Local Government Reform Program - Promoting Better Practice

good governance

innovation

improvement

challenges

REVIEW REPORT

KEMPSEY SHIRE COUNCIL

FEBRUARY 2006

dlg

Department of Local Government

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1. ABOUT THE REVIEW

Review objectives

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

- ·to generate momentum for a culture of continuous improvement and greater compliance across local government

- to provide an 'early intervention' option for councils experiencing operating problems

- to promote good governance and ethical conduct principles

- to identify and share innovation and good practice in local government

- to enable the department to use review information to feed back into its work in identifying necessary legislative and policy work for the local government sector.

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

Review process

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

The process involves a Department of Local Government (DLG) review team evaluating the effectiveness and efficiency of the council's operations and giving

feedback. This involves checking compliance, examining appropriate practices and ensuring that council has frameworks in place to monitor its performance.

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

Kempsey Shire Council Review

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

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

- How has council determined its ambitions and priorities?

- How do these ambitions and priorities drive the council's services and resources?

- How does council use its corporate capacity and systems to drive forward the organisation in an ambitious, challenging yet managed way?

- How does council measure the progress it is making with its agenda to ensure that its priorities are delivered and that service improvement is achieved?

Angus Broad and Lyn Brown conducted the on-site component of the review from 31 October 2005 to 1 November 2005.

The on-site review involved a meeting with council's mayor and general manager, conducting interviews, attending a councillor briefing session and the review of a number of council's policies and other documents.

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

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

2. EXECUTIVE SUMMARY

It is evident that Kempsey Shire Council has undergone considerable change in the last few years. The organisation demonstrates its intent to drive improvement focussed on the goals it sets. The enthusiasm of its staff to improve and surmount challenges was impressive.

Conversely, discussion with councillors suggests that they are concerned about the ability of ratepayers to provide the income necessary to support greater council expenditure. This concern pervades and inhibits actions that may otherwise provide better services and facilities for ratepayers and residents.

The council has set in place the foundations for a strong strategic approach to meeting the future needs of its community, and regularly monitors performance measures for all its principal activities. These standards are linked to the strategies identified in council's management plan. Council has a clear process in place to ensure that it monitors the alignment of its directions with its activities and finances. This is supported by a strong information technology platform that ensures the integration of its strategic direction and council operations.

Given council's ageing population is increasing at a significant rate, council needs to consider ways to raise the awareness of this issue across all sections of council. Building upon strategies in its Social Plan and using the Ageing and Place Framework developed by the Associations, council should prepare long term strategies to meet current and future needs for older people.

Council has a good governance framework in place. Particularly, council has a strong framework for monitoring the implementation of its management plan. 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.

Council's role in strategic land-use planning is made difficult by a lack of funding to undertake strategic planning studies and by a local environment plan that relies on
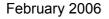
assessments made as far back as 1984. What may have been good planning practice in 1984 may not be seen as best practice under current planning considerations. The council needs to overcome the current hiatus over funding studies and needs to undertake a more rigorous, formal and widespread review of land use planning within its area.

The council has adopted strategies to efficiently deal with development applications, through extensive use of delegated authority. Additionally, the council has adopted various performance criteria for dealing with development applications and for complying development.

Council's infrastructure assets are in acceptable condition. However, the council has not adopted a formal asset maintenance and management program, adopting a "wish list" approach as part of the management plan process. Under this process, priorities are neither determined nor suggested by staff, with some selection and prioritisation being determined by the councillors and staff. This represents an ad hoc approach and fosters "cherry picking". Priorities for expenditure should be determined in accordance with adequate plans.

In a venture with the private sector, the council has developed its own technology platform, CivicView. The use of council's own IT staff has defined the platform's focus to respond to the various needs of the council. It represents a significant and worthwhile investment by the council and serves to confirm to smaller councils that such projects can be brought to fruition.

Council has a range of methods for including the community in its processes. It keeps its community informed using methods such as regular newsletters, media notices, information stands and its website. Members of the community can make a customer service request, complaint or general enquiry on council's website. Council should develop customer service standards and these need to be developed more broadly across all council services, monitored and reported on.

Up until 5 months ago the council had a significant staff turnover rate of 21%. Recently the council has taken initiatives to turn this around. In the period from the commencement of the financial year until November, the rate had dropped to 1.2%.

It is clear that Kempsey Shire Council is an organisation where people like to work. The low staff turnover and outcome of employee surveys indicate a high level of satisfaction with the workplace. There have been significant workforce practice changes, including exit interview, succession planning (although in its early stages), a training model, and other programs, such as "get fit programs" in the throes of being implemented. The council has a strong relationship with the union representing staff, based on attempts to pre-empt and to deal with potential issues before they become disputes. The council faces a future challenge with an ageing workforce. Council is addressing this in its human resources strategy.

3. RECOMMENDATIONS

Strategic

1. Council should ensure that all its plans are integrated into its strategic plan when undertaking the next review of the plan.

2. Building upon strategies in its social plan, council should prepare long term strategies to meet current and future needs for older people.

3. Priority strategies to meet current and future needs for older people should be determined on an annual basis and incorporated in council's management plan and budget, the business plans of each section and the work plans of individual officers. Progress in relation to these priorities should be reported on a quarterly basis via the performance appraisal system and management plan reports as well as annually in council's Annual Report.

Governance

4. Council should consider including in its statement of business ethics the reasons why external parties should comply with the statement and detailing how external parties will be informed of the statement.

5. Regular reports on the implementation of all of council's plans should be presented to council. This could be achieved by linking this reporting with the quarterly reporting on the implementation of council's management plan.

6. Reports should be provided to council on a regular basis on council's complaint handling activities so that councillors receive information about council's handling of complaints and correspondence.

7.   Council should develop a comprehensive risk management plan to enable it to identify and manage all significant risk issues facing council in the pursuit of its objectives.

8.   Council should develop a fraud control program as a priority.

9.   Council should review its purchasing of goods and services policy and its disposal of assets policy.

10.   Council should conduct routine risk assessments of its procurement and disposal procedures.

11.   Council should develop a formal system for the monitoring and review of all contracts that includes at least:
   - recognition of the differing complexity of contracts,
   - an internal control regime,
   - communication of the performance evaluation system to potential contractors,
   - site inspections and procedures for monitoring, recording and reporting on variations.

12.   Council should develop and adopt a policy supporting legislative compliance.

13.   Council should establish clear guidelines for conducting workshops and information sessions in its code of meeting practice.

14.   Council should review its current meeting practices with a view to providing a more planned approach to ensure its meeting schedule reflects the needs of council.

15.   Council should review the process of conducting works committee inspections to ensure that committee processes comply with the

requirements of the Local Government Act and examine the utility in delegating the determination of matters to the committee.

16. Council should provide its section 355 committees with a procedure or operations manual that outlines what is expected of them.

Regulatory

17. Council should explore opportunities for preparing regional State of the Environment reporting with other councils in the Mid North coast Strategic Alliance.

18. Council should review its State of the Environment Report to ensure that future reports include:
    a. environmental advice from other councils and provide information on the regional setting
    b. information about gaps in data and environmental information
    c. a list of future actions and issues to be addressed by the council
    d. evidence of community consultation or involvement of the community in monitoring changes in the environment.

19. Council should make a determination in relation to funding for the underlying studies for possible re-zoning of land to permit the provision of industrial land in a suitable location within the Shire.

20. Council should undertake a rigorous, formal and widespread review of the land-use planning within its area to provide a strategic land-use plan for the future.

21. Council should develop a compliance and enforcement policy. The Ombudsman's enforcement guidelines may be a useful resource in developing this policy.

22. Council should review its 1999 companion animal management plan to ensure that it is being effectively implemented and particularly deals with the issues of:

    a. micro-chipping of dogs and cats

    b. up-skilling of staff to enable council to carry out micro-chipping

    c. hardship relief, and

    d. the return of micro-chipped companion animals to owners.

23. Council should establish a companion animal advisory committee to oversee the development and implementation of the companion animal management plan.

