

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

challenges improvement innovation good governance

**REVIEW REPORT**

**HARDEN SHIRE COUNCIL**

**JULY 2006**



**dlg**

**Department of Local Government**

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## 1 ABOUT THE REVIEW

### Review objectives

Promoting Better Practice reviews have a number of objectives:

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

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

### Review process

The review process was developed after extensive research into council performance measurements in Australia and overseas. There are essentially five steps in a review - preparing, assessing, checking, analysing and reporting.

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

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

For this review, Harden Shire Council was asked to complete a strategic management assessment tool and a comprehensive questionnaire about key council practices. The review team examined council’s responses and a range of other

source documents prior to visiting council, in order to gain a preliminary understanding of council and the shire.

Mr Deb Bose, a Senior Finance Officer and Mr Richard Murphy, a Senior Investigations Officer conducted the review.

The on-site component of the review occurred on 20 February 2006, 21 February 2006 and 24 February 2006. The on-site review involved of a briefing for senior staff, several meetings with the general manager, interviews with a range of specialist staff, interviews with the mayor and 4 councillors, visits to council facilities/worksites and a more detailed review of a number of council's practices, policies and other documents.

The review team provided council with a draft report, and invited council to comment upon it. Council has responded, and a copy of council's response is contained in section 7 of the report. Council's comments have been taken into account in preparing this final report.

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

## 2 EXECUTIVE SUMMARY

It is evident that Harden Shire has faced considerable pressures the last few years and is continuing to do so. It is dealing with the effects of a protracted period of drought, a major employer in the town has closed down, the shire's planning instrument is out of date and the council itself has limited financial resources at its disposal. None of council's senior managers have been with council for more than four years; and two of the managers have been with council for less than 12 months.

It is not surprising that a comprehensive review process such as this has identified many areas where council needs to improve its performance. However, it should be acknowledged at the outset that the council appears to already have an awareness of many of those areas, albeit that this awareness is not reflected in its most recent management plan and annual report.

The council has embraced the review process with an openness and willingness to engage in the process that is to be commended. It is clear that the council has already acted to address many of the deficiencies it identified in its responses to the review question and self-assessment tool.

A major area where council needs to improve is in its approach to strategic and management planning and the monitoring of its performance against its various plans. The report makes a number of recommendations related to the need for a strategic plan, major changes to council's management plan, the development and use of key performance indicators and improvement to council's annual reporting. Attention to these key issues will afford council the opportunity to better define its priorities and target its resources accordingly.

Beyond the focus on planning and reporting, there are some critical areas that council needs to address to improve its governance standards. Council needs to pay particular attention to its risk management and internal control activities, council meeting practices and records management.

Both councillors and staff identified land use as a major issue facing the shire. Council needs to do everything within its power and resources to expedite the making of a new local environmental plan for the shire.

The council makes extensive use of delegated authority to efficiently deal with development applications. Council has also recognised the need to allocate additional resources to this area of council's operations.

There is clear scope for council to improve its performance in the way it approaches its environmental responsibilities. Particular attention needs to be paid to council's state of environment reporting and to increasing awareness of its charter, to manage the environment in a manner that is consistent with and promotes the principles of ecologically sustainable development.

Council has invested considerable effort in the development of its website as a key conduit for communicating with its community. It is important that it leverages this investment by promoting the site in the community, particularly with the roll out of broadband services in the shire.

The council has the elements of a sound framework for including the community in its processes, such as its section 355 committees, its use of public meetings, a complaints process and the opportunity for members of the public to ask questions at council meetings. However, this review found some inconsistencies and a lack of integration.

The council is pursuing many different strategies that should help it more effectively and efficiently address the needs of the shire. It has recruited a team of enthusiastic and committed managers. It has commissioned a new social and community plan, it is developing a new local environmental plan and it is embracing the need to better manage its infrastructure. There is evidence that a significant amount of work is being done on developing and updating council's policies and procedures. This work must continue.

The development and monitoring of an action plan to address the recommendations contained in this report will provide the council with the opportunity to help ensure that it meets the ongoing expectation of the Government and its community.

### **3 RECOMMENDATIONS**

- 1 Council should develop a new strategic plan.
- 2 Council should make changes to the format and content of its management plan having regard to the suggestions contained in the body of the report.
- 3 Council and its community should determine appropriate key performance indicators (KPIs) for council activities and the use of KPIs should be integrated into council's management plan, quarterly reporting and annual reporting.
- 4 Council needs to increase the accuracy of the statement on the condition of public works.
- 5 Council should take action to improve the level of staff awareness of State of Environment (SoE) issues across all areas of council.
- 6 Council should take action to ensure that the concerns about council's 2004/2005 SoE Report are addressed in subsequent reports.
- 7 Council should review all of the suggestions in the departmental guidelines on the code of conduct and ensure that they are given due consideration.
- 8 Council should ensure all new council officials receive a copy of the code of conduct when they join council and require them to sign a statement acknowledging their obligations under the code.
- 9 Council should ensure that council officials are reminded of their obligations under the code on a regular basis.
- 10 Council should take action to ensure that council vehicles and plant are garaged at the council depot at the end of each working day, unless there is a proper reason for it to be garaged elsewhere.

- 11 The general manager should periodically examine all paperwork associated with private works for council officials.
- 12 Council should consider revising the structure of its internal reporting procedure, removing unnecessary detail and using simpler language.
- 13 Council should consider limiting the protected disclosures to be made to the mayor, to those that involving the general manager.
- 14 Council should develop and distribute a one-page information sheet for staff and councillors on the internal reporting process.
- 15 The general manager should initial and date the pecuniary interest returns upon receipt and the process for lodging and receipting returns should be documented in a council procedure.
- 16 Council should ensure that it uses the term “committee of the whole” correctly and that the grounds for excluding members of the public are recorded in the minutes, in accordance with section 10D of the Act.
- 17 Council should consider developing a training/workshop program for councillors to be implemented over the term of the council and the reporting on councillor training in its annual report.
- 18 The general manager should provide guidelines to councillors on how they are raise concerns with council staff.
- 19 Council should develop a comprehensive risk management plan, to enable it to identify and manage all significant risk issues.
- 20 Council should examine the costs and benefits of establishing an internal audit function.

- 21 Council should check that current level of councilor and staff awareness of the provisions of council's privacy plan and undertake training as considered necessary.
- 22 Council should review its privacy plan in the next twelve months.
- 23 Council should review all relevant documents to ensure it is complying with the Privacy and Personal Information Protection Act.
- 24 Council's electronic databases should be reviewed to ensure that they contain procedures and protocols to check the accuracy and currency of personal information.
- 25 Council should develop and document policies on managing and monitoring external contracts.
- 26 Council should conduct a risk analysis on its tendering, procurement, asset disposal and contract management practices on a periodic basis.
- 27 Council should develop and implement a strategy to ensure it has an adequate record management system.
- 28 Council should map and document all of its administrative processes.
- 29 Council should review all of its current policies to identify those that are no longer required/relevant, those that require revision and those which should be consolidated. Action should then be taken to develop and adopt a current set of policy documents.
- 30 Council should closely monitor the development of the area's new LEP, ensure appropriate strategies and KPIs are included in its management plan and allocate sufficient resources for the project.

- 31 The general manager should ensure that a sample of development application files is examined on a quarterly basis to ensure that the file contains all the requisite information and that the development assessment checklist is being used.
- 32 The general manager and the council should receive a monthly report on development applications and consents, detailing the date of lodgement, the current status of undermined applications and average and median processing times for applications that have been determined.
- 33 Council should publish a public notice at least monthly providing details of development consents is has granted.
- 34 Council should document its enforcement policy and procedures in relation to dealing with non-compliance issues.
- 35 Council should ensure that the residents are properly informed as to how they may report alleged breaches and non-compliance.
- 36 Council needs to ensure that it completes its annual program of inspections of food outlets, hairdressing salons and checks for legionella.
- 37 Council should review the fee it charges other members South West Regional Waste Management Group councils for carrying out the auspice role, to ensure that it is appropriately compensated.
- 38 Council should prepare and adopt a companion animals management plan.
- 39 Council should update its waste management plan to reflect and guide its current and future approach to waste management.
- 40 Council should prepare its budgets on an accrual basis.

- 41 Council should change its budgeting and quarterly reporting format by excluding capital items from operational figures and showing these items separately.
- 42 Council should develop a comprehensive long-term financial plan. The plan should be integrated to the overall strategic plan and an asset management plan and include a capital works program and cash flow forecasts.
- 43 Council should review and update its debt recovery policy.
- 44 Council should develop an appropriate pricing structure with full cost recovery for its water and sewerage business, using the guidelines issued by the Department of Energy, Utilities and Sustainability.
- 45 Council should prepare a business plan for the caravan park and any similar activities.
- 46 Council should undertake a systematic assessment of the condition of all its infrastructure assets.
- 47 Council should develop a register of infrastructure showing the valuation and condition assessments of each asset.
- 48 Council should adopt policy on the replacement of plant. The policy should identify the expected useful life of each category of plant and optimum replacement dates.
- 49 Council should develop a comprehensive asset management plan. The plan should be linked to an infrastructure maintenance program as well as a long-term financial plan.
- 50 Council should clearly define the role and delegated powers of the Jugiong Progress Association and expedite the finalisation of operating procedures.

- 51 Council should carefully assess the risks it is exposed to by allowing the Jugiong Progress Association to continue to be more than an advisory committee and take appropriate action to mitigate those risks.
- 52 Council should continue to invest resources into its website, focusing on the maintenance and accuracy of the information currently available.
- 53 Council should give further consideration to process of members of the public speaking at council meetings prior to adopting its code of meeting practice.
- 54 Council should update its complaints policy to reflect the current requirements in relation to making complaints about council and incorporate clearer linkages with its code of conduct and internal reporting procedure.
- 55 Council should ensure that a new social and community plan is developed and adopted in a timely manner.
- 56 Council should undertake an occupational health and safety (oh&s) audit, to assess the adequacy of its current oh&s system and the level of compliance with the system.
- 57 Council should review and implement WorkCover's code of practice for oh&s consultation.
- 58 Council should prepare a complying training plan and budget, as required by the Local Government State Award (clause 23).
- 59 Council's consultative committee should review and amend its constitution to clarify the issue of management representation and to update it in line with current award requirements.
- 60 Council should prepare a complying EEO management plan.

## 4 CONTEXT

Harden Shire Council was incorporated as a local government body on 1 January 1975 with the amalgamation of Demondrille Shire Council and Murrumburrah Municipal Council. It has 7 elected councillors. It does not have wards.

