

challenges improvement innovation good governance

Local Government Reform Program - Promoting Better Practice.

FOCUSSED REVIEW REPORT

JERILDERIE SHIRE COUNCIL

JANUARY 2005



dlg

Department of Local Government

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1. ABOUT THE REVIEW

Focussed Review objectives

The Local Government Reform Program - Promoting Better Practice is a review process that has a number of objectives including:

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

Focussed Review process

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

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

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

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

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

It is expected that this type of review will be limited to some aspects of council operations. As such, it will not provide an in depth or overall picture of council operations. The results of the review may, however, provide an indication of matters needing attention across aspects of council operations.

Jerilderie Shire Council Review

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

Senior Investigations Officers Keith Coates and Paul Terrett comprised the review team and conducted an on-site review of council between 20 September 2004 and 21 September 2004. In order to review council it is necessary to examine its performance across a range of functions. A number of modules of a practice checklist have been developed to assist council in assessing its functions and checking its compliance. Council's response to the checklist is used as a guide for the on-site review and tests how council has set about delivering its priorities and measuring its achievements.

The on-site review consisted of a briefing for council's Acting General Manager and Mayor, conducting interviews, attending a councillor briefing session and the review of a number of council's policies and other documents. The Acting General Manager was provided with an opportunity to comment on the draft report, his comments have now been noted accordingly.

EXECUTIVE SUMMARY

There are a number of areas of performance at Jerilderie Shire Council that raise concern as to its ability to comply with its statutory obligations. These areas need to be addressed in order for council to meet its obligations under the council's charter as is required under section 8 of the Local Government Act 1993.

Of particular concern is evidence of councillors being involved in the day-to-day operations of council. This was evident in councillor involvement in the performance appraisals of senior officers and the participation of councillors on the Occupational Health and Safety Committee.

The code of conduct of councillors has not been reviewed since 1996. This may explain why councillors do not fully understand their role in the development of strategic and policy directions of the council. Council has not taken a long-term approach to financial planning and corporate activities.

The review team identified a number of concerns in relation to the planning process regarding a council owned property at 63 Jerilderie Street, Jerilderie. This included the fact that there is no plan of management for the property, which is classified community land.

The review team found no evidence of compliance action by council, which calls into question the council's effectiveness in ensuring that planning compliance is monitored in Jerilderie Shire.

Council does not have policies or procedures in such areas as fraud control, procurement and disposal. A number of policies relate to the council area under the 1919 Act and in some instances are grossly out of date and in need for review.

The council needs to review its practices in record management to fully comply with the State Records Act.

The review team is concerned about the council's selection and recruitment practices and with council's statutory compliance with the Occupational Health and Safety Act.

While the finances of council are satisfactory, it is of concern that council has not



published annual reports for the past two years. The quarterly budget reports for three quarters in 2003 were not put to council until the council meeting of 24 February 2004. Many on-costs were not correctly allocated and apportioned. This may have resulted in costs being insufficiently allocated to external works and domestic waste management services.

With the appointment of a new Director of Corporate Services, many of the council's deficiencies have been acknowledged. However, it may take some time to fully correct the council's budgeting and strategic management deficiencies.

The council's computer system dates from 1983 and is in urgent need of upgrading to meet council's reporting and financial management responsibilities.

Council should put resources into risk management so that it can identify and correct some of the deficiencies that exist in the council. It may wish to address these areas on a regional basis.

Due to the number of areas of non-compliance identified, council should undertake a legal compliance audit in relation to a number of key council operations.

The Department of Local Government requires council to take immediate corrective action on the matters identified in the report. The department expects the council to substantially rectify these areas of concern within six months and report to the department at the end of this period. Should the council fail to act on these recommendations, the department will consider taking further action.

3. RECOMMENDATIONS

Planning and Performance

It is recommended that Jerilderie Shire Council:

1. Take an integrated approach to strategic planning, covering all areas of council operations (including environmental planning, social planning and financial management responsibilities) and reflected in its management plan and related strategies.
2. Develop a risk management plan that provides a framework to proactively identify and manage generic and specific risks for all council areas.
3. Engage a legal practitioner with significant experience in local government law and practice to conduct a legal compliance audit, this should include a review of policies and operations in the following areas:
 - (a) Recruitment and selection processes
 - (b) Council delegations
 - (c) Classification of council land
 - (d) Tendering processes
 - (e) Occupational Health and Safety
 - (f) Meeting procedures
 - (g) Statutory planning and reporting under the Local Government Act 1993
 - (h) Recruitment and selection (including the reclassification of the position of Director Technical Services).
4. Develop performance indicators for all areas of council operations.

Governance

5. Provide information to councillors and designated staff on the completion of disclosure of pecuniary interest returns to ensure they are completed accurately and in a timely way. (*Refer to the department's circular 04/16: Pecuniary Interest Returns*)
6. Develop a statement of business ethics to communicate both internally and externally the ethical standards that council abides by and expects others to abide by in doing business with council. (*Refer to the ICAC publication: Developing a statement of business ethics*)
7. Examine the costs and benefits of establishing an internal audit function. Given council's size, consideration should be given to contracting for this function or to sharing it with other councils in the region.
8. Conduct routine fraud risk assessments as part of its risk management responsibilities.
9. Conduct routine risk assessments of council's procurement and disposal procedures.
10. Develop a disposal policy for its assets.
11. Adopt an internal reporting policy to assist staff wishing to make disclosures under the Protected Disclosures Act 1994. (*Refer to NSW Ombudsman publication: Protected Disclosures Guidelines*)
12. Continue its work on developing a records management plan and business continuity plan that reflects the requirements of the State Records Act 1998. The business continuity plan should include consideration of the risk of the loss of development application information.