24. Council must comply with its responsibilities under the Companion Animals Act and directions of the Director General to:

    a. notify the Director-General of nuisance orders

    b. notify dangerous dog orders under section 40

    c. notify dog attacks to the department.

Asset and financial management

25. Council should develop a comprehensive asset maintenance and management plan for its infrastructure. Priorities for expenditure should be determined in accordance with these plans.

26. Council should develop a risk management matrix for its assets and undertake proactive risk assessments of its infrastructure.

Community, communication and consultation

27. Council should report to council on its progress in implementing the social and community plan on at least an annual basis.

28. Council should develop, monitor and report on customer service standards to ensure accountability to the community and to provide feedback to councillors.

Workforce relations

29. Council should provide a structured induction program for all staff, supported by appropriate manuals, to ensure that staff are aware of their rights, obligations and conditions of service, as well as other issues, such as workplace safety.

30. Given the time that has elapsed since the last formal training sessions regarding the Protected Disclosures Act and the high turnover of staff experienced by the council, it should provide formal training on the Act.

31. Council should review its Equal Employment Opportunity Management Plan to ensure that future plans include:
    a. more detailed strategies
    b. specific targets and performance criteria, including timeframes,
    c. a description of the method used to develop the plan, and
    d. identifying specific positions that are responsible for strategies.

4. CONTEXT

The Shire of Kempsey is located in the Macleay Valley Coast in the north of NSW. The Shire has a coastline of 80 kms and covers an area of 3,380 sq kms. The town of Kempsey is the Shire's major population centre, with 9,158 residents. The Shire has a mix of seaside towns and inland rural villages. The largest of the seaside towns is South West Rocks, with 4,359 residents. In 2005 there are 11,804 properties classed as residential, 787 business properties and 1,423 farmland properties.

The Shire's population in 2005 is estimated to be 28,140. The population is growing with the largest growth being in the South West Rocks area. The population's median age has increased from 34 years in 1991 to 40 years in 2001. The number of people aged 60 years or over is 4% higher than the state average. The indigenous population makes up approximately 7% of the Shire's population.

The main industries in the area include manufacturing, agribusiness, tourism and cottage industry such as arts, crafts and Aboriginal artefacts. Kempsey proudly boasts to be the home of Akubra Hats. There are a number of other well known industries located in the Kempsey Shire such as Boral Bricks, Australian Solar Timbers and Farrawell Aluminium. The most recently established State correctional facility has been located at Kempsey. Emerging industries include aquaculture, native flower production and macadamia and pecan nuts. However, the Shire has 16% more pension and benefit recipients under the age of 60 years than the state average.

Council has 9 elected representatives. Council has a full council meeting once a month. In addition, council has a works committee that meets from time to time, of which all the members are councillors.

Kempsey Shire Council employs 285 full time equivalent staff. Council has structured itself into three departments. These are Shire Services, Sustainable Development Services and Corporate Services.

In 2003/04 council had an expenditure budget from ordinary activities of approximately $35.5 million. Council made an operating surplus before capital items in 2003/04 and has made a surplus after capital items in the past 5 years. Council had a surplus for 2003/04 of $8.1 million (after capital items).

Kempsey Shire Council determined 803 development applications in 2003/04 (latest comparatives) with a mean time for determining development applications of 30.8 days.

5. COUNCIL'S AMBITIONS, PRIORITIES AND FUTURE FOCUS

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

It is evident that Kempsey Shire Council has undergone considerable change in the last few years. The organisation is intent on driving improvement that is focussed on the goals set. The enthusiasm of its staff to improve and surmount challenges was impressive. A culture of review was evident across the organisation.

Overall, council has set the foundations for a strong strategic approach to meeting the future needs of its community. Council has developed a clearly articulated vision, mission, set of values and goals to guide the organisation. This strategy is focussed on the community it represents. This Corporate Strategic Plan was adopted by council in 2001 following a process of analysis, consultation and reflection that involved councillors, council staff and the community. A review of the plan was undertaken in 2003. A comprehensive review of the plan is proposed to commence in 2005/06 and will include the involvement of the community. This is strongly supported.

There is evidence of some integration of other council planning processes within the strategic plan. However, council should consider greater integration of all of its planning processes within this plan. For example, the council's management plan identifies its principal activities as required by the *Local Government Act 1993*. While the management plan provides information on the council's strategic goals, there is no clear link provided between these goals and the principal activities undertaken by council. Additionally, the council should clearly identify all its other plans that support the strategic plan.

As council will be undertaking a review of its Corporate Strategic Plan, it is recommended that it ensures that its other plans are integrated into this.

(Recommendation 1) Additionally, council might consider renaming its plan to remove the word corporate. Corporate may be construed as relating only to the organisation of council and it is clear from the strategic plan that the community's aspirations are represented.

In discussions with councillors, the review team formed the view that they were concerned about the ability of ratepayers to provide the income necessary to support greater council expenditure and as a result were reluctant to seek rate increases. This view was manifested in a reluctance to enter into expenditure for programs, some of which were clearly necessary such as the provision of industrial land at Kempsey.

Kempsey Shire Council considers its role in the region as part of its strategic planning. This is evident from the goals set in the plan as well as the activities that are being undertaken by the council. Council is a member of the Mid North Coast Strategic Alliance that has an objective of achieving cost savings in service delivery and improving the quality and range of services provided to the 8 council areas involved. There is a memorandum of understanding between the councils involved in the Alliance. There are currently 5 network groups focussing on specific areas of the councils' operations. Council is also involved in other regional activities such as regional waste strategies, library services and professional group meetings.

Council has developed performance measures for all its principal activities and these are regularly monitored. Council has divided its operations into 13 organisational teams. Each of these teams has a set of performance standards. These are clearly displayed in the workplace. The standards are linked to the strategies identified in council's management plan. Council has developed performance measures for each of these standards. These seem to be realistic and measurable. Council's information technology platform, CivicView, provides reports on how each of the teams is meeting the performance measures on a monthly basis. The performance measures are monitored by the council executive team monthly, and form the basis of the quarterly review of the management plan.

Council has a clear process in place to ensure that it monitors the alignment of its directions with its activities and finances. This is supported by a strong information technology platform that ensures the integration of its strategic direction and council operations.

An ageing population

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

Between 2004 and 2022 the population of Kempsey Shire Council is projected to increase in size to around 29,875 (7%).

In terms of the mean population age, Kempsey Shire is NSW's 38th oldest local government area. By 2022 it will be its 23rd oldest. Approximately 16.9% of the council population is currently aged 65+ years, and this is projected to grow to 26.6% by 2022. At an average increase of .54 percentage points per year, this 'force of ageing' is somewhat faster than that projected for most of NSW (eg 0.33 for Total NSW and .43 for NSW Balance). The council's population aged 85 and over is projected to almost double in proportion from 1.7% to 3.1% of the population (*Population Ageing in New South Wales and its Local Government Areas*, Dr. Natalie Jackson, Director, Demographic Analytical Services Unit, University of Tasmania).

The impact on the demand on services, facilities and infrastructure will be significant and will impact on virtually all aspects of council's operations.

The Local Government and Shires Associations have produced *Planning the Local Government Response to Ageing and Place*. This paper is intended to offer a framework to assist councils to begin to plan for the population ageing unique to their area by:

- providing information on what is happening with general population trends and access to population projection information for each local government area,
- providing information on the existing and likely diversity amongst older people,

- providing evidence on what population ageing means for all roles that councils performs, and
- encouraging councils to examine their numbers and proportion of older people and their rate of population ageing, in conjunction with the evidence on impacts, to identify what roles they may need to change and when.

The department encourages councils to use this paper in its planning process.

Council's social plan includes some strategies for older people. However, it was not evident to the review team that council has integrated strategies across its various function areas to address this challenge.

Given council's ageing population is increasing at a significant rate, council needs to consider ways to raise the awareness of this issue across all sections of council. Building upon strategies in its Social Plan and using the Ageing and Place Framework developed by the Associations, council should prepare long term strategies to meet current and future needs for older people.

