complaints Handling Policy should be reviewed in the light of the Division's and Ombudsman's Guidelines and an appropriate policy adopted.				

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
19. Staff dealing with complaints should then receive training on the application of and procedures in the policy.				
20. Council should review its current information brochure and take steps to inform its community of the complaint processes available to them.				
21. Council needs to acquire IT packages or to adopt alternative strategies that will assist it to undertake its work in the most efficient manner.				
22. Council needs to implement strategies, whether through resource sharing or otherwise, to facilitate reviews pursuant to section 82A of the EP&A Act.				
23. Council should consider adopting a policy of fixed development consent levies.				
24. Council needs to ensure that reports on development applications contain sufficient detail as will allow the Council or staff to determine the application under section 79C of the EP&A Act.				
25. Reports on development applications should attach draft conditions of consent, whether consent is recommended or not.				
26. Council needs to undertake significant work on its development assessment procedures and should consider whether it should delegate the review and assessment of development applications to another council, such as Broken Hill or Ryde; or whether it should enter into other arrangements.				
27. Council needs to implement programs to ensure compliance with relevant regulatory requirements, particularly those that may affect public safety and health.				

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
28. Council should consider developing its State of the Environment report in partnership with other councils in the region and continue to work with catchment management authorities in its area.				
29. Council should ensure that it adopts a companion animals management plan.				
30. Council should review its euthanasia practices to ensure that they comply with relevant legislation.				
31. Council must complete the program to obtain “fair value” valuations for the remainder of its assets.				
32. Council does not have an asset maintenance program in place and should develop and implement a program.				
33. In light of its remoteness and vulnerability to natural disasters, Council should provide for an unplanned maintenance budget.				
34. Council should apply itself to the task of a long term financial plan, a resourcing strategy as required by the Integrated Planning & Reporting Framework.				
35. Although Council incurs significant administrative costs in the collection and administration of rates, it needs to ensure that it pursues and maximises its rate income.				
36. Council needs to ensure that it maximises its sources of revenue other than rates.				
37. Council re-consider its stance of classifying all Council-owned land as operational and undertake a review of its holdings to determine what land should be re-classified.				

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
38. Council should prepare and adopt either a generic or specific plans of management for its community land.				
39. Council must comply with section 411 of the Act in relation to money and property required to be held in trust.				
40. Council should make provision for employee leave entitlements and set aside at least the amount recommended by the Division.				
41. Council must ensure that it maintains sufficient reserves to meet its debts as they fall due.				
42. Council must adopt policies and employment practices that ensure that its contract management and supervision is carried out in a satisfactory manner.				
43. The review of Council's contract management and supervision processes should be included in Council's internal audit program.				
44. Council should review its community consultation practices.				
45. Council should take the opportunity to consult with its community to ascertain what facilities and services it desires so that it undertake effective planning in its move to adopt the Integrated Planning and Reporting Framework.				
46. Council should review its economic development priorities and expenditure.				
47. Council needs to take a longer-term view and to determine how it can provide for long term economic growth.				

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
48. <i>In order to provide services to its community at a reasonable standard it is necessary for the Council to focus on its current staffing weaknesses and to adopt strategies that can overcome these weaknesses in order to reduce the current burden on staff.</i>				
49. <i>Council needs to look at alternatives, such as resource sharing to overcome the problems of attracting suitably skilled and experienced staff.</i>				
50. <i>As part of the development its of its human resources strategy, the Council should explore a number of strategies, including job sharing, delegation and/or divesting of core and other functions to or with Ryde City Council and/or Broken Hill City Council.</i>				
51. <i>Council should adopt a succession plan.</i>				
52. <i>Council should provide training to ensure that existing staff can take over the role of more senior staff in managerial and specialist positions.</i>				
53. <i>Council has not developed a training plan and budget as required by the Local Government (State) Award and should develop, budget for and implement ongoing training for staff.</i>				
54. <i>Council should undertake regular employee surveys and take steps to respond to issues that may be disclosed in such surveys.</i>				
55. <i>Council should withdraw its Senior Staff Selection policy immediately.</i>				

RECOMMENDATION	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
<p><i>56. Council should consider the designation of staff who are employed on performance based contracts as “senior staff” in order to give effect to the reporting provisions under the section.</i></p>				