The Shire has an area of 186,121 ha and a population of 3827<sup>1</sup>. It is a rural shire serviced by the twin towns of Harden and Murrumburrah. The shire has a number of villages and localities, the most significant being Jugiong, Wombat and Galong.

Approximately 60% of the population lives in Harden and Murrumburrah, 15% in villages and 25% on rural properties. Council derives approximate 70% of its rate income from its farmland rates.

The Shire is experiencing a protracted period of drought. A major employer in the town, the abattoir, reopened last year. However, it ceased operating during the week of the review.

All councillors interviewed indicated that shire's road network was of prime importance and this priority is clearly reflected in the percentage of council expenditure allocated to road maintenance.

Land use is a major strategic issue for the shire. There is limited land available for development under the current planning instrument. There are very few houses available for sale or rent in Harden and Murrumburrah. Council experienced a 34% increase in the number of development applications in 2003/2004.

Three of the councillors have held office collectively for 70 years, and as such, they have spent a significant period as councillors operating under a very different legislative framework than that provided by the current Local Government Act 1993. Three other councillors are yet to complete their first term as a councillor.

This presents significant opportunities and challenges for the council, having regard for the desirability of the council leveraging both the experience and knowledge of

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<sup>1</sup> ABS 2002

long serving councillors and the enthusiasm and fresh perspectives of new councillors, while at the same time, managing the range of expectations that are likely to exist in such a group.

The current general manager has been with council since 2003. The Director of Environmental Services joined council in 2002, the Director of Administration and Finance in June 2005 and the Director of Technical Services in November 2005.

The council is the auspice body for the Regional Waste Group and has recently entered into a strategic alliance with a number of other councils in the region.

The Geoffrey Kruger Trust is a private trust that provides support, at its discretion, for works for the betterment of Harden and Murrumburrah. The trust is currently committed to working with council to provide the funding for a new medical centre and hydrotherapy centre for the town. Until recently, the trust has provided funding for council's economic development program.

## 5. AMBITIONS, PRIORITIES AND FUTURE FOCUS

The review assessed the clarity of council's strategic direction and whether council plans reflect a shared and realistic vision.

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

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

It is clear that the council has significant challenges in all these areas.

Council's charter requires it to have regard to the long term and cumulative effects of its decisions (section 8 of the Local Government Act 1993). The review team did not find evidence that council was fulfilling this part of its charter. The council does not have a current strategic plan. However, it was pleasing to note that the council held a strategic planning workshop in March.

While council is not required by law to have a strategic plan, the development of such a plan would provide the opportunity for councillors, council staff and the community to carefully consider and reconcile the current and emerging needs of the shire, with the limited resources that are available to meet those needs.

Ideally, the strategic plan should reflect a consensus on council's medium and long-term priorities and what council's role will be in providing infrastructure, services and economic development over the next ten years.

The review team was provided with a document “Harden Shire Regional Strategic Plan” dated 20 September 2001. This document does not appear to have been used by the current elected council when it developed and adopted its latest management plan. However, it could be used as a template for a new strategic plan. Many of the issues it canvasses will still be relevant. Council should give consideration as to why the 2001 plan does not appear to have been used to its full potential and ensure that any new plan does not suffer the same fate. It should be noted that the council has responded to these comments. A copy of council’s response is included in section 7 of this report.

The review team was advised that council is developing a new Social and Community Plan, a new Local Environmental Plan, a new comprehensive State of Environment Report (in conjunction with other regional councils) and is undertaking a comprehensive audit of the condition of its road network. These processes should also prove invaluable in allowing council to significantly improve the manner in which it determines its ambitions and priorities. The work being undertaken on these key projects is a tangible indication that council is working towards delivering its services in a more planned and professional manner.

A strategic plan would provide a sound foundation on which to develop council’s annual management plan. It is recommended that council develop a new strategic plan. **(Recommendation 1)** It is pleasing to note that the council’s draft management plan for 2006/2007 includes a review of the strategic plan.

## 6. DELIVERING AND ACHIEVING

This part of council’s assessment focussed on five key areas:

- Governance
- Regulatory Functions
- Asset and Financial Management
- Community and Consultation
- Workforce Relations

The review considered council’s statutory responsibilities and looked for evidence of good or better practice. The review team looked for:

- capacity and systems to deliver performance improvement;
- defined roles and responsibilities and accountabilities;
- delivery through partnership;
- modern structures and processes;
- strong financial management;
- resources follow priorities;
- use of performance information;
- risk managed appropriately;
- exposure to external challenge.

### 6.1 Governance

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

The review considered a number of specific processes including:

- *Management planning*
- *Annual Reporting*
- *State of Environment Reporting*

- *Meetings*
- *Adoption of the Model Code of Conduct and its implementation*
- *Internal reporting*
- *Pecuniary interest returns*
- *Risk management and internal control*
- *Records management*
- *Interaction between councillors and staff*

### *Management Plan*

Each year council is required to prepare a draft management plan with respect to its activities for at least the next 3 years and its revenue policy for the next year. Sections 403 and 404 of the Local Government Act require certain particulars to be included in council's draft management plan. The review team examined council's Management Plan for 2005-2010 and identified significant scope for improvement.

### **(Recommendation 2)**

Some of the changes suggested in this section are very straightforward and as such, can be implemented for next year's plan. Full implementation of others will be dependent on the development of council's strategic plan, the new Social and Community Plan and the new comprehensive State of Environment Report.

Council can make its management plan more relevant, purposeful and accessible by including a mayor's foreword and an executive summary. The inclusion of a demographic profile of Harden Shire and a statement of key issues (social, environmental, financial) would provide context for the plan. Next year's management plan should also include:

- A vision statement and a revised mission statement
- A table of contents
- Specific details of council's proposed works program
- A range of relevant quantifiable and qualitative performance indicators
- Clear and measurable performance targets for each activity for 2006/07
- Details of which manager is responsibility for each service provided by council and each strategic objective
- The proposed revenue and expenditure for each activity.

Council's current management plan defines a mission statement as *"A broad but focused statement which describes why Harden Shire Council exists and how it intends to satisfy its vision. It provides a focus for all the principal activities of Council."*

However, the current plan does not clearly indicate what council vision is and the mission statement is so broad as to be meaningless. In addressing this issue, council should consider its Charter as detailed in section 8 of the Act. The general manager should provide councillors with a copy of the section when she tables this report.

For many of the strategies in the current plan, it is not clear what the council's specific goals/activities are for 2005/2006. As such, the current plan does not facilitate the level of accountability that should be expected by the community and which is intended by the Act. This lack of clarity also limits the ability of council to effectively consult with the community on the draft management plan. Council should ensure that its goals are "SMART"; that is specific; measurable, attainable, realistic and tangible.

The council's annual report for 2004/2005 states "The major works to be undertaken in 2005/2006 will be decided at the August Works Committee meeting." Such decisions should be made prior to the commencement of the financial year, as part of the management planning process.

The 2005/2010 management plan has performance assessment criteria that do not relate to the period of the plan. For example there is to a reference to a 10-year financial plan to be adopted by "June 2005"; a Waste Management Plan that was to be adopted by "June 2005"; a report on public conveniences that was to be prepared for council by "February 2005"; and a report on the allocation of sporting facilities that was to be presented to Council in "March 2005". Out of date references such as these do little for the credibility of the plan.

The council should ensure that next year's management plan details what activities council intends to undertake in each of the next three financial years, and provide explicit information about next year's activities.

Council should ensure that next year's management plan fully complies with the provisions of the Local Government Act and Regulation. The review team observed the following areas of statutory non-compliance in the 2005/2010 management plan:

The Act requires council to include particulars of its activities to properly manage, develop, protect, restore, enhance and conserve the environment. The management plan does contain a statement of environmental activities but it is not clear that council has consulted with the community (including environmental groups) and that it has involved the community (including environmental groups) in the development of environmental management strategies. The Local Government Regulation requires this.

Council is also required to consider its most recent State of Environment Report when developing the management plan. However, the most recent report (the Supplementary Report for 2004/05) is of a poor standard and this is reflected in the manner in which the management plan deals with environmental issues.

The plan does not include a statement with respect to proposed council activities in relation to access and equity activities in the area. This is a statutory requirement and should be addressed when developing the plan for 2006/2007.

The plan is required to detail the programs to be undertaken to implement its equal employment opportunity management plan. The 2005/2010 Management Plan does not clearly indicate what specific activities will be undertaken.

The management plan does not include council's revenue policy. As well as being a statutory requirement, the development of a comprehensive revenue policy provides the opportunity for the elected council to establish key principles on which revenue related decisions are based and to communicate these principles to the community. It is acknowledged that the 2005/2010 plan does include a pricing policy.

The management plan does not include any specific details of capital works projects to be carried out by the council. The plan only mentions the projects without any costings or details of the possible sources of funding. Council needs to provide details such as cost of each project and their sources of funding for a three-year period, as required by section 403 (2) of the Local Government Act. Further, asset replacement programmes to be implemented by council are not disclosed.

Although council has provided detailed estimate of income and expenditure for the second and subsequent year as per requirements of the Act, the fact that council does not have comprehensive capital expenditure and asset maintenance programs makes it difficult to determine how accurate such figures are.

Council did not explicitly state the source of the proposed borrowings and means by which such borrowings will be secured. Council is required to make such disclosures in accordance with section 404(1) of the Act.

It is noted that council did not have a Director of Administration and Finance at the time the 2005/2010 plan was being prepared. A new director was appointed in June 2005 and as a consequence, council should be able to improve its performance in both financial planning and reporting.

### *Annual Reporting*

The Act requires a council to prepare an annual report within 5 months of the end of the financial year as to its achievements with respect to the objectives and targets set out in its management plan for that year.

The review team examined council's annual report 2004-2005. The report is generally in accordance with the Act and Regulations and was prepared and submitted within the required time frame.

The council did not include a copy of council's audited financial reports in the annual report and did not provide a break up of the remuneration package of senior staff. These are statutory requirements. However, it should be noted the report does

indicate the financial reports are available for viewing at council and on the website and the requirement to include a break-up of the remuneration package only came into effect in September 2005.

The Annual Report contains a detailed Mayoral Report. It mentions a number of specific projects that the council undertook during the year. The provision of this information is commendable. However, many of these projects were not explicitly referred to in the management plan – they are indicative of the details that should be included in future management plans.

Council should be able to significantly improve the quality of the information it provides in its annual report if it implements the earlier recommendations about management plan. A high priority should be given to the incorporation of quantitative data.

For example, a major activity for the council is the maintenance of rural roads. The annual report states that all annual maintenance was completed and inspections and maintenance were performed as required. This style of reporting does not provide any indication as what the annual maintenance program involved, how much was spent on maintenance, the number of inspections undertaken and any maintenance requirements that were identified as a consequence of those inspections.