13. Review its information technology needs and develop a new IT strategy providing for urgent upgrading of software and hardware.
14. Review the format of its draft management plan to ensure that it complies with the requirements of the Local Government Act 1993 and Local Government (General) Regulation.
15. Review delegations at all levels of council.
16. Ensure that when a meeting is closed to the public, the minutes of the meeting record the reasons for closure in full compliance with section 10D of the Local Government Act 1993.
17. Ensure that council meetings are conducted in compliance with the Local Government Act 1993, the Local Government (Meetings) Regulation and council's code of meeting practice.
18. Review its current policies on use of resources and discontinue the use of resources for private purposes at discounted or internal employee rates.
19. Provide training to councillors in relation to their roles within council (as prescribed by the Local Government Act 1993). Councillors should also familiarise themselves with council's policy on interaction between councillors and council staff.
20. The general manager should ensure that the performance reviews of council staff are conducted in a timely manner, ideally quarterly.
21. Make councillors and council staff aware of council's policy for the provision of information to and interaction between councillors and staff and the reporting mechanisms that exist for breaches of this policy.

22. Review committee membership to ensure no councillors are involved in the day-to-day operations of council (such as the OH&S Committee and the Joint Consultative Committee).
23. Develop an implementation plan for the complaint handling policy which includes:
 - a. identifying who is responsible for dealing with complaints and how they are handled;
 - b. training for staff in complaint handling;
 - c. the reporting of complaints data to senior management and council;
 - d. how the community will be informed of council's complaint handling procedures, and
 - e. specified service standards for responding to the public. (*Refer to the NSW Ombudsman publication: Complaint Handlers' Toolkit*)

Regulatory

24. Develop plans of management for all community land within its area pursuant to the requirement set out in the Local Government Act 1993. Council should also up-date its land register (pursuant to section 53 of the Local Government Act 1993) to assist with the identification of community land within its area.
25. Have regard to the zoning of the land in question and the development consent requirements within the relevant zone.
26. Conduct a review of its enforcement policy, procedures and resources (penalty infringement notices, issuing orders etc) to ensure it is capable of discharging its planning enforcement role.
27. Consider adopting section 94 contributions plan(s) for the council area.

28. Ensure that a record is kept, on the relevant tender file, stating that the tenders in question were opened in accordance with clause 16 of the Local Government (Tendering) Regulation.
29. Ensure that tenders are both time and date stamped.
30. Ensure that the relevant tender file contains a copy of the tender assessment criteria.
31. Ensure that the report to council recommending the acceptance of a tender includes a summary of the tendering process, a financial analysis of the tenders and details of the assessment criteria.
32. Ensure that records of all requests for tender documents are kept on the relevant tender file.
33. Ensure that, if council utilises a contract document prepared by the successful tenderer, the file should record that the contract in question has been checked by council (or councils' legal representative) and complies with clause 19 (2) of the Tendering Regulation.
34. Ensure that all contracts exceeding the value of \$100,000.00 are reviewed to ensure compliance with section 55 of the Local Government Act 1993.

Asset and financial management

35. Develop an asset management plan.
36. Review its financial position and address the financial concerns raised in both the Director Corporate Services' report of 24 February 2004 and in this report.
37. Develop a long-term financial plan as part of its strategic planning process, taking into account the following considerations:

- a. alternative sources of revenue
- b. rates strategy (rating structure, special variations etc)
- c. borrowing needs and debt service ratio
- d. investment strategies
- e. the alignment of its long-term financial plan with other strategic directions such asset management, social and strategic plans
- f. long-term plans for capital works, land acquisition and community facilities.

Community, communication and consultation

- 38. Ensure that a copy of its annual report is provided to the Minister for Local Government (Local Government Act 1993, section 428 (3)).
- 39. Include council compliance with its statutory responsibilities as one of the general manager's contractual performance indicators.
- 40. Provide a list of council's policies on its website as well as information on how to access council information and council's complaints system.

Workplace relations

- 41. Review its selection and recruitment policy and procedure to ensure that selection processes are merit based and the selection process is adequately documented.
- 42. Ensure the Occupational Health and Safety Committee is appropriately elected and meet regularly pursuant to the requirements of O.H. & S. legislation.
- 43. In co-operation with the OH & S Committee, develop and communicate an O.H. & S. policy, and review other O.H. & S. related policies such as smoking in the workplace, provision of sun safety policies.

44. Adopt a secondary employment policy and through the general manager should review the operation manager's secondary employment to ensure it is appropriate.
45. Develop a workforce strategy to address its future employment needs particularly in relation to the age of its workforce.

4. CONTEXT

Jerilderie Shire Council is located on the Newell Highway, approximately 60 kilometres north of the Victorian border and is nestled on the banks of the Billabong Creek, the longest creek in Australia. It has a population of 1908 and covers an area 3375 square kilometres.

Jerilderie is known in history for being the only place in NSW that Ned Kelly visited and the origin of the Jerilderie Letter.

As well as producing rice, wheat, soya beans, canola, wool, beef, grapes, onions and licorice, latest statistics show that 24% of the gross national tomato product is grown in the area.

The Jerilderie Shire Local Government Area is located in the southern Riverina and shares its boundaries with Urana, Berrigan, Conargo and Murrumbidgee Councils. With recent amalgamations, it is now the second smallest Council in NSW.

Jerilderie Shire Council has nine elected members, with the three wards in the Shire each represented by three Councillors. The council had total revenue for 2002/2003 of \$5,796,000.

5. DELIVERING AND ACHIEVING

Jerilderie Shire Council has undertaken positive steps to promote local tourism, with the promotion of the “Jerilderie Letter” and the town’s historical links in the Ned Kelly story. It has also undertaken the development of a housing estate to attract residents to the town. The shire has had a 5 year decline in population of -0.48% per annum.

In recent years the council has worked towards the development of a malting barley plant and provision of land for business. However, none of these businesses have eventuated.

Council has been instrumental at developing alternative sources of funds through the building of fire trucks and its investment in a suitably equipped works depot to assist in this venture.

Council undertakes significant sub-contracting of plant for agricultural purposes. This has assisted the local farming community.

The council’s stand on structural reform was put to the Minister in August 2003. But since the March 2004 elections, the council now supports Jerilderie Shire Council as a stand alone council developing strategic alliances with its neighbouring councils. In June 2004 the council dismissed its general manager. The review team is advised that the appointment of a new general manager has been announced and will be taking up his appointment in January 2005.