Priority strategies should be determined on an annual basis and incorporated in council's management plan and budget, the business plans of each section and the work plans of individual officers. Progress in relation to these priorities should be reported on a quarterly basis via the performance appraisal system and management plan reports as well as annually in council's Annual Report. (Recommendations 2 and 3)

6. DELIVERING AND ACHIEVING

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

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.

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

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

What is working well

Strategic Alliance

The council has entered into a strategic alliance with 7 other councils comprising Gloucester, Great Lakes, Greater Taree, Kempsey, Nambucca, Bellingen and Coffs Harbour councils under a Memorandum of Understanding (MOU). The MOU records that, combined, the councils employ over 2000 staff, contains an area exceeding

21,000 square kilometres, a regional population of over 265,000 and a combined council budget of over $480 million. Clearly these are significant figures.

Each council contributes $10,000 annually towards the external costs of the Alliance. Additionally, the councils provide other resources through the provision of staff to support the Alliances projects. The Alliance retains Mr Iain Stewart, a former council general manager, as its project coordinator.

While retaining the identity and autonomy of the individual councils, the MOU indicates the intended outcomes of the Alliance as including:

- Exchange of skills
- Shared service delivery
- Sharing of resources
- Improving standards of services
- Compliance with structural reform principles.

The aims of the Alliance are currently being concentrated through human resources, planning, joint procurement, health and safety, and information and technology network groups.

While it was acknowledged that some of the groups were not as advanced as others, it was indicated that 3 or 4 of the groups were operating very successfully. Within these wider aims was the recognition that the Alliance's project setting be reflected in each council's management plan. It must be recognised that in part, the Alliance is dependent on long term project planning within the group, reflected in each council's own long term planning.

Mr Stewart met with the review team and emphasised that the Alliance already had obtained significant outcomes, including the joint tendering of some 500 computers and the provision of joint staff training. The use of joint tendering provides the potential of substantial benefits to the smaller councils, particularly in buying power. It also has potential benefits in providing common equipment and potentially better

backup facilities. Other projects being pursued include the provision of expert teams, such as bridge repair teams, to provide joint services to the councils

Mr Stewart emphasised that networking among council staff was another direct benefit, particularly where smaller councils did not have the resources to employ full time staff in particular fields.

Importantly, it was emphasised that the Alliance has strong political support within the group of councils, who recognise its long-term benefits.

Corporate governance framework

Council has developed a corporate governance manual that is available to the community and staff. It identifies the key strategies, codes and policies that are in place to ensure good decision making and ethical practices. This manual is available on council's website. There is clear evidence that council is aware of its governance responsibilities and manages these in a way that integrates its strategic and operational areas.

Values

Organisational values are part of a framework of organisational integrity. They are an important way in which the leaders of an organisation can communicate to the rest of the organisation and the community at large what the organisation stands for.

Kempsey Shire Council has adopted a set of five values that is contained in its key documents such as its corporate and management plans. The values have been integrated into the council's code of conduct. Council displays these values throughout council premises and the values are continually displayed as the background on all the organisation's computers. Council's values are evident in its community newsletters. Additionally, a recent employee survey indicates that over three quarters of respondents felt that they have a good understanding of council's vision and values. Eighty percent of council's workforce participated in this survey.

Statement of business ethics

A statement of business ethics is a particular form of values statement directed to raising private sector awareness of public sector values. This is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector.

The statement adopted by council complements council's statement of values. The document covers key issues around the values council stands by and what external parties need to be aware of in doing business with council. It covers key issues about acting appropriately during tendering processes as well as the issues of gifts and benefits and conflict of interests. The statement is available on council's website.

Council could consider including in the statement the reasons why external parties should comply with the statement and detailing how external parties will be informed of the statement. (Recommendation 4)

Code of conduct and council policy

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

Kempsey Shire Council has acted quickly to adopt a new code of conduct, on 8 February 2005, that appears to be consistent with the Model Code. It has supplemented its own code with a range of provisions that are specific to council's own circumstances. The code also contains valuable cross-references to other relevant council policies. Council has provided the code and related policies in a pocket sized compact version for all staff, councillors and council delegates.

Council advised that all staff had received training in the code of conduct and councillor training is planned for January 2006. It is intended to provide follow up

training on a regular basis. Council has also provided training to members of its section 355 committees and they have been given copies of the code.
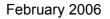
Council has developed a set of procedures for the operation of its conduct committee that has been established in accordance with the Model Code. These procedures provide guidance on the role and purpose of the committee, its membership and proceedings.

Management plan implementation

Each year council is required to prepare a draft management plan with respect to its activities for at least the next three 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.

Kempsey Shire Council's management plan is broadly in compliance with council's statutory responsibilities. Council uses its CivicView program to monitor and report on the performance measures identified in the management plan. The monitoring of the implementation of the management plan occurs at the monthly executive management meetings. The General Manager reports quarterly to a performance committee on the progress of the implementation of the management plan and councillors receive quarterly reports on the management plan.

However, when the councillors met with the review team, a view was expressed that it was difficult to see that plans were fully implemented as quickly as possible. Council does appear to have the procedures in place to continually monitor and report on the implementation of its management plan. This should incorporate reporting on the implementation of council's other plans, or at least identify the other plans that management plan strategies have been derived from. (Recommendation 5)

Complaints 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 provides a useful source of information and feedback for improving the council's service.

While council has a complaints and compliments policy, there are some areas where this may be improved. The policy was last updated in 2003 and could be improved by including the following information:

- defining a complaint
- differentiating between complaints and requests for service
- making it clear who will deal with complaints and how
- providing a three-tiered process that involves initial assessment and one level of internal review
- identifying performance targets for turnaround of complaints
- how complaints and outcomes will be recorded

Council's policy identifies that complaints will be processed according to consistent standards. However these standards are not identified. The review team saw that council keeps a record of all complaints and requests for service that it receives and monitors these through the CivicView system. The review team was informed, and viewed a demonstration, about how the CivicView program assists the organisation to monitor correspondence and distinguish between complaints and service requests. The program runs a nightly report for each staff member that provides information on any correspondence that has been referred to them that is outstanding. This practice should be recognised in council's policy.

Council provides information to members of the public about how to make a complaint or offer a compliment to Kempsey Shire Council. This information is available on council's website and was evident in the pamphlet stands at council. The pamphlet provides information on timeframes for dealing with complaints. The pamphlet also identifies a three-tiered approach to complaint handling and who will deal with complaints. It is evident that council's policy has not kept up to date with council's practice.

Council has just established its 'Customer First Centre', which operates as a call centre with trained staff to deal with telephone enquiries, requests for service and complaints that council receives. Council also conducts an annual community survey that includes a number of questions relating to customer satisfaction.

Council has also adopted a comprehensive procedure to guide staff in dealing with complaints. This procedure establishes a specific timeframe for responding to complaints. It also identifies that performance indicators relating to complaints are to be included in council's management plan and reported on in the annual report. Council is encouraged to continue to monitor and report on the complaints it receives.

Concerns were raised with the review team about the community perception that correspondence is often not responded to by council. Council managers were aware of some instances where this may have been the case. The implementation of the Customer First Centre and complaint processes that are underpinned by the CivicView program should provide a structure to ensure this does not happen. It is important that council management continues to monitor and report on its complaint handling activities. Reports should also be provided to council on a regular basis so that councillors receive information about council's handling of complaints and correspondence. (Recommendation 6)

Challenges to improve

Risk management

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. The significance of specific risks will vary from council to council. Kempsey Shire Council participates in the Mid North Coast Risk Management Group that is sponsored by Statewide Mutual, who is the public liability insurer for many councils. Council completes an annual self-assessment that is conducted by Statewide Mutual, which is aimed at providing financial incentive for councils who rate well. These activities only relate to insurable risks. There are a number of other risks that are not insurable that should be included in council's approach to risk management.

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 management has recently considered and supported a proposal to establish a risk committee and the development of a risk management plan. The development of this process is encouraged. It is important that the risk management plan extends beyond those risks that are insurable. (Recommendation 7)

Internal control

Internal audit and control provides 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.

Kempsey Shire Council has created a position to undertake an internal audit function. The position, titled 'Manager Organisational Effectiveness', has a number of functions including regular internal auditing of council financial activities, process improvement projects, long term financial planning, facilitating the development of plans of management and the review of the management plan. Some of these functions are allocated to this position because of the skills of the individual staff member.