It is a matter for council and its community to determine appropriate key performance indicators for this and other council activities. However the essential issue is that such indicators be determined and be integrated into council's management plan, quarterly reporting and annual reporting. **(Recommendation 3)**

Council's annual report includes a statement on the condition of public works as required by section 428(2)(d) of the Act. However, it would appear that council does not have an empirical basis by which it determines whether the condition of its assets are satisfactory.

The statement details some significant anomalies between the cost of required maintenance and the amount spent on maintenance. In one case, the current

amount being spent on maintenance is more than four times the amount reported as being required to be spent. In other cases, the report shows that an insufficient amount is being spent to maintain the asset, yet the asset is considered to be in a satisfactory condition.

The statement does not include any estimates of the cost to bring assets up to a satisfactory standard. While it is noted that it is open for individual councils to determine what they consider “satisfactory” it is inconceivable that all council’s assets are in satisfactory condition.

The mayoral report for 2004/2005 states council has investigated the condition of its sewer system with closed circuit television. It states, “All evidence is suggesting that extensive main replacement will be required in both water and sewer lines.” While it is commendable that council is assessing the condition of its assets, it needs to plan for the expenditure necessary to restore the assets to a satisfactory condition and include details of the required expenditure in its annual report and management plan.

It is noted that council has commissioned an audit of its road network and is developing a road hierarchy. This should provide a sound basis for council to better determine the condition of this major component of its asset base.

The statement on the condition of public works should accurately communicate to the community the state of public infrastructure and it should be a key consideration in council’s strategic planning process. Council needs to increase the accuracy of the statement. **(Recommendation 4)**

Council publishes an information brochure annually. The brochure incorporates a mayoral report and specific information on a number of council activities such as land sales, council plant, heritage matters and council’s income and expenditure. It is a useful adjunct to the statutory annual report and the publication of such a brochure is commendable.

*Supplementary State of Environment Report for 2004/2005*

Council's charter requires it to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development. It is required to report annually on the state of the environment in the Shire.

Council's report for 2004/2005 conveys little or no sense of the local environment. At least half of the report is either a restatement of reporting guidelines and/or obligations and a cataloguing of economic progress.

The report contains a poor choice of indicators, that is, the indicators are not particularly reflective of or relevant to the environment and environmental issues faced by the Council. In general there is little comment on trends. Indeed sectors such as noise, heritage and air receive scant attention or only a cursory acknowledgement of their existence.

The massive variations in faecal coliform levels both upstream and downstream of the council's sewage treatment works do not warrant any attention or explanation in the report.

Water use data is aggregated and it is, in this form, a less than useful guide to the effectiveness of water conservation measures etc undertaken by council.

Similarly, waste management data is also presented in aggregate form for one year only giving no sense of achievement or progress in regard to waste minimisation objectives.

There is no specific section on council's environmental performance although descriptions of some council activities are interspersed in parts of the document. There is little attention to future or planned activity apart from council to "seriously" begin to examine a waste recycling strategy consequent on the commencement of the Bald Hill facility.

While the report quotes sections of the departmental guidelines there is little other evidence to suggest that the guidelines have been a significant factor in its preparation of the report.

The role of the community does not come through clearly. Some reference is made to a local land care group in regard to riparian conditions.

In summary, the report is understandable but has little substance.

It is noted that Harden is part of the Australian Capital Region State of the Environment (SoE) report group and there has been a delay in the publication of a up-to-date comprehensive SoE Report. However, there appears to be significant scope for the council to give greater consideration to this aspect of its charter. It is suggested that council take action to improve the level of staff awareness of SoE issues across all areas of council. **(Recommendation 5)**

Council should take action that the concerns about council's 2004/2005 SoE Report are addressed in subsequent reports. **(Recommendation 6)**

#### *Code of conduct*

The code of conduct is important because it assists councillors and council staff to understand the standard of conduct expected of them. It is a statutory requirement that councils adopt a code of conduct consistent with the model code prescribed by the Regulation.

Council adopted the model code of conduct as its own on 15 February 2005. The general manager, when recommending that council adopt the model code, pointed out that councils are able to add to the model code, provided that any such additions are not inconsistent with the code. The general manager also proposed that council revisit the code after a period of time, in order to tailor inclusions to reflect the needs and culture of Harden Shire Council. This is better practice.

Departmental guidelines are available to assist councils review, enhance and implement their code of conduct. Council should review all of the suggestions in the guidelines and ensure that they are given due consideration. **(Recommendation 7)**

Council recently had a training session for councillors on the code. It is commendable that council provided this training. Unfortunately only four of the current councillors attended. While such training is not compulsory, there is significant value in all councillors attending and receiving such training at the same time.

Council has advised that all councillors and staff have been provided with a copy of its code of conduct. Council should ensure all new council officials receive a copy of the code of conduct when they join council and require them to sign a statement that they acknowledge their obligations under the code. **(Recommendation 8)** If council is aware that staff may have literacy problems, council should ensure that the code is fully explained to such staff in a meaningful and straightforward manner.

Council should ensure that council officials are reminded of their obligations under the code on a regular basis. **(Recommendation 9)** For example, code of conduct issues should be included in team/tool box briefings.

Council's code of conduct is available on its website. This is important as it allows the public to easily access the document and ascertain the standard of behaviour they expect from council officials. The link to the document on council's website should also explain that the code contains advice on how to make a complaint about the conduct of a council official.

#### *Use of council resources*

The code of conduct provides that council officials must not use council resources for private purposes (except where supplied as part of a contract of employment), unless the use is lawfully authorised and proper payment is made. Council officials must avoid any situation that could create an impression that where council's property or official services are being improperly used.

It is understood that members of council's "outdoor" workforce routinely travel to and from their homes using council vehicles and plant and that such vehicles and plant are garaged and/or parked overnight, in proximity to the employee's residence.

Council should consult with its employees about this practice and take action to ensure that in future, such vehicles and plant is garaged at the council depot at the end of each working day, unless there is a proper reason for it to be garaged elsewhere. **(Recommendation 10)** In addressing this recommendation, the council should consider seeking advice as to whether any of its employees have a contractual right to the use of a vehicle.

Council undertakes private work for members of the community including council officials. While noting that council has a clear policy for charging for such works, it is suggested that the general manager periodically examine all paper work associated with work performed for council officials, to ensure that the council policy is being applied correctly and that there is adequate documentation to demonstrate that the council official is not receiving services on more favourable terms than that afforded to members of the general public. **(Recommendation 11)**

#### *Internal reporting*

Council adopted a new internal reporting system on 21 December 2005. It is commendable that council has addressed this important issue.

Section 1 of the document is a clear and concise statement, that council does not tolerate corrupt conduct, maladministration or serious and substantial waste public money and that council will take all reasonable steps to protect staff and councillors who make protected disclosures.

However, the remainder of the document is very wordy and overly complex, having regard to council's size. Council should consider revising the structure of the document, removing unnecessary detail and using simpler language. **(Recommendation 12)**

It is important that a document such as this is appropriate and accessible to its target audience (including council's outdoor employees). For example, it should include a simple statement headed "How to make a protected disclosure?" The table on page 6 is repetitive and adds little. The council should consider making it clear that disclosures can be made directly to the general manager.

Council should also consider limiting the disclosures to be made to the mayor to those that involving the general manager. This is consistent with the approach adopted in the Code of Conduct. It recognises that role of mayor has limited resources at its disposal to deal with such matters. **(Recommendation 13)**

As an interim measure, council should develop and distribute a one-page information sheet for staff and councillors on the process, which points out that there is a documented system, which provides an overview of its main features and which encourages staff to seek the advice of nominated officers if they want advice on making a disclosure. **(Recommendation 14)**

#### *Pecuniary interest returns*

The review team examined pecuniary interest returns lodged by all councillors, as well as those of selected council staff. The general standard of returns was good. Council's general manager issues a written receipt when accepting returns from councillors. This is good practice. The general manager should initial and date the returns upon receipt and the process for lodging and receipting returns should be documented in a council procedure. **(Recommendation 15)**

One return was undated and another contained three conflicting dates. Councillors should take care when signing and dating returns.

Some councillors have left sections of their return blank. If they have no pecuniary interests or other matters of the kind that needed to be disclosed under a particular main heading on the form, then they should write the word "NIL" under that heading.

It was also noted that some councillors appear to have declared certain debts that do not need to be disclosed. Councillors and designated officers should review Clause

190(3) of the Regulation prior to lodging their next return, which specifies which debts that do not need to be declared.

### *Meetings*

The review team examined the minutes from the ordinary meetings of council held in October, November and December 2005.

### General Conduct of Council Meetings

While the review team did not have the opportunity to observe a meeting, councillors interviewed expressed satisfaction with manner in which meetings are conducted. The duration of meetings is generally less than 4 hours and council completed all business on its agenda for the meetings that were examined.

### Closure of Meetings/Committee of the Whole

As a general rule, meetings of the council and its committees are required to be open to the public.

At the time of the review the public agendas for council's meetings did not list the items for consideration in the confidential section of the meeting. Section 9(2A) of the Act requires the general manager to indicate, on the agenda, that she expects an item to be discussed in a closed part of the meeting, without providing details in relation to the item. The council has advised the department that issue has now been addressed.

The business paper should also include an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret). This information is to be recorded in the minutes if council resolves to exclude the public while it considers the item.

A review of council meeting minutes indicates that council is using the term "Committee of the Whole" to refer to the circumstances where it closes meetings to members of the public. These two processes are unrelated.

If a council resolves itself into the ‘committee of the whole’ under clause 259 of the Regulation, the committee of the whole remains open to the public unless the committee resolves to close the meeting, having regard in section 10A(2) of the Act. The only advantage of a council forming a committee of the whole is to overcome the limits on the number and duration of councillor speeches referred to in clause 250 of the Regulation.

When council or a committee of council closes a meeting to the public, the resolution must:

- Refer to the specific matters that are to be discussed during the closed part of the meeting;
- the relevant provision/s of section 10A (2) being relied upon to close the meeting in relation to each item to be discussed;
- the reasons why the part of the meeting is being closed (not just a restatement of the relevant sub-section of the Act) where these are not self evident; and
- an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret).

Council should ensure that it uses the term “committee of the whole” correctly and that the grounds for excluding the public are recorded in the minutes, in accordance with section 10D of the Act. **(Recommendation 16)**

### Business Without Notice

The review team noted that councillors were regularly raising business without notice and that the matters being so raised were generally of an operational nature. In one case, a councillor used the meeting process to advise that the town clock was displaying the wrong time. There were several cases of councillors reporting potholes and making other maintenance requests. This is an inefficient and inappropriate way of dealing with such matters.