The review team found a number of deficiencies in the council in its ability to develop priorities and to focus on the future. While it has developed a vision and mission statement, this is not integrated into actions in its management plan and strategies. There should be efforts to integrate council’s environmental planning, asset and finance, management and social planning process. (*Recommendation 1*).

This being a small council, the councillors have a close relationship with the community. Despite this, the council does not appear to actively communicate with the community or work with the community to identify needs. It has not undertaken any formal method of communicating with the community. Other than a survey of the community on library needs, council has not taken the process of community surveys

further into other areas of council operations. Council has only recently allowed the public to speak at council meetings.

The council spends \$2.62 per capita on community services, the lowest in its comparative group of councils. (This figure is obtained using special schedule 1 of the financial report against the estimated resident population within council boundaries).

The council has not undertaken any significant risk management and may have exposed itself to a number of significant risks. Council needs to redirect resources into this area. (*Recommendation 2*)

The council has not complied with a number of the provisions of the Local Government Act 1993 and other legislation, for example, the Occupational Health and Safety Act. Council should engage a legal practitioner to conduct a legal compliance audit (*Recommendation 3*).

The council has very few performance indicators to identify areas that need improvement and as a result it is difficult to conclude council has a clear understanding of how it is performing. (*Recommendation 4*)

5.1 Governance

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

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

- *Pecuniary Interest*
- *Ethics and values*
- *Risk management and internal control*
- *Council’s decision-making processes*
- *Monitoring and review*
- *Complaints handling*

5.1.1 Pecuniary Interest

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

We conducted a review of pecuniary interest returns. This identified that some returns did not stipulate street addresses for properties. Some councillors’ returns did not have addresses for employers.



It was also noted that some councillors used “primary” return forms instead of the form prescribed by the Local Government (General) Regulation. The standard of the returns varied. The Local Government Pecuniary Interest Tribunal has pointed out the need for councillors (and designated staff) to give due care and attention to the accuracy, detail and content of the disclosures required in returns.

It is important that councillors and staff who are identified as designated persons complete the pecuniary interest returns accurately and in a timely way. Council could use the information provided in the department’s circular 04/16 to prepare information for staff and councillors to assist them in completing their returns.
(Recommendation 5)

5.1.2 Statement of business ethics

Council has business relationships with the private sector but does not have a statement of business ethics to guide these relationships. This is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector. A statement of business ethics can be an excellent tool for raising private sector awareness of public sector values.
(Recommendation 6)

5.1.3 Risk management and internal control

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.

Council does not have an overall plan to guide its risk management activities. It does not have a fraud policy and has not carried out a fraud risk assessment. It does not have a procurement policy that assesses risk. There is no systematic scrutiny of council’s operations, systems and performance. *(Recommendations 7, 8, & 9)*

Council does not have a disposal policy guiding the disposal of its assets. The failure of council to adopt such a policy increases the risk it will fall victim to corrupt practices. *(Recommendation 10)*

Council does not have an internal reporting policy to assist staff with disclosures under the Protected Disclosures Act 1994. The policy on reporting corruption, maladministration and serious and substantial waste could not be located. (*Recommendation 11*)

5.1.4 Record keeping and information technology

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

Council has a draft records management plan. It has been in draft form since January 2002. This policy should be reviewed with the proper consultation with State Records and submitted to council for consideration.

A business continuity plan should apply to council's physical records as well as electronic records. We encourage and support the development of a records management plan that particularly reflects the requirements of the State Records Act 1998. (*Recommendation 12*)

Council's present computer system dates back to 1983. Council urgently needs to upgrade its IT infrastructure, commencing with a full analysis of its needs. Council may find the advice of other councils in its ROC of benefit in this area. Council should also develop appropriate IT and email protocols. (*Recommendation 13*)

5.1.5 Management planning

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

The review team noted that council's draft management plan for 2004-2005 requires greater detail in order to comply with sections 403 and 404 of the Local Government Act and the Local Government (General) Regulation 1999. Specifically, the draft management plan should contain more information on the following:



- activities that respond to its current state of the environment report and identify the activities to manage, develop, protect, restore, enhance and conserve the environment in Jerilderie Shire
- the programs to be undertaken to implement its equal employment opportunity management plan
- proposed council activities relating to access and equity to meet the needs of residents in the council's area
- activities relating to stormwater in accordance with clause 28 of the General Regulation

(Recommendation 14)

5.1.6 Delegations

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

The delegations to the general manager were granted in October 2002. Section 380 requires that the delegations be reviewed within 12 months of each term of office. Council needs to review the delegations to the general manager and other employees. Staff should be given written information that clearly identifies the decisions that they can make.

5.1.7 Delegation of Authority to the Mayor

By resolution S21.6 of 04/04 passed at council's meeting of 27 April 2004, council resolved to delegate to the Mayor the power to engage consultants to undertake projects of a value up to \$20,000 with no budget provision. Section 377 (1) point 7 provides that council cannot delegate the voting for expenditure of money for its works, services or operations.

Further, the delegation allows the Mayor to appoint a manager to be acting general manager. This is contrary with section 377 (1) point 1, which provides that only the council may appoint a general manager.

The Mayor has also been delegated authority to refuse inspection of council's records following a request from a councillor to do so. This is contrary to the Act, which makes the general manager responsible for council records.

Many other provisions of the Mayor's delegations relate back to the 1919 Local Government Act and, along with other delegations, are in need of review. (*Recommendation 15*).

5.1.8 Gifts Register

No gift and benefits policy exists and council has no gift register, other than an informal gifts box. Council is encouraged to implement a policy for gifts and benefit in line with the ICAC publication, *Gifts, Benefits or Just Plain Bribes* (1999).

5.1.9 Council Meetings

The council has introduced an action list that identifies matters resolved by the council and action taken or required to be taken. This is a good practice and should continue.