The internal audits that have been undertaken to date largely focus on financial areas, such as, the audits completed on developer contributions, investments and payroll.

Fraud is a crime involving the dishonest obtaining of a financial or other benefit by deception. The benefit might be of a direct value or it might be an indirect value. Fraud wastes scarce funds and resources and can damage an organisation's reputation and competitiveness. 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. Council has recently adopted a fraud control policy that identifies that a fraud control program is to be developed and risk assessment undertaken on an annual basis. A systematic fraud risk assessment does not appear to have been undertaken by council.

Council has adopted procurement and disposal policies (see separate section). However, council has not undertaken a risk analysis of its procurement and disposal practices in the last two years. It is important that the activities to be undertaken by the 'Manager Organisational Effectiveness' position support the council's approach in its risk management plan. The development of a fraud control program is strongly supported as a priority for council. (Recommendation 8)

Procurement and disposal

Council has a purchasing of goods and services policy and a disposal of assets policy. The disposal policy provides for a range of options for the disposal of assets, including public tender, public auction, public expression of interest and invited quotes. In addition the policy recognises that there are assets of commercial value and assets of no commercial value. The policy distinguishes between the processes used for the disposal of assets of no commercial value and those of value. It may be appropriate that the policy provide some guidance on, or examples of, what commercial value means. The policy was adopted in 2002 and may need to be reviewed and updated. (Recommendation 9)

Council's purchasing of goods and services policy was last updated in 2003. It is evident that it does not reflect the recent changes in the Local Government Act that increased the tender threshold to $150,000. Additionally, the policy provides that quotes are not required for purchases of a value less than $20,000. This is a large sum of money and there are no processes in place to ensure that the organisation is receiving value for money.

Obtaining three quotes, verbal or written, may not guarantee that best value is obtained, or that the procurement process is not subject to improper practices. However, it may provide a record that a transparent process has been followed and can be scrutinised to ensure that quotes are genuine and disturbing trends are not emerging that may suggest favouritism or collusion.

More concerning is the fact that there has been no risk analysis of the disposal and procurement practices in at least the past 2 years. Council should review its procurement policy with this in mind. The policy should contain internal control measures to verify or establish on a regular, or at least annual basis, that payments are correctly authorised, there are no disturbing trends (such as order splitting, favouritism, not genuine quotes), and exceptions to the policy clearly identify the reasons. (Recommendation 10) The ICAC publication 'Taking the con out of contracting' may be a useful resource in undertaking this review.

Contract management

Councils enter into contracts with external parties to provide a range of services and facilities. Recently council has undertaken large projects, the building of the extension to the council administration building valued at approximately $700,000 and an upgrade to its caravan parks valued at approximately $1.5 million. There was no external monitoring of these contracts, although there was regular reporting on contract progress by the council staff involved.

Any failure to manage, review and assess the performance of contractors can be a major risk area for council. Additionally, managing contract variations is important to ensure there is no waste or misuse of public funds. It is important that staff who are

required to manage contracts are sufficiently experienced and receive appropriate support and training.

It is recommended that council develops a formal system for the monitoring and review of all contracts. This system should at least include recognition of the differing complexity of contracts, an internal control regime, communication of the performance evaluation system to potential contractors, site inspections and procedures for monitoring, recording and reporting on variations. (Recommendation 11) The ICAC publication 'Taking the con out of contracting' may be a useful resource in developing this system.

Records management

Council is required to 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 to best practice standards and codes.

At the time of the review council was in the process of developing a records management plan which is included as an output for 2005/06. The review team encouraged and supported the development of a records management plan that particularly reflects the requirements of the State Records Act 1998. Council advised in its response to the draft report that the records management plan was completed and adopted by the management group on 2 December 2005. The draft recommendation to continue this work has therefore been removed. It is suggested that council review the implementation of this plan within a reasonable timeframe.

Legislative compliance

A fundamental principle of good public administration is that public officials comply with both the letter and the spirit of the law. No public official has an unfettered power or discretion.

To facilitate compliance with legal requirements, councils and their senior staff should ensure that:
- management commitment to compliance is clear and unequivocal,

- the legal requirements which apply to each activity for which they are responsible are:
    - identified (including updates reflecting changes to the law), and
    - documented (preferably in detail, but as a minimum by reference to relevant provisions),
- all staff are kept fully informed, briefed and/or trained about the key legal requirements relevant to their work,
- staff are made aware of the potential repercussions of non-compliance with legal requirements that apply to them, and
- record-keeping systems and practices that capture evidence of compliance and non-compliance are in place.

Essentially there are two areas that a policy on legislative compliance could cover. The first is in regard to implementation. When legislation changes, council should have a system in place to ensure that, where necessary, steps are taken to ensure that action complies with the amended legislation. The second area is in regard to a review process. Council should review its current processes to ensure that it is complying with legislative requirements. This aspect could be incorporated with an internal audit function, where periodic examinations are conducted into key operational areas.

Council should develop and adopt a policy supporting legislative compliance. (Recommendation 12)

Council meetings

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

Based on our review of council's minutes, council considers a number of matters in the absence of the public. While council only closes that part of the meeting relating to the confidential item, it appears to conduct a large number of confidential sessions. Council should review its decisions for conducting matters in closed session to ensure that matters are discussed in the appropriate forum.

In deciding whether or not a matter should be discussed in closed session, council should apply the public interest test as required by section 10D of the Act. The reasons why the part of the meeting is being closed, including an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest should also be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting (excluding personnel matters concerning particular individuals, personal hardship of a resident or ratepayer or a trade secret).

The draft review report recommended that council include the explanation in relation to the public interest in its resolution to close the meeting. In its response to the report, council advised that it is now including a public interest explanation in its resolutions. The December 2005 meeting minutes were reviewed and indicate that this is occurring. However, the need for a minor adjustment to the way this is done was brought to council's attention. The draft recommendation to include the public interest explanation has therefore been removed.

Council also holds a number of extraordinary meetings in a year. Up until the end of September 2005 there were 9 extraordinary meetings out of a total of 18 meetings. The Act provides that extraordinary meetings must be called at the request in writing of at least 2 councillors. In addition, council's Code of Meeting Practice states that the Mayor may call an extraordinary meeting on any matter or matters considered necessary, upon request by councillors.

The review team was advised that the decision to hold an extraordinary meeting is often decided by councillors at an ordinary council meeting. In its response to the draft review report council advised that it felt that a resolution of council to hold an extraordinary meeting is a much more transparent process than having the Mayor call a meeting on the request of councillors. The review team acknowledges this and suggests that council's code of meeting practice reflects council's approach to the calling of extraordinary meetings.

The intention of calling extraordinary meetings of council should be to discuss defined business. The transaction of business allowed is quite distinct from that identified in the Local Government (General) Regulation for ordinary meetings of council. The Regulation also prescribes that the general order of business that applies to ordinary meetings of council does not apply to extraordinary meetings. Therefore, the presumption is that extraordinary meetings are for the purposes of dealing with matters that would not be classed as the "ordinary" business of council. Only those matters listed on the agenda should be dealt with unless there is a motion that the business is of great urgency.

In looking at the agendas for council's extraordinary meetings for 2005, it is difficult to see that the business being conducted at these meetings, in many cases, is anything more than ordinary business. Council should develop strategies to reduce the need for as many extraordinary meetings. Council should also ensure that the business conducted at these meetings is business that would not be classed as the "ordinary" business of council, such as development applications, the sale of council land, tenders, road closures and maintenance programs.

In its response to the draft review report council advised that "ordinary" business is transacted at extraordinary meetings because of urgency. Council also advised that extraordinary meetings are advertised to enable the public to attend. It is still evident that council holds a large number of extraordinary meetings and it should consider whether these are extraordinary meetings or scheduled meetings of council. The recommendation in the draft report to reduce the need for as many extraordinary meetings has been removed. This has been replaced with a recommendation for council to review its meeting schedule with a view to a more planned approach. This may also clarify any confusion about the function of council workshops as discussed below.