However, it is noted that the draft code of meeting practice considered by council at its January 2006 meeting provides that the council must not transact business at a meeting unless proper notice has been given. The new code of meeting practice also restricts “questions without notice” to matters of policy and states that routine matters are to be referred directly to the relevant Director. This is a significant improvement.

#### *Code of Meeting Practice*

At the time of the review the council was in the process of adopting a new code of meeting practice. The review team identified a number of deficiencies in the draft code, which were drawn to council’s attention. The council has subsequently advised the department that the incorrect and inappropriate clauses have been removed and council at its July 2006 meeting will consider a revised draft code.

#### *Councillor induction and training*

The role of a councillor is a challenging one and the legislative framework within which council and councillors operate changes. Given this, it is important that all councillors commit to on-going training and development and that council allocate adequate resources for this activity.

As noted previously, it was pleasing to see council recently offered councillors the opportunity to attend code of conduct training and a number of councillors also attended a weekend of intensive training conducted by the Local Government and Shires Association.

However, the importance of all councillors attending training at the same time cannot be understated. The process can facilitate the council (as a governing body) and senior staff in developing a shared and common understanding on important issues. It also allows council to make use of knowledge and expertise of experienced councillors and staff. It is also inefficient to hold training if not everyone attends.

It is recommended that council consider developing a training/workshop program for councillors to be implemented over the term of the council and that council report on councillor training in its annual report. **(Recommendation 17)** The preparation of

such a program in consultation with councillors and the scheduling of training/workshops with plenty notice should also allow councillors to manage their obligation to attend with their other commitments.

Council has indicated in its response to the draft report that a formal training plan will be offered to councillors. However it also notes councillor training is currently not mandatory and “some delegates” may not accept the training plan.

New councillors require comprehensive induction training to equip them with the skills required to properly carry out their duties and allow them to be effective members of council. To assist councillors in achieving these goals, council should ensure that it has a documented training strategy to familiarise new councillors with the activities and functions of their council and the legislative framework in which it operates. The strategy should be developed prior to the next council election, in consultation with the three councillors who are currently serving their first term on council.

The new councillor program should ensure that councillors are made aware of their general legal responsibilities as an elected member and their obligations of disclosure under the pecuniary interest provisions of the Local Government Act. It was pleasing to note that council provided prospective candidates with a copy of the department’s publication “So you are thinking about becoming a local government councillor?” It contains important information on the role of councillors.

Council’s general manager also provided all councillors with a copy of the Bluett Local Government Handbook and a package of other information to give them an overview of the roles and responsibilities of councillor, the interaction with the community and legislation that governs the decisions a council makes. Council also offers councillors to the opportunity to attend LGSA training for new councillors.

### *Role of Councillors*

Councillors interviewed by the review team generally appeared to have a reasonable understanding of their role. As discussed in the section on council’s meetings, there is scope for councillors to carry out their role more effectively by taking up

operational issues directly with the general manager and/or the relevant director and by suggesting constituents deal directly with council where appropriate.

At the time of the review, councillors were members of council's occupational health and safety committee and its award consultative committee. The remits of these committees are essentially operational, with their focus on workplace and workforce management issues. As such, councillor involvement is not appropriate. Council has subsequently advised that the councillors have indicated they will resign from the committees, that the constitution of the consultative committee is currently being reviewed and the OH&S committee has placed the review of its constitution on its agenda.

#### *Interaction between councillors and staff*

The nature of interaction between councillor and staff appears to be generally consistent with the code of conduct. Those councillors interviewed indicated that if they have a need to discuss a issue, they do so with the general manager or the relevant director.

Given the recent changes to council's meeting procedures (restricting questions without notice to policy matters), the review team suggests the general manager provide guidelines to councillors on how they are raise concerns with council staff. For example, the guidelines should detail how constituent's concerns and maintenance requests should be made and what feedback the councillor should expect on if and when the concern/issue has been addressed. **(Recommendation 18)**

#### *Risk management and internal control*

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

Councils are exposed to a wide range of risks as a consequence of their diverse functions. A risk management plan provides council with a framework to proactively identify and manage generic and specific risks so that ethical behaviour and practice can be promoted. It is recommended that council develop such a plan. **(Recommendation 19)**

When council develops a comprehensive risk management program it will incorporate the strategic management of risk, including risk financing and insurance, crisis management and disaster recovery, OH&S system development, legal compliance, asset management framework development and entrepreneurial risk. It will also incorporate formal and informal management of risk including risk profiling across functions, all claims management, OH&S implementation, emergency procedures for council buildings, policy and procedure review.

Council does not currently have an internal audit program. Internal audit and control provide for systematic scrutiny of an organisation's operations, systems and performance. It assists in ensuring that service standards are met, data records are accurate and complete, and established procedures are being followed.

Council should examine the costs and benefits of establishing an internal audit function. Given the size of council, consideration should be given to contracting this function to its external auditor or sharing this function with other regional councils as part of a strategic alliance. At that stage consideration can also be given to forming an audit committee. **(Recommendation 20)**

The development of internal audit processes is considered important, as council does not appear to have undertaken any fraud risk assessment. Nor does it have a fraud control policy or strategy. It is important that fraud risks are identified and managed effectively and that staff are kept up to date on emerging risk areas and on proven strategies for properly managing them.

#### *Privacy Management Plan*

The Privacy and Personal Information Protection Act requires councils to have a privacy management plan. Council's annual report states it has adopted and

implemented the “Model Plan”. However, during the review process the council was able to locate a copy of its plan or confirm that it had formally adopted the plan. It is not recorded in council’s Policy Register.

The Model Plan published by the department states that councillors, staff and members of council committees should be acquainted with the general provisions of the PPIPA, and in particular, the 12 Information Protection Principles, the Public Register provisions, the Privacy Code of Practice for Local Government and the actual plan. Council has advised that staff and councillors have not received training in the requirements of the privacy legislation. Council should check that current level of awareness and undertake training as considered necessary. **(Recommendation 21)**

The plan also requires information practices relating to the collection, storage and use of personal information to be reviewed by the Council every three (3) years. Once the information practices are reviewed from time to time, the Privacy Management Plan is also be reviewed to ensure that the Plan is up to date.

Given that council cannot locate the plan, it would be reasonable to conclude that no review has been undertaken. There is no indication in the current management plan that council has scheduled a review for this year. Council should undertake a review in the next twelve months and if necessary, adopt a new plan. **(Recommendation 22)**

Council should also note that the Model Plan also requires the council’s Privacy Contact Officer to review all contracts and agreements with consultants and other contractors, rates notices, application forms of whatsoever nature, and other written requests by which personal information is collected by council, to ensure that council is in compliance with the PPIPA. **(Recommendation 23)**

Council’s electronic databases should also be reviewed to ensure that they contain procedures and protocols to check the accuracy and currency of personal information. **(Recommendation 24)**

*Tendering, procurement, asset disposal and contract management*

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

Tendering, procurement, contract management and asset disposal are all important areas of council operations. These activities should be governed by strict considerations of probity, transparency and accountability in the expenditure of public funds for public purposes.

Harden Shire Council has recently documented policies for purchasing, tendering and asset disposal just prior to the commencement of this review. Council is commended in this regard for being proactive. However, council does not have any documented policies for managing and monitoring external contract performance.

Council should develop and document policies on managing and monitoring external contracts. Clear guidelines should be laid down on acceptable standard of work and contract performance measurement criteria. **(Recommendation 25)**

The purchasing policy recognises the need to assist in achieving the most advantageous price and purchasing conditions for the council. It also endeavours to ensure that council's procurement practices meet the best practice standards and the highest level of public accountability. The policy contains a "*preferred suppliers list*". Council has a preference policy for local suppliers and tenderers.

Similarly, the tendering policy sets out various matters including the method and procedure of inviting tenders. It also highlights the ethical principles to be adopted for receipting, opening, documentation and evaluation of tenders. However the policy does not mention the carrying out of a formal risk assessment for high value tenders. In our opinion council needs to consider incorporating clauses that deal with risk assessments of all tenders over a certain amount. Council could refer to the ICAC tendering guidelines for more details.

Council's asset disposal policy sets out a defined framework, responsibilities and procedures for all disposals. It also mentions the need to meet best practice standards and public accountability. However council needs to compliment this policy with a plant rationalisation programme.

Council is urged to implement these policies as part of its internal control mechanism with clear documentary evidence and audit trail. Council is also urged to conduct a risk analysis of these policies on a periodic basis. **(Recommendation 26)**

#### *Records management*

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

Council advised that its does not have a records management policy, procedures or guidelines but it has provided initial training to staff and have commenced the development of a policy to facilitate compliance with the its obligations under the State Records Act.

Council needs to have an effective records management system in place if it is going to be able to effectively address many of the governance recommendations contained in this report. An effective record management system is essential for the operation and maintenance of effective internal control mechanisms. Council should develop and implement a strategy to ensure it has an adequate records management system. **(Recommendation 27)**

#### *Procedures and Policies*

Documented policies and procedures are an important risk management strategy. They help facilitate the provision of proper guidance to functional staff on, reduce the impact of staff turnover and provide basis for checking whether a process is being carried out in a proper way. It is recommended that council map and document all of its administrative processes. **(Recommendation 28)** In making this recommendation it is acknowledged that the process may take some time to complete.

Council's response to the draft report indicates that its administrative practices are being documented and it expects this process will be completed within a 12 month period.

Council should consider giving priority to the records management process, policies and procedures that council has an explicit statutory obligation to have in place and processes that council is exposure council to financial risk.

Council has documented a number of new policies in recent months. However, there remains a clear lack of documented work processes and policies in the Finance area, particularly in regard to the meeting of tax and other statutory obligations, creditors, payroll processing and stores.

Council appears to have a large number of policies, many of which appear to relate to very specific issues and many which appear to deal with the same issue. Council should review all of its current policies to identify those that are no longer required/relevant, those that require revision and those which should be consolidated. Action should then be taken to develop and adopt a current set of policy documents. **(Recommendation 29)**

For example, the review team asked for copies of council's policies and procedures for the use of council computers and telecommunications devices. We were provided with two documents "Harden Shire Council Email and Internet Use" and a second document "Email and Internet Policy" which appears to have been considered by council on 3 March 2001. Both documents address the same issue but the content is different. It is not clear which is council's current policy. Neither document appears to have been included in council's policy register. The status of these documents should be clarified and council's policy register updated accordingly.

### *Delegations*

The review team was provided with a copy of the council's delegation register. While the review team did not consider the scope or appropriateness of the delegations

contained therein, it was pleasing to note that council recently reviewed the delegations of the mayor and general manager (September 2005).