The review team observed a council meeting as part of the review. While the meeting was generally in compliance with the Local Government (Meetings) Regulation 1999, a number of deficiencies were identified.

Open and closed meetings

As a general rule, meetings of the council and its committees are required to be open to the public. Where council determines that a matter should be dealt with in confidential session, section 10 of the Local Government Act 1993 outlines the requirements for this determination.

Based on our review of council's minutes, council considers a number of confidential issues and only closes that part of the meeting relating to the confidential item. From our review of the recent confidential items, the reasons for closing the meeting fall within the requirements of section 10A(2) of the Act. While this seems reasonable,



the community does not see the reasons for closing these meetings because they are recorded in the confidential section of the business paper and not recorded in the minutes. The grounds for closing council meetings need to be set out in accordance with the requirements of section 10D of the Act and recorded in council's minutes.

(Recommendation 16)

Disclosure of pecuniary interest

A review of council minutes revealed that councillors had disclosed pecuniary interest in matters before the council. The minutes did not disclose the nature of the pecuniary interest or whether the councillor left the chamber as required under section 454 of the Act.

The review team identified a number of possible breaches of the pecuniary interest requirements of the Act. These pecuniary interest matters have been referred to the department for further consideration.

Motions before the Council

Minutes reveal that councillors spoke at council on matters where no motion had been put or seconded. Councillors were given extended periods of greater than 5 minutes to speak, without the consent of the council. There were numerous occasions where councillors spoke more than once.

Councillors should be reminded of the provisions of clause 23 of the Local Government (Meetings) Regulation and council's code of meeting practice.

Public address to council

Council should ensure that the policy on public question time is adhered to and that the ordinary council meeting commence prior to the public question time.

Matters of a day-to day nature reported to council

It was noted that matters of day-to-day management of council are reported, such as a précis of all letters received by council. These matters ordinarily need not be referred to council and are the responsibility of the general manager, who is responsible for day-to-day management.



Minutes of Meeting

The minutes of meetings were often found to be unclear and lacked details of what report, if any, went to council relating to specific motions before council. (*Recommendation 17*)

5.1.10 Policy and Procedure Manual

A review of the council policies shows a large number appear not to have been reviewed. Many date from the early 1960's. Many relate or refer to the Local Government Act 1919. Many do not comply with the current requirements of the Local Government Act 1993.

Of concern is the lack of risk management in policies, which potentially could expose council to litigation for the failure of having clear-cut processes and procedures in place. A number of policies do not comply with current legislation.

Council should undertake a comprehensive review of all policies and identify where policies are currently not present. A system where policies undergo regular review should be implemented.

5.1.11 Policy register

Council should adopt a standard and clear format for policies that identifies who is responsible for the policy, the date it was adopted, the date for review and any related policies or other documents.

5.1.12 Code of conduct

Section 440 of the Act requires that every council must adopt a code of conduct to be observed by councillors, members of staff and delegates of council.

Section 440(3) requires a council to review its code of conduct within 12 months after each ordinary election.

Council adopted its code of conduct in August 1996. There is no evidence that it has been reviewed since. Council should review its code of conduct in line with the Model Code of Conduct for Local Councils in NSW to be issued by the Department

of Local Government (as provided under the Local Government Amendment (Discipline) Act 2004).

5.1.13 Use of Council Resources

The review team has identified instances of the use of council resources for private purpose.

The code of conduct states that a councillor, member of staff or delegate must use council resources effectively and economically in the course of his or her public or professional duties and must not use them for private purposes.

Council has a current policy for the private use of plant. The policy is dated 14 December 1961. It grants the use of trucks and small equipment up to the limit of two days per year for personal use at council's own internal hire rates. It also has a policy of permitting the use of trucks and swing saws for the purpose of staff obtaining wood for themselves. The policing of this policy is left to the employees. Council should conduct a review of the policies.

Use of resources for private use at discounted or internal employee rates not available to the public, may open council to corrupt activities and is contrary to the code of conduct. Council should refer to the ICAC publication "No Excuse for Misuse" when reviewing policies on the use of council resources.

(Recommendation 18)

5.1.14 Councillor Involvement In Staffing Issues

Pursuant to section 335 of the *Local Government Act 1993*, council's general manager is responsible for the day-to-day management of the council.

The general manager is also responsible for directing council staff and addressing staffing issues. Sections 232 (1) and 232 (2) of the Act set out the role of a councillor as a member of the elected body. Generally, it is not the role of a councillor to participate in operational or staffing matters.

During the course of the review, council's Deputy Mayor, Councillor Henery, provided the review team with a copy of a Confidential Mayoral Report. This report

was issued to councillors during a closed session of council's meeting held on 24 August 2004.

The report indicates that the Mayor, Councillor Terry Hogan, conducted a performance review of council's Director of Corporate Services.

The report also states that the Mayor reviewed "senior staff remunerations". It should be noted that the term "senior staff" relates to council's definition of senior staff positions (council's management team) and not "senior staff" as defined by section 332 (2) of the *Local Government Act 1993*.

The review team spoke with Councillor Henery, who stated that the Mayor and he had conducted a performance review of the Director of Corporate Services, Mr Richard Morris. Councillor Henery further stated that he and the Mayor had reviewed the salary of Council's Director of Environmental Services, Mr Bradley Peach and the salary of Mr David Tamlyn in relation to a salary adjustment for his role as the Operations Manager.

The Mayor also spoke with the review team. The Mayor confirmed that he and Councillor Henery had conducted a performance review of Mr Morris. The Mayor further stated that they had conducted the review due to the fact that the review had not been conducted for some time.

The Mayor also advised that he had conducted the salary review of the Director of Environmental Services and the Operations Manager.

In relation to the salary review of the Operations Manager, it is arguable, due to the fact that the Operations Manager was at the time the acting general manager (and was acting in this role at the time of the review), that this was the correct process. However, the reviews carried out by Councillors Hogan and Henery on the other senior staff members are clearly the responsibility of council's general manager. In the present case, the acting general manager should have carried out the reviews in question. It should also be noted that, due to time restraints, the review team did not canvass the issue of whether the salary reviews were carried out in accordance with the Local Government (State) Award 2001.