It is evident that council holds extraordinary meetings to also conduct "workshops". This is applauded, as to hold a "workshop" at such a meeting opens the business up to the public who can see council in action. Council should be careful that it correctly uses the provisions of the Regulation in this regard.

A distinction needs to be made between council meetings, council committee meetings and workshops. The role of workshops is to provide an informal committee process that can provide useful background information to councillors on issues. Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made.

When conducting workshops, council needs to think about its obligations and responsibilities under the Model Code of Conduct, and of community perceptions in terms of unfair advantage and transparency of process. Council should establish clear guidelines for conducting workshops and information sessions in its code of meeting practice. A review of Kempsey Shire Council's Code of Meeting Practice shows that there is no information included on how a workshop will be conducted. The department recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting their role as public officials. (Recommendation 13)

Council, by holding its workshops as part of its formal meetings, risks confusion between workshops as informal information sessions and council committee decision-making processes. If council holds a workshop as part of an extraordinary meeting where it is able to vote on resolutions, and is doing so to widen the debate on an item rather than as an information focus, it should consider using the current provisions in the Regulation to form itself into a committee of the whole, where the rules of debate are relaxed, rather than a workshop. This is not to be confused with holding a closed session of a council or committee meeting.

If council is holding workshops to inform councillors and allow general discussion and thus not make any decisions, it should consider whether or not a formal meeting of council is the appropriate process for this. In its response to the draft review report council advised that workshops are held at extraordinary meetings so that decisions can be made. Council further advised that it resolves to move into "workshop" which is a committee of the whole where the rules of debate are relaxed and the meeting is open to the public. Extraordinary meetings are advertised with the public invited to attend and the workshops are open to public attendance. Given this feedback, the

draft recommendation to review council's current meeting practices has been amended. (Recommendation 14)

Council also conducts works inspection committee meetings of which all the members are councillors. A quorum for this committee is 5 councillors. These meetings are held on site and reconvene as a committee back at the council administration centre following the on site inspection. The delegations identifies that this committee has delegation of authority to determine matters referred to it by council or the Mayor. Where there is not a quorum at the meeting the recommendations from the works committee are presented to the next council meeting. There have been a number of occasions where a quorum has not been present. Given this, council should examine the utility in delegating the determination of matters to the works committee. (Recommendation 15)

Additionally, because the committee is one in which all the members are councillors, the operation of the committee is subject to council's code of meeting practice, the Act and the Regulation. This includes the necessity to give public notice of the time and place of meetings to enable the public to attend. This is problematic if the on site inspection is considered part of the meeting of the committee and the time of return to the council chamber for committee deliberations is not certain. Council should also review this process. (Recommendation 15)

355 committees

Section 355 committees are an important way in which council exercises its functions. Kempsey Shire Council has a large number of section 355 committees: 59 in all. These committees have been made aware of their obligations under council's code of conduct and have all received copies. The committees have received information that sets out their functions and delegations. Council has also received this information and reviewed it within 12 months of the last local government elections.

However, the committees do not appear to have any procedure or operations manuals, nor do the members receive any training from council. The exception to

this would be the training provided on the code of conduct. As these committees are exercising functions of council delegated to them, council has an obligation to know what these committees are doing, particularly in relation to keeping records as required by the State Records Act. These obligations need to be conveyed to the committees and council should develop procedures to ensure that adequate records are kept of the activities of these committees. Council did adopt a policy in 2000 (C24:13) that provides a guide to committees in relation to how they conduct their business. A report to council on 13 September 2005 gives an indication that the policy does apply to all committees that include members who are not councillors. Council should provide its section 355 committees with a procedure or operations manual that outlines what is expected of them. (Recommendation 16)

Council should be commended that it conducts a review of its committees at least annually. The report on the effectiveness of these committees is presented to council. The last report on the 13 September 2005 indicated that the majority of committees had been assessed as effective.

6.2   Regulatory Functions

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

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

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

The comparative figures released by the department suggest that the council has dealt with about 750 development applications per annum over the years 2001/02 to 2003/04, with the number increasing.

What is working well

Development Applications

Within the council, the planning and building functions sit together, with work being apportioned according to its nature. The building group deals with residential applications, with other applications being dealt with by the planning group. The groups operate so that there is direct access across the expertise of each group and other expertise within the council, with weekly meetings convened to discuss more major developments.

The council advised that 90% of development applications are dealt with under delegated authority. It also indicated that there had been a very low incidence of applications for review under section 82A of the Environmental Planning and Assessment Act (EP&A Act).

In a similar context, the council offers a pre-lodgement service, but reports that often the service is not taken up. Additionally, for larger developments, the council offers a development committee. We were informed that this process had only been taken up on one or two occasions.

The council has adopted various performance criteria including a 30-day period for dealing with development applications, reflected in a workflow, and 7-day criteria for complying development.

The CivicView program allows direct monitoring of development applications at any point during processing.

The comparative information indicates that during the period 2001/02 to 2003/04 the mean time taken by the council to deal with development applications was about 30 days, compared with a group average of about 40 days. This suggests that the council has adopted strategies that allow applications to be determined in a timely manner.

As part of council's monitoring processes, monthly reports are provided to the councillors indicating particulars of all developments that have been approved, providing a summary of those approved within 30 days (including their dollar value), the percentage dealt with in the 30-day period for that month and the preceding month, the number of applications that had been received in the calendar year, their gross value, the number awaiting determination. Similar information is given regarding construction certificates.

Council's attention to dealing with development applications is also evidenced by its procedures to clean out outstanding development applications. The council writes to applicants who have not provided information that has been requested, seeking a

response. If a response is not received in the time permitted, the council writes again setting a deadline. If this is not met, the council determines the application by refusal.

As part of its processes, the council undertakes a customer survey with each development application that it receives.

In June this year the council adopted an "Exempt and Complying Development Control Plan" that replaces earlier plans adopted in 2004 and 1999. Staff indicated that it had not been extensively involved in appeals to the Land and Environment Court challenging its determinations. It attributed this to the high certainty provided by DCP 22. Importantly, the DCP makes express provision for dealing with applications under delegation where compliance with the DCP is demonstrated. Staff advised that up to 30% of all applications could be dealt with as complying development.

As part of its ongoing review of its planning documents, the council is currently reviewing DCP 22.

State of the Environment Reporting

Since 1999 councils have been required to report on the state of the environment in their areas through State of the Environment Reports, reporting on the main environmental issues facing local government areas. The reports must address 8 environmental sectors and include major environmental impacts and related activities. The Local Government Act requires councils to prepare a comprehensive report the year following each council election or otherwise to provide a supplementary report in each of the intervening years. These reports must identify any new environmental impacts since a council's last report and update the trends in environmental indicators that are important to each environmental sector.

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

The council's report is generally an adequate, well-written and very well presented report that addresses all necessary environmental sectors apart from noise. The council has made good use of graphics, mapping and photographs to inform the text.

The report has a particular focus on sustainability issues. The council has signalled its intent to give the State of Environment Report a more strategic focus with the report becoming part of an integrated environmental management system.

The council has formally adopted an ecologically sustainable development policy and has a local Agenda 21 Program. An environmental levy was introduced in 2003/2004 to address a range of priority environmental works that are listed in the report. There is a section of the report on council's environmental performance and the environmental impact of council activities.

The report utilises the pressure/state/response model and provides a useful summary table at the beginning of each section addressing the various environmental sectors.

The department's guidelines encourage reporting on a regional basis, recognising that:

- many environmental issues are regional in nature and require regional action,
- regional co-operation can reduce the time and resources involved in preparing the report, and
- information is often collected by government authorities and bodies on a regional basis, rather than a local government basis.

The report does not draw on environmental advice from other councils and fails to provide any regional setting or acknowledge issues in surrounding local government areas. The report tends to deal with the area as a self-contained "island". Interestingly, while the report notes the names of surrounding local government areas, it appears to be standard text that requires updating, particularly in relation to the reference to Dumaresq Shire (Armidale Dumaresq Council since 2000).