## 6.2 Regulatory Functions

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

- *Council's planning instruments and policies*
- *Development assessment*
- *Environmental management*
- *Enforcement practices*
- *Companion Animals*

Council exercises regulatory functions in relation to a range of activities. The efficiency and probity of council's regulatory functions is important to the preserving public trust in council and its staff. The functions involve the use of significant public resources.

The Director of Environmental Services is supported by a consultant town planner, a full-time health and building surveyor and an administrative officer. Council also uses a ranger from Yass Valley Council once a year to respond to companion animal enforcement issues.

The Director of Environmental Services is primarily responsible for all regulatory functions. He is also responsible for the oversight of council buildings, council facilities such as the swimming pool and the caravan park, the regional waste agreement and the management of the waste haulage contract.

The review team expressed some concern to council about the extensive scope of the Director of Environmental Services' role and pointed out the desirability of separating operational and compliance monitoring activities. However, it is

acknowledged that council's size and limited resources may limit its ability to address these issues.

### *Historical Context of Council's Approach to Land Use Planning*

Harden Shire has managed development of the shire under an interim development order (IDO) gazetted in 1976. By its own admission, the IDO is not user friendly and out of step with current ideas, legislation and policies.

In 1999 council acknowledged the need for a more contemporary planning instrument. It resolved to prepare a draft local environmental plan (LEP) for the area.

A draft LEP was prepared and placed on exhibition in 2001. The primary reason this LEP did not progress to approval appears to be that there was disagreement between the council and the Department of Planning's predecessor over the preferred minimum allotment is for rural subdivisions with a dwelling entitlement and concerns over concessional allotments. It is clear that council will need to come to terms with this issue given that its new LEP will need to conform to state government requirements.

In recent times, council chose to pursue spot rezoning to increase the availability of residential land in the shire. However, it was only successful in gaining approval for a relatively small area on land adjacent to the existing township.

Under the planning reform program, council will be required to have a new principal LEP within three years that conforms with the standard LEP template. Council is currently awaiting the release of the final template before progressing this matter.

### *Council's planning instruments and policies*

Land use is a major strategic issue for the shire. There is limited land available for development under the IDO. There are very few houses available for sale or rent in Harden and Murrumburrah. The current council is very aware of this issue and the council was successful in gaining some planning reform funding to assist it in developing a new local environmental plan (LEP).

Council should closely monitor the development of the area's new LEP, ensure appropriate strategies and KPIs are included in its management plan and allocate sufficient resources for the project. **(Recommendation 30)**

#### *Development Assessment*

Council experienced a 34% increase in the number of development applications in 2003/2004. It is pleasing to note that council has recently reviewed and allocated additional resources to this function.

It should also be acknowledge that the council has, in recent times, dealt with complex development and compliance issues associated with the operation of a large limestone mine at Galong. Such issues can be very complex and resource intensive and council is to be commended for resolving the matters at a local level and without the need for litigation.

Council reported that 90% of development applications are determined under delegated authority. This is commendable, given that the use of delegated authority can expedite the processing of applications.

Council advised that it has only had one appeal lodged against a planning determination in the last three years.

Council has a development assessment checklist that is apparently used as an internal control mechanism to help ensure that applications are properly considered. However, on one of the files examined (for an application where consent had been recently granted) the checklist was on the file but had not been completed.

The use of a checklist is commendable but clearly, its efficacy as an internal control mechanism will be limited it is not always used or checked. It is recommended that the general manager ensure that a sample of development application files are examined on a quarterly basis to ensure that the file contains all the requisite information and that the checklist is being used. **(Recommendation 31)**

The review team discussed with council an undetermined development application that had been under consideration since November 2004. It would appear that the timely determination of the application has been hindered by delay in the provision of information by the applicant and the quality of the information supplied.

It is important for the general manager and Director of Environmental Services to regularly discuss applications that have been under consideration for a protracted period. It may be that such applications should be refused at an earlier stage in the process.

Neither the council nor the general manager receives a monthly report on current development applications. Given the importance of this function, it is recommended that the general manager and the council receive a monthly report on development applications and consents, detailing the date of lodgement, the current status of undermined applications and average and median processing times for applications that have been determined. **(Recommendation 32)** This report could then form the basis of a regular review meeting between the director and the general manager. It should also reduce the need for ad hoc interactions between councillors and staff.

Council has not been providing public notice of development consents granted by it. Council should do so. The placement of such notices is required to commence the statutory period during which consents can be appealed against by third parties. If council does not place such notices, it remains exposed to the risk such appeals may be made. Council publish a public notice at least monthly providing details of development consents is has granted. **(Recommendation 33)**

As recommended previously, council should also develop key performance indicators for this and its other regulatory functions and include them in its quarterly and annual reports. Where possible trend data and comparisons to previous years should be provided,

### *Enforcement and compliance*

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

Councils must properly deal with allegations about unlawful or non-compliant activities, which include activities that are prohibited or unauthorised, or contrary to the terms of a consent, licence or approval, or other instrument of permission issued pursuant to lawful authority. Failure to properly deal with such allegations, quite apart from being poor administrative practice, could expose a council to liability for compensation and the expense of litigation.

The way in which councils exercise their enforcement powers plays an important part in the public's perception of councils. Alleged inconsistencies in responses to non-compliance issues are a major source of complaints about councils.

The review team examined one example of where an unauthorised development was brought to council's attention and council had responded in an appropriate manner. However, a development application file examined by the review team contained a report from a building consultant that appears to indicate that the subject building does not comply with minimum fire safety standards. It does not appear that the council has acted upon that information. This specific file was brought to attention of the General Manager and Director of Environmental Services for appropriate follow up action to be taken. Council's response to the draft report indicates it has reviewed the situation.

The enforcement practices of councils must be resolute and demonstrate both parity and transparency. They must signal the position taken by the particular council regarding such issues. It is good practice that councils adopt a policy that governs how such powers set out are to be used. Such a policy can help ensure rational and consistent decisions are taken.

An enforcement policy must deal with the manner in which the council will carry out its functions, the procedural steps that may be involved, the circumstances in which

council will institute court proceedings and the manner and circumstances when discretions may be exercised.

The council has not adopted an enforcement policy. Nor does council have a local orders policy, made under section 159 of the Act, to guide the decision making about the giving of orders. Council should document its policy and procedures in relation to dealing with non-compliance issues. **(Recommendation 34)** The NSW Ombudsman's Enforcement Guidelines for Councils may be a useful resource in developing this policy.

Further, council does not provide information to the public on how to report non-compliance and alleged breaches of various approvals or instruments. Given its statutory obligation in areas of public health and safety, the council should ensure that the residents are properly informed as to how they may report alleged breaches and non-compliance. This will enable council to more effectively monitor these key areas of responsibility and thus reduce the risk of non-compliance for residents. **(Recommendation 35)**

#### *Inspections program*

Councils are required to undertake regular inspections of certain types of premises and facilities. These include food outlets, hairdressing salons and checks for legionella. The review team understands that council faces resourcing issues in the area of enforcement that may prevent the council from completing its annual inspections program under its public health responsibilities. Council indicated that it undertook approximately 70% of its required inspections last year. Council needs to ensure that it completes this program this year and should take action to ensure that it can do so annually. **(Recommendation 36)**

Council needs to consider whether the fee it charges for inspections is sufficient and whether there is there scope to charge a higher fee and thereby provide council with additional resources to provide this service. Council could also consider whether there is scope for this function to provided by a host council for all members of the strategic alliance.

### *South West Regional Waste Management Group*

As mentioned previously, the Director of Environmental Services provides the management support for the South West Regional Waste Management Group. While it is commendable that council is addressing this issue with a group of other councils, it needs to ensure that it is not unduly bearing the cost of supporting the group, given the council's limited resources. It is recommended that council review the fee it charges other council's for carrying out its auspice role, to ensure that it is appropriately compensated. **(Recommendation 37)**

### *Companion Animals*

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

Council does not have a companion animals management plan. Anecdotal evidence provided by the Director of Environmental Services suggests that there is a need for such a plan to address issues with the ownership and control of companion animals in the urban areas of the shire. It is recommended that council prepare and adopt a companion animals management plan. **(Recommendation 38)**

The companion animals management plan should identify strategies that council will pursue in meeting its obligations under the *Companion Animals Act*. This includes, but is not limited to, community education, enforcement, environmental and community amenity strategies. Council also has an obligation under section 64 of that Act to seek alternatives to that of euthanasia and if practicable, adopt any such alternatives. Strategies should be linked to, and monitored through, the council's management plan.

### *Waste management*

Council adopted its Waste Management Plan in November 1998. This plan centred on the use of a primary landfill at Murrumburrah and restricting access to local residents at its Jugiong and Galong landfills. Since that time, council entered in an agreement with 8 other shire to operate a regional facility at Bald Hill. This facility became operational in July 2004.

It is anticipated that the Bald Hill facility will provide for the waste needs of the eight (8) member Shires for the next 50 years, removing the need for member shires to establish their own replacement landfills and permitting the consolidation of waste infrastructure within the Group.

While it is commendable that council has been proactive in this area, it is important that it updates its waste management plan to reflect and guide its current and future approach to waste management. **(Recommendation 39)**

## **6.3 Asset & Financial Management**

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

The review examined a range of council's practices in the areas of financial management, asset management and management of its businesses.

### *Financial management*

The council was on the department's "financial watch list" until 30 June 2003, an indication that council's financial position was unsatisfactory. Since then council's key financial indicators have improved. However one area of on-going concern is operating deficits.

A review of the 2004/05 financial statements shows that council has incurred a deficit before and after capital amounts of \$335,000. Council has been incurring deficits before capital amounts for the last nine years. Although this trend improved slightly

from the 2001/02, after the re-assessment of the depreciation periods, council has still not managed to reach a breakeven position. It is important to note that depreciation needs to be funded because assets will need replacement in the future.

Council has budgeted for a \$3.324 million deficit for 2005/06 before capital amounts and a deficit of \$924,000 after capital amounts. This is because of higher budgeted expenses for materials and contracts and lower income from user fees and charges and grants.

Council's depreciation expense has increased by \$247,000 in 2004/05, which is related almost exclusively to the change in the useful life of plant and equipment. This will adversely affect future operating results.

Council's unrestricted current ratio (UCR) measures the adequacy of its working capital and the ability to satisfy obligations in the short term. For the 2004/05 it was 1.97 whereas for 2003/04 and 2002/03 it was 1.31 & 1.83 respectively. Although the ratio has improved significantly from the previous year, council needs to show sustainable and steady improvement over a period of time. Council should also endeavor to maintain this ratio above 1.5 in future. A good UCR is greater than 2 whereas a ratio of 1.5 to 2 could be of concern if other indicators are not adequate.