This type of interaction may create the perception that council employees are susceptible to influence or direction from councillors in the performance of their duties.

The department also received a number of complaints (prior to commencing the review process) alleging that a number of councillors had requested that Mr Charles Gentner (while holding the position of General Manager) approve a salary increase for council's Operations Manager, which had been negotiated prior to Mr Gentner commencing his tenure with council. In this regard, at council's meeting of 12 December 2003, council resolved to adjust the Operations Manager's salary and make retrospective payments to him.

It appears that Mr Gentner (when general manager) did not implement this resolution. However, council again resolved to adjust the Operation Manager's salary and make the retrospective payments at council's meeting of 24 August 2004. The retrospective payments are effective from the first pay period on or after May 2002. Thus, *prima facie*, it appears that council has actively pursued a salary increase for its Operations Manager. This again highlights councillor involvement in staffing issues, which are matters for the general manager.

The Shires Association provided advice to Mr Gentner in relation to offering performance based contracts of employment to council's directors.

This advice states that any proposed contract that includes a significant salary increase and/or any other feature that identifies the position as a new one or a promotion, then council must comply with the provisions of clause 26 of the Local Government (State) Award. That is, council must fill the position through a merit selection process. In the present case, the Operations Manager is not on a performance based contract. However, the Operations Manager's position was renamed the Director of Technical Services by council resolution at council's meeting of 24 August 2004. At the same meeting council approved a significant pay increase of approximately \$3,250.00 per annum backdated to 1 May 2002.

Based on the advice provided by the Shires Association, it is arguable that the creation of the position of Director of Technical Services is in fact more than a mere change of title. As such, it is possible that this position should have been filled

through a merit selection process. These issues warrant further review as part of council's legal compliance audit. (*Recommendation 3*)

5.1.15 Consultative committee - councillor membership

Clause 25a of the Local Government (State) Award requires each council to establish a consultative committee and to meet regularly. Council's committee has only met twice in the last 12 months. The composition of the consultative committee, as per the Award, must include the following members:

- MEU (Salaried) employee representative – 1 elected
- MEU (Wages) employee representative – 1 elected
- Environmental Health and Building Surveyors – 1 elected
- Australian Services Union – 1 elected
- Local Government Engineers Association – 1 elected
- Management representatives

Currently, councillors are delegates to this consultative committee. It is inappropriate for councillors to be delegates given the day-to-day operations of council that are discussed at these meetings.

Councillors are also delegates to the Occupational Health and Safety Committee of council, which again looks at the day-to-day operations of council.

5.1.16 Councillor involvement in recruitment

The review team has identified an instance of councillor involvement in the recruitment of non-senior employees. At its meeting of 21 September 2004 council received a report that applicants for the position of Senior Engineer were considered and interviewed by the Mayor, Deputy Mayor and acting general manager. It is inappropriate for councillors to be involved in the recruitment process for non-senior staff positions.

5.1.17 Approvals by Shire President

Many policies, including the private use of motor vehicle policy, predate the Local Government Act 1993. These policies state that the permission of the Shire President is required in order to take certain actions. While there is no evidence demonstrating that these powers have been used, it is of concern that such policies exist and promote the involvement of the (now) Mayor in day-to-day management activities. These policies should be reviewed and the authority transferred to the general manager in day-to-day operational matters.

(Recommendations 19, 20, 21 & 22)

5.1.18 Termination of Mr Charles Gentner as General Manager

The department received a number of complaints from members of the Jerilderie community concerning the termination of Mr Charles Gentner as council's general manager. As such, the review team considered it prudent to canvass the issue during the visit to council.

Mr Charles Gentner was employed as council's general manager on a performance based contract for a four year term commencing on 15 July 2002. The review team understands that at the end of council's budget meeting of 4 June 2004, council resolved that a sub-committee of council should negotiate a settlement in lieu of Mr Gentner serving out the remainder of his employment contract.

The review team was advised that the relevant sub-committee was formed at the conclusion of this meeting and met with Mr Gentner on the same day. The committee then advised Mr Gentner of council's resolution. Mr Gentner asked for time to consider his position.

The review team is concerned that there does not appear to be a report prepared for the meeting of 4 June 2004 relating to Mr Gentner's employment and the reasons behind council's resolution to terminate his contract. In fact, one councillor stated that the issue was raised without any forewarning and that there was no "paperwork" for councillors to consider prior to the resolution being voted upon.

This begs the question, did council have sufficient information to adequately assess the relevant issues and make an informed determination in relation to this matter? If



the elected body has made such a determination without sufficient information, a further question must be posed, has council met its charter obligations as a responsible employer?

5.1.19 Complaint handling

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

Council is yet to develop a corporate approach to complaint management. While council has a complaint handling policy, this has not been implemented across the organisation. Instead, a number of complaint handling systems are in place specific to each council section. Council should develop an implementation plan for its corporate complaint handling policy.

Council also has difficulty differentiating complaints from other correspondence in its current system. Complaints need to be recorded so that types of trends can be identified and response times monitored.

There is no regular management reporting on the frequency of complaints, their type, progress in handling complaints and the outcome of complaints. Only broad data on correspondence and general requests is available. Complaints and customer requests need to be separately identified. It is acknowledged that the new computer system will rectify this by categorising complaints when they are received. By establishing clear guidelines and procedures for the handling of complaints, the council will be in a better position to improve services. Council should consider adopting a Guarantee of Service for responding to correspondence (including complaints).

No specific training has been provided for staff in complaints handling.
(Recommendation 23)

5.2 Planning & Other Regulatory Functions

Council exercises regulatory functions in relation to a range of activities within its area. The efficiency and probity of council's regulatory functions is important for effectively managing council's responsibilities and for preserving public trust in council and its staff.

Regulation is important to achieve a wide range of social, economic and environmental goals.

5.2.1 63 Jerilderie Street, Jerilderie.