The involvement of the council in the strategic alliance with its neighbouring councils emphasises the opportunities to adopt a regional approach.

The council should explore opportunities for preparing regional State of the Environment Reporting with other councils in the Mid North Coast Strategic Alliance. (Recommendation 17)

While the overall standard of reporting is good, there are some issues that bear improvement, generally as follows:

- the report does not discuss gaps in information and data etc
- the report needs to summarise and address actions and issues to be included in the management plan
- while there has been some community consultation, it appears to have been limited. (Recommendation 18)

Challenges to improve

Land-Use Planning

The council area extends from the coast to the rural hinterland and council's land-use planning must cover coastal villages, the major town on Kempsey, a range of rural activities and issues associated with particular landforms, such as bushfire risk or the management of sensitive wetland areas.

Council's role is made more difficult as it is based on a local environment plan (LEP) reliant upon on assessments made as far back as 1984. What may have been good planning practice in 1984 may not be seen as best practice under current planning considerations. Additionally, issues such as minimum rural lot sizes that have been widely applied in older LEP's may not support viable rural production in the local area.

The council recognises the problems associated with this now historic land-use assessment underlying its LEP and is attempting to deal with this, within its capacity.

It has undertaken a review of the whole of written component of its LEP with the Department of Planning as a "clean up" exercise. The council's current approach to deal with land-use planning review is to divide it up into "chewable bits", ie by reviewing the land uses of particular local areas, and to adopt a development control plan (DCP) for the particular area, such as those adopted for South West Rocks or Hat Head.

Staff acknowledged that council's response was "reactive in nature", implicitly acknowledging that this is not the preferable approach. Conversely, the council is proposing a 10-year strategy to pull the various plans together. While this was proposed, the strategic planning process was neither formalised nor adopted.

The council needs to adopt an overall program for reviewing the strategic land-use planning underlying its LEP.

The council has failed to implement long-term strategic planning, evidenced by a failure to provide for industrial land near Kempsey. This may be underlain by:

- the lack of an appreciation of the need for long-term strategic planning
- a consequent failure to provide funding for this process.

The lack of strategic planning is demonstrated by the lack of suitably zoned industrial land at Kempsey. The council recognises the need to promote industrial development within the Shire. It envisages that this will take place in an area to the south of Kempsey. The council has not been able to promote this development through a lack of funding for the relevant environmental studies. In this respect, the council appears to be in a quandary whether the funds should come from the owners of the land, who stand to potentially benefit from any re-zoning, or to meet the costs itself.

The council needs to overcome the current hiatus over funding for the underlying studies for possible re-zoning of land to permit the provision of industrial land in a suitable location within the Shire. (Recommendation 19)

More generally, the council needs to overcome its lack of strategic land-use planning and to undertake a more rigorous, formal and widespread review of land-use planning within its area. (Recommendation 20)

Council's enforcement practices

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 actions.

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, approval, or other instrument of permission issued pursuant to lawful authority. Failure to properly deal with such allegations, quite apart from being poor administrative practice, could expose a council to liability for compensation and the expense of litigation. The way in which councils exercise their enforcement powers also plays an important part in the public's perception of councils.

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. 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 and its enforcement and compliance activities are reactive in their nature, being complaint driven. This represents a failure to clearly, openly and transparently enunciate council's policy regarding enforcement.

It is recommended that council develops a compliance and enforcement policy. The Ombudsman's enforcement guidelines may be a useful resource in developing this policy. (Recommendation 21)

Companion Animals

Council's website contains wide ranging information about companion animals, including:

- owner's obligations under the Companion Animals Act
- registration requirements
- places where dogs are prohibited
- registration requirements
- penalties
- details regarding the operation of council's pound.

These details are clear and concise, with jump links to the material on the department's website.

The council operates a pound at Fredericktown, north of Kempsey.

The council has adopted strategies to reduce euthanasia levels through promoting the adoption of animals held in its pound through the "Dog of the Week" and by providing facilities for people to choose an animal at the council chambers, rather than having to travel to Fredericktown. Currently council does not micro-chip dogs leaving the pound. It provides vouchers for people to present to a local vet to have this procedure carried out. This relies on the individual responsibility of the pet owner to have this done. Currently council staff are not trained to provide this service.

While the foregoing aspects are positive, council's response to the checklist indicated that it:

- has not adopted a companion animals management plan
- does not run community education programs
- does not proactively pursue outstanding registrations and identifications of companion animals in the area
- does not register nuisance animals on the Companion Animals Register nor notify dog attacks to the department.

Despite this, material held by the department indicated that the council had adopted a Companion Animals Management Plan in 1999.

These matters suggest that the council's responses are inadequate and that the council has not had regard to its own Companion Animals management Plan.

In part, council's responses must be measured in the local context.

We were advised that most incidents involve companion animals cared for by the local aboriginal community. In the context that they are only carers and not owners, the usual expectations of registration, microchipping and de-sexing associated with ownership may not apply.

In response to these particular issues the council has developed strategies with the local aboriginal elders to respond to their community's concerns over problem animals. While these strategies appear to be working, particularly with the assistance of the RSPCA through its micro-chipping days, the council is concerned that there are cross-bred dogs with Ridgeback and Staffordshire Terrier bloodlines cared for by the community.

The council should review and implement its Companion Animals Management Plan and adopt strategies to respond to these concerns. The council should consider developing its policies and strategies in conjunction with the local aboriginal community and providing for joint responses to issues affecting companion animals cared for by the community. In this regard, review of the existing companion animals plan would provide council with an opportunity to identify the future direction of these services and strategies to meet the challenges faced in providing these services. Many councils establish a companion animals advisory committee to oversee this plan and this could involve local aboriginal representatives. (Recommendation 22 & 23)

Departmental records suggest that the council has failed to maintain and provide (as required) information to the department. The department's records indicate that the

council has been intermittent in providing pound data, having failed to provide it in the years 2003/04 and 2004/05.

The council must comply with its responsibilities, under section 21(6) of the Companion Animals Act to notify the Director-General of nuisance orders and to notify dangerous dog orders under section 40 of that Act. Additionally the council should notify dog attacks to the department in accordance with the direction of the Director-General. (Recommendation 24)

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.

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

- *Financial management*
- *Asset management*

Overview of financial position

The Council had an operating surplus of $3.8M before capital items in 2003/04, in contrast to its previous deficits over the previous 4 years. This arose from recognition of $4.48M worth of sewerage assets not previously brought to account. The council has achieved surpluses, after capital items, for all 5 years.

Council's unrestricted current ratio for the 2003/04 period was 1.55, an improvement over the 2002/03 and 2001/02 years. This ratio measures the adequacy of working capital and the ability to satisfy obligations in the short term. It does not include externally restricted activities such as water, sewer or specific grants. A ratio greater than 2 is considered to be good, while a ratio of 1.5 to 2 could be of concern if other indicators are not adequate. A ratio of less than 1.5 is considered unsatisfactory.

Council's unrestricted cash for the periods 2003/04, 2002/03 & 2001/02 were $1.4M, $621k and $1.03M respectively. The Rates & Annual Charges Outstanding Percentage in 2003/04 was 7.51. The percentage assesses the impact of uncollected rates and charges on liquidity and the efficiency of debt recovery. A benchmark for city and coastal councils is less than 5% while a benchmark for rural councils is less than 10%.

The Debt Service Ratio in 2003/04 was 13.68%. This indicator assesses the degree to which revenues from ordinary activities are committed to the repayment of debt. A ratio of less than 10% is good. A ratio from 10% to 15% is considered borderline.

Council was granted a special rates variation of 8.28% in 2003/04 for 5 years for environmental matters. The total loans outstanding as at 30/6/04 were $27.273M of which $5.134M was raised in the 2003/04 financial period.

Council has declared 2 business activities for national competition purposes, namely its water and sewer services. Both are performing reasonably well.

The council has always submitted its financial statements to the department in a timely manner.

What is working well

Infrastructure Maintenance

Council's infrastructure assets are in acceptable condition as per the information provided to the department, although road assets need improvement. The written down value of Council's assets for 2003/04 period are as follows:

- Roads, Bridges & Footpaths: 58%,
- Stormwater Drainage: 62%,
- Water: 74%, and
- Sewer: 64%.