Council's unrestricted cash for the 2004/05, 2003/04 & 2002/03 were \$536k, \$800k and nil respectively. A healthy unrestricted cash balance gives council the option to meet unbudgeted expenses. What constitutes an acceptable unrestricted cash balance is for individual councils to determine. Council is clearly in a better position now than in 2002/03 although there is still room for further improvement.

The Debt Service Ratio (DSR) in 2004/05 was a satisfactory 5.25%. This indicator assesses the degree to which revenues from ordinary activities are committed to the repayment of debt. A DSR of less than 10% is good. Although council's DSR is low it does not indicate a capacity to borrow. This scenario needs to be considered in the context of long-term commitments, current operating results and cash flow projections.

Actual results before and after capital items in 2004/05 was a deficit of \$335k, compared to a budgeted surplus before and after capital items of \$829k and \$1.041M respectively. The main reason for the unfavorable variance was that depreciation was not budgeted for. It is not clear why depreciation was omitted from the budget process. Council should prepare its budgets on an accrual basis. **(Recommendation 40)**

Council's auditors have commented positively, after the 2004/05 audit, on a number of areas such as liquidity and debt recovery. In conclusion they said, "*The financial reports of Harden Shire Council show a credible overall performance*".

Council's second quarter budget review of the 2005/06 financial period indicates an overall positive budget versus actual results. However the figures are distorted, as capital is not excluded from the operational figures. Council should change its budgeting and quarterly reporting format by excluding capital items from operational figures and showing capital items them separately. This will facilitate more efficient and better quality reporting to council. **(Recommendation 41)**

Council should develop a comprehensive long-term financial plan. The plan should be integrated to the overall strategic plan and an asset management plan and include a capital works program and cash flow forecasts. The plan should also be linked to council's rating strategy, borrowing needs and investment strategies. On a periodic basis, the long-term plan should be updated to reflect current policies and obligations. It is noted that council appointed a new Director of Finance in 2005 and therefore is now positioned to address this issue. **(Recommendation 42)**

The Rates & Annual Charges Outstanding Percentage (RACO%) at 2004/05 was 9.72%, a decrease from 10.92% in 2003/04 and 13.38% in 2002/03. The RACO% assesses the impact of uncollected rates and charges on liquidity and the efficiency of debt recovery. A benchmark for rural councils is less than 10%.

Council adopted a debt recovery policy on 14 March 2004. It provides for the referral of debts to a recovery agency. However, council's debt recovery is currently carried out "in house" as the external debt collector previously used closed down. It is

recommended that council reviews and updates its debt recovery policy. **(Recommendation 43)** The review process should include a detailed assessment and report on the extent to which the adopted policy has been followed since adoption.

Section 577 of the Local Government Act 1993 allows council to extend concessions to avoid hardship in relation to its rates and charges. Council does not have a rates hardship policy in place. However, the issue is considered in the debt recovery policy. Given the demographics of the area (a large aged population and high unemployment rate) this issue should be considered when council reviews the debt recovery policy.

#### *Business Activities*

Council has two significant business activities, namely water and sewer. Both business activities are making operating losses on an annual basis, indicating that pricing policies are not geared towards achieving a breakeven position.

Council is yet to comply with the tariff structure proposed by the Department of Energy, Utilities and Sustainability. Council should develop an appropriate pricing structure with full cost recovery for its water and sewerage business, using the guidelines issued by the Department of Energy, Utilities and Sustainability. **(Recommendation 44)**

Council operates a caravan park but there is lack of sufficient financial information regarding it. The venture is not considered a business activity and as such may be heavily subsidised by council. There is no business plan for the venture but council continues to incur capital expenses. The recent purchase of two second-hand cabins with attached annexes is quoted as an example. Council should prepare a business plan to justify incurring expenses on such ventures. **(Recommendation 45)**

The same comment can be made about the Winchcombe Industrial Park. There is no business plan to show that council went into the project aware of the risks involved and with a clear and well thought out business strategy. Council is urged to prepare a business plan prior to undertaking any such ventures.

### *Assets Management and Infrastructure Maintenance*

As mentioned previously, council should prepare a long-term asset management plan together with a comprehensive infrastructure maintenance programme. This will ensure proper medium to long-term decisions in terms of council assets and priority of such decisions. In drawing up such plans, council also needs to weigh the costs of investing in infrastructure renewal over the medium term against the potential costs of failing to do so over the long term.

It was pleasing to note that the council considered this issue at its meeting of 16 December 2005 where it adopted an asset management policy and resolved to ensure that adequate resources are made available for the creation, implementation and on-going review of asset management plans. This commitment needs to be reflected in the 2006/2007 management plan.

The written down value (WDV) of council's assets for 2004/05 period are:

- Roads, Bridges & Footpaths 86%,
- Stormwater Drainage 71%,
- Water Supply Network 38%
- Sewerage Network 7%.

The department considers that WDV below 50% may be cause for concern. This is because once an asset has been depreciated substantially, there may be deterioration that requires major reconstruction.

Both water and sewer assets have been depreciated heavily by 62% and 93% respectively. Despite this, council has not disclosed any amount required to bring these or its others assets to satisfactory condition.

Estimated annual maintenance was \$2.802 million whereas actual expenditure on program maintenance was \$2.895 million. Internally restricted funds set aside for infrastructure replacement for the same period amounted to \$103,000.

Council should undertake a systematic assessment of the condition of all its infrastructure assets. **(Recommendation 46)** This process will facilitate the council being able to make informed decisions about the need to fund asset maintenance and replacement.

Council should develop a register of infrastructure that details the valuation and most recent condition assessment for each asset. **(Recommendation 47)**

Council should adopt policy on the replacement of plant. The policy should identify the expected useful life of each category of plant and optimum replacement dates. **(Recommendation 48)**

With ageing infrastructure and limited revenue base council needs to implement strict budgetary controls to meet these challenges. Council does not have an asset management plan or a comprehensive asset maintenance program. During the review, it was mentioned that council is in the process of developing such a plan. Council should develop a comprehensive asset management plan. The plan should be linked to an infrastructure maintenance program as well as a long-term financial plan. **(Recommendation 49)**

In addressing recommendation 56, council should identify opportunities for asset rationalisation, in view of the various strategic alliances being considered with regional councils.

### *Parks and Gardens*

Council considered a report at its March 2006 on its parks and gardens functions. The report indicated that a number of complaints had been received about the function over the summer months. The report addresses the issues of concern and recommended that council revise the level of its service provision and focus on those assets directly under the control or ownership of council. Council did not adopt the recommendation.

While there is clearly scope for consultation with the community on an issue such as this, it is important that council support its officers' efforts to target council's

resources effectively and to identify and address the root causes of problems raised by the community. Council should consider the long term implications of rejecting the professional advice of its senior staff.

### **6.3 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 in the development, improvement and coordination of local government
- Actively promotes the principles of multiculturalism
- Plans, promotes and provides for the needs of children, and
- Keeps the local community and State government informed about its activities

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

- *The methods council uses to involve and determine the views of its community*
- *Keeping the community informed about its activities*
- *How council deals with requests/inquiries from members of the public*
- *Social and community functions of council*

#### *Management Plan and Annual Report*

The Act requires the council to give public notice of its management plan after it is prepared and place it on public exhibition, for not less than 28 days. It also requires the council to produce an annual report to inform the community on how well it implemented the plan.

The council is required to take into account any submissions its receives on its draft management plan. Council received one submission on its 2005/2006 management plan that detailed some relevant criticisms of the proposed plan.

The review team's concerns about the 2005/2006 management plan and the annual report for 2004/2005 have been dealt with earlier. However, it is worthwhile restating here that poorly structured documents make a council's task of consulting with the community more difficult.

The review team examined the proposed timetable for the development of 2006 management plan. It noted that there was a tour of villages proposed. Council has advised the tour took place on 13 March 2006 and involved meetings with the executive of each progress association, specifically for the purpose of gaining insight into their priorities for the coming year. It also advised that each committee was requested to document any subsequent requirements through the council officers allocated to be their "mentors". This is commendable.

#### *Annual Information Booklet*

Council issues an information brochure in the first rate notice that is sent out in July. It includes details of specific projects that the council undertook during the year. It contains useful information on council services.

#### *Public Meetings*

The council has facilitated two public meetings in recent times in relation to the upgrading of the swimming pool and the closure of the abattoir. The council indicated that both meetings had a good attendance.

#### *Consultation with Community Groups*

Council has established four section 355 committees, *Advancing Harden Murrumburrah*, *Jugiong Progress Association*, *Galong Progress Association* and the *Wombat Progress Association*, as a means of consulting formally with its four main population centres. A senior manager has been allocated responsibility to provide support to each of the committees. It is positive that council has established such committees and is offering them support.

The Galong and Jugiong groups do not appear to be listed in council's community directory. Nor are these committees referred to in the annual information booklet. We have noted council's comment that the groups themselves elected not to be included

in the directory. Council may need to review the role of these committees if they continue to be unwilling to have their existence and role detailed in the directory. It is also noted that as they are council committees, it is presumably a matter for council whether they are included.

It is noted that the Jugiong Progress Association appears to be more than an advisory committee. It appears that council has delegated responsibility to the committee for the operation of village pool and that the committee undertakes improvement works in village (using council provided plant and equipment). It is noted that the general manager is currently developing a procedure manual to govern the operation of this committee. The finalisation of this manual should be expedited and council should ensure that the committee's role and delegated powers are clearly defined and communicated. **(Recommendation 50)**

Council should carefully assess the risks it is exposed to by allowing the Jugiong Progress Association to continue to be more than an advisory committee and take appropriate action to mitigate those risks. **(Recommendation 51)** It should seek the advice of its insurers as to its potential liability.

The committee employs a caretaker to oversee the operation of the swimming pool. Council needs to examine whether the caretaker is effectively a council employee and therefore should be engaged under the terms of Local Government State Award. Alternatively, if the caretaker is a contractor, council needs to consider the merit of arranging and managing this contract directly.

### *Website*

The increasing importance of the Internet as a primary source of information has been widely reported. Council's website will become an increasingly important means of communication with the community with the roll out ADSL broadband access in the area.

It is pleasing to note that council has obviously made a significant commitment to its website. The website provides the facilities for making service requests and wide range of information on council services. It also provides access to current and

previous business papers and meeting minutes as well as a range of other council documents.

A number of the links on the website have yet to be populated with information. For example, the links to council's service response policy and the privacy link do not provide the information one would expect.

The development of the website to its current state was the primary responsibility of a staff member who recently resigned from council. Prompt action will need to be taken to ensure that another member of staff is given primary responsibility for the website and that council is able to maintain it when key personnel are absent.