Prior to the review team's visit to Jerilderie, the department received a number of complaints in relation to the proposed demolition of a building on council owned land at 63 Jerilderie Street, Jerilderie. The building in question is a small double fronted building located on the north side of Jerilderie's main street (the Newell Highway). Council purchased this property in August 2002.

Council had resolved (at its meeting of 17 December 2002) to demolish the building and "restore" the property to a level site. In March 2003, council received a report from council's heritage advisor recommending that the property should be retained and the property restored. The property in question is not the subject of a heritage order. Council subsequently resolved to prepare plans that included incorporating public toilets and a static tourism display into the site. Council at its meeting of 25 November 2003 resolved to develop the property as an open space area. Council also resolved to establish a committee to investigate the possible relocation of the building. In February 2004, council resolved that a sub-committee for the 63 Jerilderie Street site be formed. At council's meeting of 24 August 2004, council resolved that the proposal to create an open space area at the site be advertised and submissions be sought from the public in relation to the property.

Council's actions in relation to this matter indicate that:

- Council may not be meeting public land management requirements under the *Local Government Act 1993* and the obligations that flow from the failure to classify public land under council control.



- Council may not be meeting its obligations under the *Environmental Planning and Assessment Act 1979* in relation to the development of this property.

Section 25 of the *Local Government Act 1993*, states that all public land under the care and control of a council is defined as public land.

Public land is defined in the Local Government Act dictionary as “any land (including a public reserve) vested in or under control of the council, but does not include a public road, Crown land, a regional park or land subject to the *Trustees of Schools of Arts Enabling Act 1902*”.

Pursuant to section 26 of the Act, all public land has to be classified as either community or operational land. Section 31(2A) of the Act states that any land acquired by a council that is not so classified within three months of the acquisition is taken to have been classified under a local environmental plan as community land. In the present case, the review team was advised that this particular parcel of land was not classified within the three-month time frame. This being the case, the land in question is deemed community land.

Pursuant to section 35 of the Act, community land is required to be used and managed in accordance with a plan of management. Section 44 of the Act prohibits the changing of the “nature and use” of the land until such a plan is in place. The property identified as 63 Jerilderie Street, Jerilderie does not have a plan of management nor does it form part of a generic plan of management encompassing community land within the shire. As such, it appears that council would not be able to demolish the building in question, which would effectively change the “nature and use” of the land, without first creating a plan of management for the site. As an alternative, council may wish to reclassify the land as operational land. In this regard, council should have regard to sections 28, 29, 30 and 34 of the *Local Government Act 1993*.

Further, the land in question is zoned 2(v) (Village or Urban Zone). Council’s local environmental plan states that within this zone all development requires development consent. As such, council would appear to require development consent before taking demolition action.

Council should also be aware of necessity to consider various matters under section 79C of the *Environmental Planning and Assessment Act 1979*, which includes having regard to local development control plans.

Having regard to this requirement, council should consider the fact that the property in question sits within Development Control Plan (DCP) No.7 - Heritage - Main Street. Therefore, council must *consider* the requirements of this DCP as part of the development assessment process. (*Recommendations 24 & 25*).

Council has advise that since the review, that it has engaged consultants to prepare plans of the overall site, a statement of environmental effects and how the development at 63 Jerilderie Street meets with the aims and objectives of Jerilderie Social Environment Plan 1993 and development control plan 7 – Heritage Main Street.

5.2.2 Enforcement

The review team has found no evidence that the council has recently issued any penalty infringement notices or orders under its relevant enforcement powers. It was remarked during the review that “no enforcement notices have been issued in the last seven years”.

The council is obliged to ensure that environmental standards and legislation are complied with. Given its statutory obligation into areas of public health and safety, the council’s lack of action may expose the residents of Jerilderie to unnecessary risk.

While council does not employ a dedicated enforcement officer, council could investigate sharing the cost of employing such an officer with other councils in its region. (*Recommendation 26*)

5.2.3 Section 94

Council does not have a section 94 plan. Councils are not compelled to have such a plan. However, this decision has a direct impact on the revenue available to council to undertake infrastructure projects. It may in the long term impede development should council seek to develop a plan at short notice in response to development proposals. (*Recommendation 27*)



5.2.4 On-site Sewage Management

Currently the council has a draft on-site sewage management plan. In May 2001 the council was granted funds under the On-site Sewage Management Strategy Project to develop a register of on-site sewage systems and to implement an on-site sewage management strategy. As the plan is only in draft form it is suggested that council review and adopt the On-site Sewage Management Plan as soon as possible.

Council also does not charge an on-site management fee, which is recommended to offset the cost of managing on-site sewage. Council should review this policy in light of the department's circular 04/37.

5.2.5 Tendering Process

During the course of the review process, both the acting general manager and the Director of Corporate Services advised that council had only one contract that exceeded the \$100,000.00 threshold prescribed by section 55 of the Local Government Act 1993. We were further advised that council had only utilised the tendering process in relation to that particular contract. The contract in question related to the supply of a grader. The total contract amount was \$392,480.00.

The review team looked at the file relating to this particular purchase and found that in the main, the tendering requirements as prescribed by the Local Government (Tendering) Regulation 1999 had been followed.

However, the review team did note the following concerns:

- The report from the Works Committee (which assesses the individual tenders and makes recommendations to council) did not contain adequate information relating to a summary of the tendering process, a financial analysis of the comparative tenders, details of the assessment criteria nor did the report state a conclusion and recommendation based on an analysis of the assessment criteria results. In fact, the report in question was merely a few paragraphs within the Works Committees minutes of its meeting of 4 June 2004.
- This report states the Committee's recommendation to accept a particular tender, the amount of the contract (which in this report only states the price of



the machine minus the trade of council's previous grader), and the names of the four tenderers. It is also noted that this particular report was not kept within the tender file.