The department considers that anything below 50% may be cause for concern.

The council carries out regular inspections of its assets. Buildings are assessed annually, roads bi-annually as well as by work gangs carrying out work, and water and sewerage infrastructure is being continuously assessed.

Council's estimated costs to bring assets to satisfactory condition were $43.191M in 2003/04. Its estimated annual maintenance requirement was $12.820M, however it was only committing $7.114M.

While the condition of infrastructure may be considered to be in acceptable condition, the council had not set aside internally restricted funds for infrastructure replacement in 2003/04.

The council has adopted a transport infrastructure strategic plan and is attempting to develop similar plans for other asset classes.

Challenges to improve

While infrastructure assets may be considered to be in acceptable condition, the council has not adopted a formal asset maintenance program. We were told that a "wish list" was presented as part of the management plan process. Under this process, priorities are neither determined nor suggested by staff, with some selection and prioritisation being determined by the councillors. Senior staff determine and prioritise projects within budgetary constraints.

While senior and experienced staff may be able to undertake this project, it represents an ad hoc approach that fails to recognise the need for a systematic approach. It also fosters councillors "cherry picking" their favourite projects.

The council should develop asset maintenance and management plans for each of its major classes of infrastructure. Priorities for expenditure should be determined in accordance with these plans. (Recommendation 25)

The asset management plans should take into account those assets that have already been acquired as well as those that are anticipated in the budget period and accordingly, they should be linked to the council's strategic direction.

The council's current response relies upon a member of staff undertaking risk assessment as and when concerns are raised. This approach is inadequate. The council needs to adopt risk management principles for its assets. This should form part of the overall risk management planning that council is currently undertaking.

The council should develop a risk management matrix for its assets that is incorporated in its organisational risk management planning. (Recommendation 26)

6.4 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*
- *Social and community functions of council*
- *Reporting to the community and keeping the State government informed about its activities*

Overview

Kempsey Shire Council is in the process of establishing its 'Customer First Centre' to provide a one stop shop for council's customers. The centre commenced operation while the review team was on site at council. It was evident that the staff involved in managing and providing this service were competent and enthusiastic. There are service level agreements between the Customer First Centre and council departments.

The service has a reach across all sections of council and appeared to have a good knowledge of council's services. The knowledge management system that is being used by the customer service staff has been developed by them. It is operated like a question and answer system and was very impressive. Once again, this service was underpinned by council's CivicView program.

It was evident that different sections of council, community services, public relations and customer first, worked together closely on community matters.

Council has won a number of awards for its community activities. This includes an RH Dougherty Award for excellence in communication in 2003, a Gold Service to Community within Local Government Award in 2004 and a Highly Commended Cultural Programs and Projects Award in 2004 (Local Government Cultural Awards 2004).

What is working well

Social and community planning

The Local Government (General) Regulation 2005 requires all councils to develop a social and community plan at least once every 5 years to meet the needs of the residents of their area. This plan must be prepared in accordance with guidelines issued by the department. Aspects of the social and community plan must be reported in council's management plan and annual report.

Kempsey Shire Council states up front in its social and community plan that resource limitations mean that the social plan is a base for further research into issues identified during consultations and the strategies and actions are therefore quite broad. The plan contains recommendations resulting from consultations, including a recommendation to employ a community development officer or social planner. It would be more appropriate for this recommendation to be in a report that accompanies the plan. The plan should contain what council will or aims to do. If much of the plan is reliant on council taking up the recommendation to employ a community development officer or social planner, then it is important to know the likelihood of this. This would be consistent with concerns expressed by some councillors that it is difficult to measure progress on the implementation of the social and community plan.

Kempsey Shire Council has obviously put some time and thought into the development of the plan and is keen to take a consultative and strategic approach.

Council is aware of the need to integrate the social and community plan with other planning processes and has spent some time on its consultation and development of the plan despite the resource limitations. A report on progress in implementing the plan should be made to council on at least an annual basis. This will enable council to assess the importance of a community development or social planning position. (Recommendation 27)

Community participation

Council has a number of sub-committees that regularly meet and include members from the community. Council conducts a public forum session at each of its monthly meetings. Council undertakes a range of consultation processes with its community.

Council utilises the information provided by the International Association for Public Participation (IAP2). This information has been used to prepare a community consultation strategy for council that includes clear guidance to staff about when consultation is appropriate, the level of consultation needed, the methods of consultation, managing and evaluating the consultation process. In addition, council has produced a consultation checklist and a community consultation matrix that identifies the method of consultation that is appropriate for the particular council activity. For example, for consultation on the corporate strategic plan, the matrix identifies the methods of advertising, media releases, use of the mayoral column, radio program and webpage, email mailing list, workshops and public meetings. This is an extremely practical and useful document for staff.

There is evidence that council reflects on its consultation practices and makes changes to its approach to community consultation based on this. For example, council staff are exploring the establishment of focus groups as an additional method of obtaining community feedback. Public meetings are often held to gain community input into an issue or a council process. Public meetings are often not a useful forum to allow in-depth debate on an issue. While focus groups would not replace public meetings, they will be an additional mechanism to gain community input.

Community feedback

Council conducts an annual community survey, which includes specific feedback on council's performance including its customer service performance. There is evidence that results are important indicators for council in reviewing and improving its performance. Council reports on the results of this survey in its management plan.

Reporting to the community

Council keeps its community informed through a number of ways. Council produces a community newsletter that is delivered to all residents twice a year. In addition, smaller newsletters are included with rates notices four times a year. Council takes advantage of the local newspapers by placing an insert in the Macleay Argus annually. This is usually co-ordinated with local government week in August. Council also provides information stands in the local shopping centres from time to time.

Web site

Council maintains an attractive and informative website. The website contains up to date information on council policies and activities and includes recent council business papers and minutes. The website also contains general information about the Kempsey area. Council provides an on line feedback form which enables community members to give feedback on any topic in which they have an interest. Community members can also make a customer service request or a complaint on line.

The website has been developed by council staff, and like the knowledge management system and CivicView, is another example of staff expertise in "doing it themselves".

Challenges to improve

Customer service standards

Customer service standards (also known as guarantees of service) set out some key performance standards for the most frequently used services. The highlighting of

customer service standards sets a level of expectation within the community, as well as providing guidelines for staff performance.

Customer service standards are to be developed by June 2006. It is important that once these are developed they are monitored and reported on to ensure accountability to the community and to provide feedback to the council. (Recommendation 28)

6.5 Workforce Relations

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

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

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

Overview of the organisation

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

The Council adopted its current organisational structure in December 2004. As required by section 333 of the Act council reviewed and redetermined the structure within 12 months of its last ordinary election. The executive management team is made up of the general manager and 3 directors.

Council has 285 equivalent full-time staff. The staff comprises:

- 4.3% Aboriginal and Torres Strait Islanders
- 2.9 % from non-english speaking backgrounds
- 30.6% women

- 18% with physical disabilities

It was suggested that resources for the council's previous human resources services were either not in place or were poor. The council has recently taken steps to address workforce issues.

Among the changes introduced has been an exit interview and succession planning (although, as yet, it is in its early stages). Other programs, such as "get fit programs" are being implemented.

We were advised that the major reason for resignations has been salary related and, occasionally, the lines of communication within the organisation.

The council has recently conducted a staff survey, achieving an 80% response rate. It suggests, contrary to suggestions made by some councillors, that staff morale is not low.

It was apparent that the council is aware of a range of issues impacting on their workforce. The council has adopted strategies aimed at securing professional staff and at the date of the on site review, had a full complement of professional staff.

Council's Human Resources Manager is primarily responsible for most workforce relations activities. He has indicated that the council has a strong relationship with the union representing staff. He advised that the council attempts to pre-empt and to deal with potential issues before they become disputes. We were advised that there have been no disputes in this financial year.

Performance management

Council has a system of annual performance reviews. It would appear that reviews are not being done on some staff and that reviews are not always done in the specified time frames.

The Local Government Award requires that all employees have on-going feedback about their performance.