It is recommended that council continue to invest resources into its website, focusing on the maintenance and accuracy of the information currently available. **(Recommendation 52)**

#### *Use of local radio*

The general manager has a weekly radio spot on a local station. This can be an effective way of keeping the community informed.

#### *Community participation in council meetings*

The opportunity for members of the public to address council is a valuable means by which residents can have an input into council decisions that affect them. A balance needs to be struck between this and the need for council meetings to be conducted in an efficient and orderly manner.

Council's new draft code of meeting practice provides the opportunity for members of the public to direct questions to the mayor on "any relevant matter unless it is on the Agenda for the meeting". This process is inconsistent with the information on council's website that states "Council dedicates a section at the start of the meeting as a public forum. Stakeholders wishing to address Council must first address the matter in writing to the Council General Manager at least one week before the meeting." It is recommended that council give further consideration to this matter prior to adopting its code of meeting practice. **(Recommendation 53)**

The proposed change appears to be a retrograde step by not allowing members of the public an opportunity to address councillors as a group on a matter of concern. However, it is acknowledged that it may be appropriate to limit such addresses to matters not on the agenda, given the limited opportunity to follow up matters raised with staff prior to the matter being considered.

### *Complaint handling*

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

Council adopted a formal complaints management policy on 15 December 2004. A copy of council's complaints management policy is also accessible on council's website.

The process provided for in the policy is essentially sound with the exception of the section on complaints about councillors. This section does not reflect the relevant provisions of the Model Code of Conduct that was adopted council subsequent to the adoption of the complaints policy. Council should update the complaints policy to reflect the current requirements. **(Recommendation 54)**

When council updates the policy, it should give consideration to the registering and reporting on all complaints, not only those deemed to be serious. Further, in relation to promising to maintain confidentiality, council should clarify that it will not disclose the identity of a complainant except where required by law to do so. Council should incorporate clearer linkages with the code of conduct and its internal reporting procedure.

### *Social and community plan*

Council is required to prepare a social and community plan. Harden does not have a current social and community plan and there is no evidence that a systematic

assessment of community needs have informed council goals, strategies or outcomes.

The current management plan repeats the executive summary of the 1999 social plan, with an additional paragraph indicating an annual review of the plan and consultation with stakeholders in order to maintain relevance.

It is noted that the council does provide some financial support for a senior citizens group and for the local pre-school. It is also noted that there is private finance available to build a fifty bed aged hostel and that there is a proposal to upgrade the nursing home.

Until recently, Harden Shire received youth support services from the Hilltops Youth Services, a regional service auspiced by the Wiradjuri County Community Development Group Ltd and funded by the Attorney General's Department. The funding was based on a Crime Prevention Plan that was produced in 2002 and expired in January 2005 and as such, funding of the service has ceased. A report provided to council at its March 2006 meeting indicates that council is working to have the funding restored and is addressing the planning issue as part of the development of the new social and community plan. Council is to be commended for acting promptly to address this issue.

It is understood that council has briefed a consultant to prepare a new social and community plan. Council should ensure that a new plan is developed and adopted in a timely manner. **(Recommendation 55)** Such a plan should provide a framework for council to ensure that its approach to social issues is one that directs its limited resources to areas of identified need and that it has a basis for assessing whether those resources are making a difference. The development and implementation of such a plan should also help prevent issues such as have occurred recently with the disruption of the provision of youth services to the shire.

#### *Library Service*

Council provides a South-West Regional Library Service in conjunction with Boorowa Council and Young Shire Council. The council is active in promoting the library

service and produces a regular library newsletter which is also available for download on the website.

## 6.5 Workforce Relations

All employers have legislative responsibilities in relation to their staff. The *Local Government Act* and the *Local Government (State) Award* imposes additional requirements on councils. Importantly, a council's charter requires it to conduct itself as a responsible employer.

Key areas that councils need to consider when managing its workforce include:

- *Workforce planning*
- *Human Resources Information System (HRIS)*
- *Recruitment and selection processes*
- *Employee remuneration*
- *Equal employment opportunity*
- *Performance Management*
- *Training*
- *Occupational health and safety*

The review team did not undertake a comprehensive review of council's workforce relations' practices. However it did examine council's recruitment and selection processes, the operation of its occupational health and safety committee, its consultative committee and its approach to equal employment opportunity and training.

### *Recruitment and selection processes*

Files for two recent recruitment and selection processes were examined. Both files contained comprehensive information in relation to the selection process. The papers on the file evidenced processes that appeared to be of a very high standard. The quality of the process shows that council has considered its statutory obligations in this area and that it understands the importance of the process to the organisation. However, council should ensure that recruitment files contain evidence of the

general manager's approval to advertise the vacancy and a copy of the advertisement.

Council provides prospective applicants with written information of the job application process. This is commendable as many applicants may be unfamiliar with public sector recruitment practices and it can help council by ensuring qualified applicants are encouraged to apply and that when they do, that they supply council with the information it requires.

The review team was provided with a copy of council's "Application for Employment" form. The form asked for details on the applicant's age, marital status and whether the applicant has dependents, their general state of health and whether they have had previous workers compensation claims. Council has advised that the questions/statements on the form that were inappropriate have now been deleted.

#### *Occupational health and safety (OH&S)*

The review did not involve a comprehensive audit of council's occupational health and safety practices. However, the review team gained some insight to how council is addressing its responsibilities in this area by examining council's oh&s policy statement, its oh&s committee's constitution and the oh&s Committee's minutes.

All employers have a duty to consult with their employees pursuant to the Occupational Health and Safety Act 2000 (OH&S Act) and the Occupational Health and Safety Regulation 2001 (OH&S Regulation). Consultation should be viewed not just as a legal requirement, but as a valuable means of improving the employer's decision-making about health and safety matters.

The OH&S Act provides choices on how consultation can occur. Council has chosen to establish an OHS Committee as a means of consulting its employees. An oh&s committee is a good option where there is a desire for a representative group to come together in a co-operative way to improve the employer's systems for managing health and safety. However, council's oh&s committee does not appear to be operating effectively and as such, council needs to consider whether it can demonstrate that it is fulfilling its statutory duty to consult.

It appears that council's oh&s committee met twice in 2005 and one of those meetings appears to have been an inspection rather than a meeting. It appears that committee has not met since 26 April 2005. The minutes for this meeting are of a poor standard. The minutes of the oh&s committee held on 8 September 2004 were also examined. They too are of a poor standard.

The meeting minutes do refer to numerous oh&s accidents/incident reports. It is positive to note that such matters are being reported. However the level of accidents/incidents and the lack of documented follow up action should be addressed by council. Council needs to consider why the incidents are occurring and institute an oh&s program focused on prevention. It is recommended that council undertake an oh&s audit to assess the adequacy of its current oh&s system and the level of compliance with the system. **(Recommendation 56)**

The council was not able to locate a copy of the oh&s committee constitution during the review process. It is concerning that committee members do have copies and the file copy has apparently been lost.

It was noted that the council does have a process of "tool box" meetings where safety issues are discussed and the council has inspection checklists for some of its work processes. However, it is not clear whether there is a system in place to ensure that these practices are undertaken in a regularly and in a consistent manner.

WorkCover has produced a code of practice for oh&s consultation. It is recommended that the council review and implement the code. **(Recommendation 57)** This should result in the adoption of a revised constitution for the committee, changes to the composition of the committee and a much more systematic and proactive approach to consultation on oh&s matters.

#### *Training*

The Local Government Award (clause 23) requires each council to develop a training plan and budget. The Award prescribes what is required to be taken into account when preparing the plan. The Award requires that the plan be designed in

conjunction with the council's consultative committee. Council does not appear to have a complying plan. **(Recommendation 58)**

The review team initially had concerns that some council staff may have been performing work without them having the requisite training/qualification/licence. Council has advised the department that is not the case. It is a matter for council to ensure that it has adequate internal controls to ensure that this situation is maintained.

#### *Consultative Committee*

The Local Government State Award requires councils to establish, and properly maintain, a consultative committee, which is to meet regularly and provide a forum for consultation between council and its employees. Council has a consultative committee.

The Award prescribes that the size and composition of the consultative committee must be representative of council's workforce and agreed to by council and the local representatives. The council has nominated two councillors as management representatives.

Having due regard to the role of councillors, it is not appropriate to have councillors as management representatives on the consultative committee. The management of staff is the responsibility of the general manager. Council has advised that the councillors intend resigning from the committee.

The review team examined the minutes of council's consultative committee meeting that was held on 24 January 2006. The minutes note that the committee's constitution needs to be updated to bring it in line with the requirements of the current Award. Council's consultative committee should review and amend its constitution to clarify the issue of management representation and to update it in line with current award requirements. **(Recommendation 59)**

As indicated earlier, it would be opportune for council to review its code of conduct, in order to tailor inclusions to reflect the needs and culture of Harden Shire Council.

It is important that the council involve its consultative committee in this process and that it consult with the committee on implementation of the code.

*Equal employment opportunity*

Section 345 of the Local Government Act outlines what the council's EEO plan is to include. Of particular significance are the requirements related to collection and recording of appropriate information and the setting of goals and targets (see comments throughout this report regarding the importance of determining KPIs, setting targets and monitoring/analysing performance). Council does not have a complying EEO management plan. **(Recommendation 60)**

As indicated previously, the council's 2005/2010 Management Plan does not clearly indicate what specific EEO activities will be undertaken. The plan is required to detail the programs to be undertaken to implement its equal employment opportunity management plan. The 2005/2010 Management Plan does include council's merit based recruitment and selection policy/procedure. However, it needs to be understood that the application of EEO principles goes beyond this specific issue. The objects of the relevant section in the Act require councils to "promote" equal employment opportunity. Recruitment and selection is only one aspect of this task.

## 7. COUNCIL'S RESPONSE

Email: [council@harden.nsw.gov.au](mailto:council@harden.nsw.gov.au)  
Website: [www.harden.nsw.gov.au](http://www.harden.nsw.gov.au)

Contact: Annabell Miller  
Quote Reference: L7-7

16 June 2006

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

Dear Mr Payne

Council thanks the Department of Local Government for the opportunity to respond to the draft findings on the Best practice Review undertaken in February 2006.

In making this response Council also acknowledges that many of the recommendations have a sound basis and some action towards resolving the foundation issues is currently being undertaken or planned to occur in the future.

In relation to the report Council wishes to respond to the following comments:

- Strategic Plan

Council acknowledges that the Strategic Plan has not been wholly integrated within the 2005-2006 management plan. However the plan has undergone scheduled reviews throughout its life and achieved many of the high priorities identified within the plan, the latest being coordination of ADSL broadband to each resident within the shire.

The Strategic Plan has been listed for review in the 2006-2007 management plan which will enable a closer cohesion of council and community achievable objectives.