- The record of the tender being opened in accordance with clause 16 of the Local Government (Tendering) Regulation was not kept on the relevant tender file.
- The tenders were date stamped only but did not record the time of receipt.
- No record of all requests for tender documents was kept on the tender file.
- The documents provided to the tenderers did not specify whether formal tender documents were required and how to obtain them.
- The relevant tender file did not contain the tender assessment criteria.
- Council has utilised a contract prepared by the successful tenderer. There is no evidence on the relevant file that council or council's legal representative has reviewed the contract in question and ensured that the agreement (in this case a standard form contract) is in accordance with council's tender requirements and specifications
- The contract as contained within the tender file does not appear to have been executed by the tenderer.

(Recommendations 28, 29, 30, 31, 32 & 33)

5.2.6 Other major expenditure by council

A review of the annual report for 2000/2001 noted that major contracts were awarded to Purtills for the supply of fuel to the value of \$409,110.89 during that year as part of a two year tender for the supply of fuel at schedule of rates.

When the review team enquired about ongoing contractual arrangement the only contract that could be located dated from 31 August 2000. It appears that this contractual arrangement has simply been rolled on.

The 2000/2001 annual report also noted a contract to CSR Emoleum for the supply and delivery of class 170 bitumen entered in February 2000 at scheduled rates. The total value of the contract was \$129,577.00. We were advised that CSR Emoleum makes offers to existing customers in July of each year, with extensions of existing spray and seal arrangements at set prices for the next 12 months. The Director of Technical Services has advised that there are no other viable local options. It is important for council to fully document the basis to justify such a conclusion.

The review team has been unable to conclude whether the Purtills and CSR Emoleum arrangements have exceeded \$100,000, and therefore tenders being required under section 55 of the Act. With this in mind, all contracts of a value of \$100,000 or more should be reviewed as part of the legal audit process to determine whether tenders are required for any of the contracts, pursuant to section 55 of the Local Government Act 1993. (*Recommendations 3 & 34*)

5.3 Asset & Financial Management

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

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

- *Financial management*
- *Asset management*
- *Financial reporting*

5.3.1 Overview of financial position

Council's financial performance and position is satisfactory. While the council has completed its financial returns, concern is raised that the council has failed to provide annual reports to the department for the years 2001/2002 and 2002/2003.

Council is heavily reliant on grants and has a low rating base. Council has not applied for a special variation despite council acknowledging its financial concerns and small rating base.

The council has a \$828,000 surplus from all activities for 2002/2003. Expenditure on capital exceeded depreciation related to those assets. The auditor noted in his report that the financial reports were again incomplete and that there were a number of inappropriate or inaccurate entries in the ledger.

Council has recently appointed a new Director of Corporate Services, who has commenced reviewing its finances. He has highlighted a number of concerns, which he reported to the council meeting of 24 February 2004.

These concerns can be paraphrased as follows:

"Outdated Quarterly Budget Report (QBR) rationale.

The reporting reflected neither an accrual nor cash result, since it includes loan and

capital movements and excluded depreciation. It is therefore difficult to relate the resulting surplus or deficit that is reported to the annual accrual accounting results. This difficulty in reporting can lead to serious reporting errors.

The report further noted that while the QBR focuses on function, responsibility reporting is lacking because of inappropriate treatment of a number of items. For example, plant recoveries can be found in Administration while their counterpart plant charges to jobs, as well as actual plant cost are to be found in operations. Conversely, Engineering salaries are charged to administration. Property, public liability and workers compensation costs are also charged to Administration.

It was noted that the council had not reviewed the last 3 QBRs for 2003 and were submitted to council together as one report at the December 2003 meeting.

On cost.

Direct labour on-cost rates have not been adjusted for 4 to 5 years and not all on-costs are being matched against on-cost recoveries. This is concern as council undertakes large amounts of private works on farms. This failure to correctly allocate on-costs has resulted in the inadequate allocation and timing of these costs and measuring the full cost of outside work. This effectively has resulted in council cross subsidising outside work at a lower rate.

The council has also applied “on-cost”, to a range of other activities stores, creditor purchases and plant operations.

This lack of appropriate allocation of on-costs also calls into question whether the council has adequately estimated the “reasonable cost” of domestic waste management and other charges.

Lack of effective budget process.

The previous budget process did not facilitate management control or management reporting for the following reasons:

- *no resource allocation was planned as an integral part of the budget process.*
 - *budget data was not sufficiently detailed level to make performance comparisons*
-



- *budget data was not posted into the financial system to allow managers to view actual against budget performance.*
- *creating budget v actual reports is only achieved through a lengthy process.*

Lack of clarity and control over capital items

A number of capital items were included in the 2002/2003 financial reports as operating items this resulted in the need for the auditor to transfer some \$90,000 of shoulder rewidening to capital , previously reported as recurrent .

Capital items were mixed at various places in the accounts

Chart of Accounts

Until recently the chart of accounts was essentially a list of jobs classified by function or activity and lacked clarity.

Computer facility

As noted earlier, software used by council dates from 1983 and is not considered user friendly. It lacks critical safeguards and controls. This lack of updated computer software has made it difficult to adequately budget and a cost exercise in upgrading.

Council has now instigated full accrual accounting and is in the process of reviewing on costs and capital items”.

Council needs to address each area as a matter of priority.

5.3.2 Investment Policy

Council's investment policy is inadequate and needs to comply with the section 625 of the Act and the Ministerial Order. It is a requirement of AAS27 11.3.5 that a council must maintain an investment policy that ensures council exercises care, diligence and skill that a prudent person would exercise in investing council funds.

Council must comply with AAS 27 and review its investment policy.

5.2.3 Domestic Waste Management charges

It was noted that the domestic waste management charge was simply increased by the rate pegging amount of 3.5% over the previous years charges. "Reasonable cost" is a crucial compliance issue under the Local Government Act in establishing an annual charge.

All councils must establish and implement a separate Domestic Waste Management (DWM) revenue raising structure based on the determined "reasonable cost" of providing that service. Raising the charge by the rate pegging amount may call into question whether "reasonable cost" has in fact been calculated?

5.2.4 Two-part water and sewerage pricing

Jerilderie Shire Council does not comply with the two tier pricing principles required under the COAG Water Reform and Competition Policy Frameworks.