The council has introduced systems to measure, quantify and evaluate the performance of staff. The system directly links human resources to outcomes and is able to produce data in a measurable (percentile) form. This data provides a basis for salary increments.

Occupational health & safety (OH&S)

The council has implemented a combined OH&S and Community Consultative Committee. Additionally, the council has appointed a safety officer and has introduced a safety program. The council reports that this has substantially reduced the number of injuries, resulting in a reduction in compensation claims and a reduction in insurance premiums.

Council is aware of the need to have Material Safety Data Sheets and has prepared sheets for hazardous materials used/stored by council. Council's response to these issues includes:

- all chemical supplied to the council have Material Safety Data Sheets
- maintenance of a chemical register
- hard copies of the Material Safety Data Sheets are kept in the store, all vehicles and where chemicals are used
- material Safety Data Sheets are regularly updated
- providing an internet Material Safety Data Sheet site
- regular review of Material Safety Data Sheets as part of the regular safety audit
- job safety analyses refer to Material Safety Data Sheets

Consultative Committee

The Local Government State Award requires councils to establish, and properly maintain, a consultative committee, which meets regularly. As indicated previously council does have a consultative committee that appears to be meet on a regular basis.

The award also prescribes that the size and composition of the consultative committee shall be representative of council's workforce and agreed to by council and the local union representatives. The membership of the committee appears to comply with the intent of the award.

Council's consultative committee met 12 times in the last year.

Employee remuneration

The council recognises that it has to compete for staff with the private sector, other councils and other government agencies. The impact of this competition is likely to be more significant where skills are in short supply, such as town planning professionals. Given this, there will be occasions where council has to offer an above award salary to attract and/or retain employees.

The council has recognised this and has implemented actions centred around attracting staff seeking both a "sea change" and a diversity in opportunities. It has also adopted more diverse recruitment strategies than may generally be undertaken by councils. We were advised that these strategies have been successful in attracting suitably qualified and experienced staff.

The review did not assess whether the council's salary system complies with the Award requirements. However, the review team is informed that it does. Council officers advised that the council has adopted a bonus payment system based on council's performance evaluation of staff. Team based key performance indicators have been developed and performance targets set.

What is working well

The proportion of male to female staff indicates that in the older age groups, female staff only comprise about 30% of the workforce. The imbalance in the ratio of males to females is most marked in the "outside" staff, where males make up 93% of the workforce.

The council is giving emphasis to providing opportunities for female employees. The council retains an aboriginal liaison officer and is conducting an aboriginal employment program to encourage employment opportunities directed to the local aboriginal community.

The council is exploring opportunities for providing greater opportunities for people with disabilities.

While it may be early in the process, the initiatives that have been taken to turn around what had been a significant staff turnover rate of 21% appear to be working. Since the commencement of the financial year, the rate has fallen to 1.2%. This represents a significant drop.

The council has recently introduced a training model. The council has entered into a strategic alliance with other regional councils, known as the Mid North Coast Strategic Alliance. Through its strategic alliance with the other regional councils, the council is moving to provide additional training facilities for its staff. The Alliance has appointed a facilitator, with staff networks having been established.

Workforce planning

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

- an ageing workforce
- changes in workload for certain sections as council's and government priorities change
- retention of experienced staff
- remuneration/market pressures for higher wages
- societal demands for a better work/life balance

Council's long term human resources strategy contains six key themes aimed at providing a whole of council strategic purpose and direction to human resources planning and action that reflects council's policies and priorities. The long term plan

also addresses the issue of council's ageing workforce and the need for succession planning. Key theme six of the strategy aims to achieve a sustainable workforce. The human resources strategy is incorporated into each relevant departmental operational plan.

Challenges to improve

Human resource strategies

The council recognises that various parts of its overall human resources strategies were not in place or were of poor quality. It is acknowledged that the council has already moved to remedy this position, taking steps to ensure that its human resources strategies are comprehensive and effective.

The council needs to ensure that it provides a structured induction program for all staff, supported by appropriate manuals, to ensure that staff are aware of their rights, obligations and conditions of service, as well as other issues, such as workplace safety. (Recommendation 29)

The council advised that the last time that it conducted formal training on the Protected Disclosures Act was in 1997. Since that time articles have appeared in staff newsletters.

Given the time that has elapsed since the last formal training sessions regarding the Protected Disclosures Act and the high turnover of staff experienced by the council, it should provide formal training on the Act. (Recommendation 30)

Equal employment opportunity (EEO)

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

Kempsey Shire Council has developed an EEO Management Plan that includes EEO objectives, strategies and performance indicators to meet each of the objectives It also contains definitions and a glossary of terms.

Council's EEO Management Plan was adopted in 1999 but it does not appear to have been reviewed, despite an objective to do so on an annual basis. Council's plan could be improved by providing more detailed strategies, specific targets and performance criteria, including timeframes, a description of the method used to develop the plan and identifying specific positions that are responsible for strategies. (Recommendation 31)
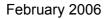
7. COUNCIL'S RESPONSE

Council responded to the draft report on 13 January 2006. Council's response provided clarification of a number of areas of the report. Council also provided clarification of some of the draft recommendations. As a result of this clarification, ten draft recommendations were removed and one draft recommendation was amended.

Draft recommendations in relation to a review of the code of conduct, development of a records management plan and recording the reasons for closing its meetings were removed because these activities had been undertaken or finalised since the review was conducted.

Draft recommendations in relation to council's meetings were removed, and in one case, amended as a result of further clarification provided by council. Draft recommendations in relation to council's bonus system and workforce strategies were removed as council provided additional information and clarification that indicated that these recommendations were not required.

The draft report was modified to take account of council's comments in relation to the code of conduct, management plan, complaints handling, records management, council meetings, state of the environment report, land use planning, employee remuneration, workforce planning and human resource strategies.

Given the further information provided by council regarding the human resources strategy, the review team now regards that workforce planning should fall under the category of "what is working well" and has subsequently been moved within the report.

8. SUMMARY- WHAT'S WORKING WELL & CHALLENGES

COUNCIL'S PRIORITIES AND FOCUS

What is working well

- A culture of review is evident across the organisation.

- Foundation for a strong strategic approach to meeting the future needs of the community.

- A clearly articulated vision, mission, set of values and goals to guide the organisation.

- Its regional role is reflected in its strategic focus.

- Strong information technology platform that ensures the integration of strategic direction and council operations.

Challenges to improve

- The integration of all its plans into its strategic plan.

- Preparation of long term strategies to meet current and future needs for older people.

GOVERNANCE

What is working well

- A corporate governance framework that identifies the key strategies, codes and policies in place to ensure good decision making and ethical practices.

- All staff have received training in the code of conduct.

- Use of technology to monitor and report on the performance measures identified in the management plan.

Challenges to improve

- The development of a risk management plan and conducting of regular risk assessments.

- Review of its purchasing of goods and services policy and practices.

- The development of a system for the monitoring and review of all contracts.

- Review of its meeting practices to provide a more planned approach.

- The development and adoption of a policy supporting legislative compliance.

- The development of a procedure or operations manual for its section 355 committees.

REGULATORY

What is working well

- Development application processes are reviewed, monitored, reported on and progressed in an efficient manner.
- Standard of State of the Environment reporting is good.

Challenges to improve

- A review of strategic land-use planning.
- Document its policy and procedures for dealing with non-compliance issues.
- A review of its companion animal management plan and implementation.

ASSET AND FINANCIAL MANAGEMENT

What is working well

- Council's infrastructure assets are in acceptable condition.

Challenges to improve

- Preparation of a comprehensive asset management and maintenance plan.

COMMUNITY, COMMUNICATION AND CONSULTATION

What is working well

- Council uses a range of methods to involve and obtain feedback from its community.
- Comprehensive and useful information provided to staff to guide consultation processes.
- An attractive and informative website that is user friendly.

Challenges to improve

- The development, monitoring and reporting on customer service standards.

WORKPLACE RELATIONS

What is working well

- Staff turnover rate has reduced significantly.
- The development of a long-term workforce plan.

Challenges to improve

- Structured induction program for all staff.