- Code of Conduct

Copies of the Code of Conduct have been provided to all Councillors at the time of adoption as Councils Code and Councillor Parker was provided a copy prior to her election. By-election nominees were also invited to attend training with regard to Code of Conduct prior to the by-election.

All Staff have been provided with Code of Conduct training and new staff are alerted to the code via their appointment letter. Copies are located in all staff gathering areas.

- Closure of Council Meetings to the Public

Council have reviewed its process of closing its meeting to the public and have made several changes to its practice. Meeting agenda's now contain a listing of confidential reports together with referral to the specific reasons for closure.

- Code of Meeting Practice

Council is in the process of reviewing the Code of Meeting Practice to remove the incorrect or inappropriate clauses and will present this for public display at the July 2006 council meeting.

- Councillor Training Policy

Councillors have previously been offered a range of training options, most notably those training courses offered by the LGSA. A formal training plan will be offered to Councillors, however training for Councillors is not mandatory and may not be accepted by some delegates.

- Councillor Membership on Staff Committees

Councillors have indicated they will formally resign from the Occupational Health and Safety Committee and Consultative Committee. The Consultative Committee is now in the process of reviewing its constitution and the Occupational Health and Safety Committee has also placed on its agenda a review of its constitution.

- Operational Matters

- Document Administrative Processes

Administrative practices are currently being documented by staff, there are processes documented in the payroll and creditors area. Other areas are being completed and will be finalised within a 12 month period..

- Resource Allocation to Director of Environmental Services

Your comments in relation to the duties undertaken by the Director of Environmental Services reflect an ideal world where this clear definition would be achieved. However all staff at Harden Shire perform duties outside that of their normal professional practice given Council's lack of resources to complete such tasks.

- o Application for Employment

Staff have reviewed the application for employment documentation and have removed questions/statements that are not appropriate or may be interpreted as discriminative.

- o Employee Qualifications/Training

Council believes that the department's review staff have misinterpreted the minutes of the consultative committee in regards to the expiration of staff members 'tickets'. Council previously trained multiple staff members in a variety of 'tickets' regardless of the intended or perceived use of the ticket.

Management has rationalised the training regime to include only staff who will reasonably be expected to use a skill to be trained in the relevant 'ticket'. There is no longer a 'free for all' mentality to staff training, and as such there are a number of staff who have 'tickets' that are expired (most notably confined spaces tickets were held by the majority of staff).

Many staff have no requirement in their daily tasks for the skills required under these 'tickets'.

In addition to this some 'tickets' previously acquired are not required under Workcover legislation (ie chainsaw operator) but have been provided in recognition of competency. As such an employee who was competent in these skills and has continued to utilise these skills in their daily activities are not required to undertake refresher courses.

There are no staff undertaking duties where they are not qualified and not licensed to do so.

- Local Environmental Plan

There are many instances within the review paper that allude to council 'acceding to the State Government' in relation to minimum lot sizes. Whilst it is acknowledged that council must resolve this issue, 'acceding' to incorrect government policy will not occur.

Council have also demonstrated that within its bounds farming lands have grown, rather than contracted as claimed by the Department of Primary Industries in this area. This has occurred even with a minimum lot size of only 40 hectares.

- Minimum Fire Standards

Council acknowledges that a consultants report identified a number of areas of non-compliance with respect to fire requirements, however the report was prepared on the basis of achieving full compliance for a permanent permanent place of public Entertainment (POPE) approval. A full upgrade of the Hotel will occur via a POPE application in the near future.

In the situation of a temporary POPE application, Council would not normally require a full BCA Fire upgrade of a building (due to the economic reality/viability of many businesses in the Shire) provided we can justify that there was no increase in the level of life safety risk to the occupants of the building. The main risk area identified in the consultants report for the Hotel was the fire threat to occupants on the first floor.

In this instance Council believe the conditions of consent issued for the temporary POPE were adequate to minimise any risk to the occupants to the building.

- Development of Council budget and Management Plan

The report states:

*'Harden shire's councillors appear to have limited involvement in the development of council's budget. While it is noted that the general manager's report of 17 May 2005 canvassed a range of issues in relation to the budget, councillors should receive an opportunity to become involved earlier in the process, this is prior to the drafting of the management plan.'*

Evidence of the invitation for Councillors to be involved in this process can be seen in the reports presented to Council commencing February 2005.

Councillors have continued to receive requests to provide input into the 2006-2007 management plan and budget process. These requests have been via council business paper reports, emails and faxes to the councillors, verbal requests at council meeting, the first invitation being issued by business paper report on 15 February 2006.

Councillors have also been encouraged to attend a planning seminar to assist in the formation of the management plan and budget for the last 3 years. The first planning seminar was attended by Council in March 2006.

- Consultation with Community Groups

Council's consultation with community groups is an important feature of ensuring the council moves in a direction akin to those expectations of the community. The following comments made as part of the report are refuted in total.

- a *the Galong and Jugiong groups do not appear to be listed in council's community directory*

The community directory is fundamentally a volunteer project whereby all facets of the community were personally encouraged to provide details. The Jugiong and Galong progress committees have elected not to be part of the directory. Another request to join this directory has been issued to each group, however their acceptance of such will determine their inclusion on the directory.

- b *it does not appear that the community will be consulted on the draft management plan until (it) is placed on public exhibition in May (page 57)*

The community have been requested via newspaper advertisements, Harden Shire Matters Newsletters, Council business papers and radio interviews to participate in the initial planning processes for the budget and management plan preparation. A timetable of these events is attached to this letter verifying the actions undertaken by staff.

- c *it does not appear that these committees have been asked to make a submission detailing the specific needs of their community and what they consider council's priorities should be for the coming year (page 58)*

Councillors and staff conducted a shire tour on 13 March 2006 meeting individually with the executive of each progress association specifically for the purpose of gaining an insight into their priorities for the oncoming year. Each committee was also requested to document any subsequent requirements through their mentors back into the management plan and budget process.

Council received specific detail from Jugiong Advancement Group in regards to priorities and several separate requests from the Advancing Harden Murrumburrah Group that were outside the initial meetings held as part of the shire Tour into the 2006-2007 preparation.

Following your release of the final version of this report Council will provide a response and action plan to address the recommendations individually for review by your department.

Council wishes to thank Mr Murphy and Mr Bose in the manner in which they conducted their review, the continual feedback and suggestions to staff have resulted in many changes being undertaken and provoked thought processes in regards to the operational and management aspects of Harden Shire.

Yours sincerely

Annabell Miller  
**GENERAL MANAGER**

## **8. SUMMARY- WHAT'S WORKING WELL & CHALLENGES**

### **COUNCIL'S PRIORITIES AND FOCUS**

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

- Council had a two-day a strategic planning workshop in March
- Council has recruited a enthusiastic team of senior managers
- Council is developing a new Social and Community Plan
- Council is aware of the importance a new Local Environmental Plan
- A new comprehensive State of Environment Report (in conjunction with other regional councils) is being prepared
- Council is undertaking a comprehensive audit of the condition of its road network

#### **Challenges to improve**

- The council does not have a current strategic plan
- The current management plan does not clearly indicate what council vision is and the mission statement is so broad as to be meaningless
- Council has not clearly identified its ambitions and priorities
- Council's ambitions and priorities do not appear to drive the council's services and resources
- The lack of a coherent strategic and management plans prevent council from effectively measuring its performance in fulfilling its charter

### **GOVERNANCE**

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

- Council promptly considered and adopted the model code of conduct as its own.
- The nature of interaction between councillor and staff appears to be generally consistent with the code of conduct.
- Council adopted a new internal reporting system on 21 December 2005.
- The general standard of pecuniary interest returns was good.
- Council has adopted a number of new policies and procedures in recent months.
- Council recently reviewed the delegations of the mayor and general manager
- Council appointed a new Director of Administration and Finance in June 2005.

## GOVERNANCE

### Challenges to improve

- Make the management plan more relevant, purposeful and accessible.
- Ensure that next year's management plan fully complies with the provisions of the Local Government Act and Regulation.
- The most recent State of Environment Report (the Supplementary Report for 2004/05) is of a poor standard.
- A high priority should be given to the incorporation of key performance indicators and quantitative data in the management plan and annual report
- Council needs to look at the manner in which it deals with confidential items of business at council meetings.
- Council does not have a records management policy or adequate procedures or guidelines for this key function.
- Council lacks a comprehensive approach to the management of risk.

## REGULATORY

### What is working well:

- Council has recently increased the resources allocated to its *regulatory functions*
- Council has successfully dealt with complex development and compliance issues associated with the operation of a large limestone mine at Galong.
- 90% of development applications are determined under delegated authority.
- Council has taken a lead role in South Western Regional Waste Management Group and as a member of that group, makes use of a new regional waste facility at Bald Hill.

### Challenges to improve:

- Land use is a major strategic issue for the shire and as such, will require the ongoing attention of council until a new LEP is made.
- Council has not been providing public notice of development consents.
- Council has not adopted an enforcement policy.
- Council needs to take action to ensure that it completes its annual program of inspection
- Council does not have a companion animals management plan.

## **ASSET AND FINANCIAL MANAGEMENT**

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

- Financial position has improved since 2001/02.
- Council's ratios and other KPI are reasonable having regard to those of similar councils.
- Work has commenced on the systematic assessment of the condition of council's road network.

### **Challenges to improve:**

- Development of a comprehensive asset management plan and infrastructure maintenance programme.
- Development of a long-term financial plan and integration to the asset management plan and the overall strategic plan.
- Improvement in the quarterly budget reporting process.
- The tariff structure of the water and sewer businesses.
- Council needs to review the management of the Jugiong swimming pool

## **COMMUNITY, COMMUNICATION AND CONSULTATION**

### **What is working well**

- Council has established four section 355 committees as a mean of consulting formally with its four main population centres.
- Council publishes an information brochure annually.
- The Annual Report contains a detailed Mayoral Report on council's activities.
- Council has obviously made a significant commitment to its website.
- Council adopted a formal complaints management policy and a copy of council's complaints management policy is also accessible on council's website.

### **Challenges to improve:**

- Council only received one submission on its draft management plan.
- Harden does not have a current social and community plan.
- Council needs to be more pro-active in promoting the community committees as its peak consultative bodies.

## **WORKPLACE RELATIONS**

Note: The scope of the review of council's workforce relations practices was limited.

### **What is working well**

- Council has been successful in recruiting qualified personnel to its senior management positions
- The two recruitment processes examined by the review team appeared to be of a very high standard.

### **Challenges to improve:**

- Council's occupational health and safety committee has not been meeting on a regular basis.
- Council does not appear to have a training plan that complies with award requirements.
- Council does not have an EEO management plan.