Council would be aware of the 1994 Council of Australian Governments (CoAG) agreement on a strategic framework for the efficient and sustainable management of the Australian water industry. Since 1994 councils have been encouraged to adopt best practice for water and sewerage pricing. This is unless councils have carried out a benefit/cost analysis that can demonstrate that for their community best practice pricing is not cost effective. There is no evidence suggesting that council has undertaken a benefit/cost analysis.

A number of mechanisms have been employed to "encourage" council compliance with best practice pricing principles. These include making compliance a condition of:

- grants under the Country Town Water Supply and Sewerage Program;
- dividend payments under s. 409 of the Local Government Act; and
- approval for special variations to general income under s. 508(2) of the Local Government Act.

Council's failure to comply places it in a difficult position should it wish to seek a grant, dividend or special variation (as described above).

5.2.5 Alternative sources of revenue

Council currently relies heavily on rates and grants as sources of income. Over time, this will increase the rate burden on residents and businesses if alternative sources of revenue are not identified.

Total revenue by source over the last year was:

Rates and annual charges 26.64%

User Charges and fees 24.03%

Grants and Contribution 44.31%

Interest 2.9%

Other revenue 2.12%

Council needs to identify and access sustainable sources of funds other than rates and grants.

5.2.6 Long-term rates strategy

Council needs to review its rating structure as part of its long-term financial planning process. This will ensure that rating policy meets council's costs over the long-term and provides a strategic approach to the spread and structure of rates.
(Recommendation 35)

5.2.7 Rates hardship policy

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

Council does not have a rates hardship policy in place. Given the demographics of the area, there appears to be a need for council to consider adopting such a policy.

5.2.8 Linking of strategic plans

It is important that the financial direction of the council is aligned to its strategic objectives. Therefore the development of council's long-term financial plan should support its strategic direction. *(Recommendations 36 & 37)*

5.4 Community & Consultation

A council's charter requires that a council:

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

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

- *The methods council uses to involve and determine the views of its community*
- *Access to information*
- *Reporting to the community and keeping the State government informed about its activities*

5.4.1 Annual report

Council has only provided a copy of its annual report to the department in one of the last three years. Section 428 of the Local Government Act 1993 requires that council furnish a copy of its annual report to the Minister. (*Recommendations 38 & 39*)

Council should ensure that any future annual report and State of the Environment report complies with the Local Government Act and the Local Government (General) Regulation.

5.4.2 Council's website

There are a number of council policies that would be of interest to the community that are currently not contained on the website. Council could consider providing a



list of its policies on its website so that members of the community are aware of the policies that council has developed.

Council should consider providing information that assists members of the public to access information under council's policy and information on how to lodge a complaint or comment with council. The website should also have links to tourist facilities and other promotional matters. (*Recommendation 40*)

5.5 Workforce Relations

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

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

- *Job descriptions and job evaluation*
- *Recruitment and selection processes*
- *Equal employment opportunity*
- *Staff development*
- *Occupational health and safety*
- *Secondary employment*

5.5.1 Recruitment and selection

The review team assess a number of recent recruitment files. These selection records lack transparency, with no details of the successful candidates' respective merit for the position over other applicants.

Council has developed a selection and recruitment policy known as the job advertisement policy. This policy attempts to set out procedures for the recruitment of staff.

Council's job advertisement policy states that external advertising is only utilised when council is unable to find a suitable applicant from within the organisation. It is the review team's view that this particular policy has the net effect of preventing other suitably qualified persons from applying for a position, if there is a candidate within council who could fulfil the role. As such, this limits council's choices in relation to employing the most suitable applicant for the position by limiting the advertising of positions to the broader market of potential applicants.



As the policy in question appears to limit other suitably qualified persons from applying for positions, it is difficult to see how appointments made (while utilising the advertisement methods prescribed by this policy) would be merit based, as required under section 349 of the Act and clause 26 of the Local Government (State) Award 2001.

The job advertisement policy outlines the composition of selection panels. This does not take into account the policy principles set out in the council's Equal Employment Opportunity Policy.

The review team notes that a number of staff are related. It is essential to establish adequate recruitment practices to prevent allegations of nepotism.

The appointment of a selection panel at the discretion of the general manager calls into question the principle of selection on merit. Council should develop appropriate selection processes and procedures that provide for the appropriate composition of selection committees *and* the need for documentation demonstrating that selection has been merit-based. (*Recommendation 41*)

5.5.2 Occupational Health and Safety

The Occupational Health and Safety Committee has not met in recent times. The election of committee members, in accordance with the requirements of the O H & S Act, has not occurred.

Council has no Occupational Health and Safety Policy. This policy should be developed in co-operation with the O.H. & S. Committee. This policy should also reflect council's obligations as an employer under the relevant OH & S legislation. This policy should be communicated to the workforce.

A number of other policies need reviewing, such as the provision of one tube of sunscreen lotion per employee per annum (1990), broad brim hats with red band as an alternative to safety caps, provided that employees pay half the cost (1964) and policies such as the 1989 composition and activities of safety committees in the induction program. (*Recommendation 42 & 43*)

5.5.3 Secondary Employment

Section 353 of the Local Government Act states the requirements for both the general manager and staff in relation to secondary employment. Section 353 (1) stipulates that a general manager must not engage in outside employment or contract work without the approval of council.

A number of staff members (including the acting general manager) are engaged in private employment outside the service of the council. The acting general manager is currently a director of a survey/irrigation design company. There is no evidence that the acting general manager has received approval to carry out this secondary employment as required under section 353 (1) of the Act.

Council should adopt a secondary employment policy. The incoming general manager should give consideration to the acting general manager's secondary employment. In doing so, the incoming general manager should consider the adequacy of arrangements in place or required to manage the risk of conflicts of interest arising. (*Recommendation 44*)

5.5.4 Workforce planning

Jerilderie, like many councils is exposed to a number of workforce issues, such as:

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

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

The long-term plan should also address the issue of council's aging workforce and increase opportunities for apprenticeships, cadetships and traineeships.

(*Recommendation 45*)

