

challenges improvement innovation good governance

Promoting Better Practice Program

REVIEW REPORT

MID-WESTERN REGIONAL COUNCIL

October 2009



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

TABLE OF CONTENTS

1. ABOUT THE REVIEW	3
2. EXECUTIVE SUMMARY	5
3. RECOMMENDATIONS.....	8
4. COUNCIL’S AMBITIONS, PRIORITIES AND FUTURE FOCUS	13
5. DELIVERING AND ACHIEVING	19
5.1 Governance	19
5.2 Planning and other regulatory functions.....	35
5.3 Asset and financial management	39
5.4 Community and Consultation	44
5.5 Workforce relations	48
6. COUNCIL’S RESPONSE	57
7. SUMMARY- WHAT’S WORKING WELL & CHALLENGES	66

1. ABOUT THE REVIEW

Review objectives

The Promoting Better Practice review program 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 Division of Local Government 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 Division 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 Deputy Director General of the Division of Local Government and the Minister for Local Government.

Mid-Western Regional Council Review

Mid-Western Regional 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 of 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?*

The Division of Local Government's Senior Investigations Officers, Paul Terrett and Angus Broad, conducted the on-site component of the review from 16 to 20 February 2009.

The on-site review involved a meeting with Council's Mayor and General Manager, a briefing for Council's senior staff, conducting interviews, attending a councillor briefing session and council meeting and the review of a number of Council's policies and other documents, and visits to a number of Council facilities/worksites.

2. EXECUTIVE SUMMARY

There are a number of aspects of Council's operations that are performing well, indicating a mature approach to delivering services to the community.

However, Mid-Western Regional Council faces a number of challenges in the coming years. These include: improving leadership; developing a shared vision and strategic direction; accurately forecasting and managing its financial position; building and maintaining infrastructure in an effective manner; acknowledging and responding to demographic change (in particular an ageing community); and engaging more successfully with its community.

While Council has a number of strategies, they appear to have limited application or enjoy limited support.

Some of the councillors and senior management who the review team spoke to were unable to demonstrate a clear and consistent understanding of Council's strategic direction or an understanding of Council's strategic plan. Some appeared to be unable to focus on the 'bigger picture'.

The failure to develop a good and workable relationship among some councillors and between some councillors and the General Manager is hindering the development of strategies that are shared by all stakeholders. This failure is a distraction for the Council and action to repair these relationships is necessary.

Councillors for the most part also lack a clear understanding of their role and functions under the *Local Government Act 1993*. As a result, some councillors have become involved in operational matters rather than working strategically or at a policy level. To some extent councillors have had limited involvement in policy formulation abrogating this role to Council staff. Their role has been limited to merely ratifying policies. Additionally, there appears to be a reluctance to inform councillors of some operational matters dealing with policy development and organisational performance.

The review team notes that a significant number of policies were adopted in December 2008 prior to the review. Many of these policies are key policies for good

governance and will require Council to provide staff training. Additionally, Council should also place these policies on the Council website.

The need for a long-term strategic plan, which focuses on building sustainability for the Council area, is imperative. Strategic planning needs to be complemented and well integrated with other planning such as financial and resourcing strategies, land use plans, and asset management plans to strengthen the focus on the achievement of outcomes. To measure Council's performance against its stated outcomes all plans and strategies require more explicit and measurable performance indicators.

There is a need for town and village communities within the local area to be engaged in the development of a shared vision and strategies, stemming from the amalgamation of the former councils. Effective communication, setting realistic directions, as well as encouraging a sense of ownership, are crucial to this process. Councillors and members of the senior management team hold 17 town/village meetings and publish a community newsletter to assist this process.

To ensure Council is optimally placed to achieve its intended direction it also needs to direct immediate attention to improving its corporate governance. Areas requiring particular attention are risk management, disclosure of interests, records management, internal control activities, meetings procedures and complaints management.

In the area of environmental planning, Council has a program to review its planning instruments and is proposing to update its land use strategy in conjunction with a review of its Local Environmental Plan. In reviewing these instruments, Council should ensure that its environmental planning activities are integrated with its strategic plan and other relevant operational plans. The Council has adopted strategies to effectively deal with development applications through extensive use of delegated authority. While Council has a program of checking compliance and has a draft compliance policy, the draft policy has not been adopted by Council. Compliance programs should be underpinned by documented policies and procedures.

Council is in a satisfactory financial position, with all financial indicators showing performance at better than accepted industry benchmarks. However, Council has

failed to undertake long-term financial forecasting and planning. A long-term financial plan to underpin the long-term strategic plan is critical to building sustainability for Council's finances.

Council's tendering procedures require review to ensure compliance with the *Local Government Act 1993*.

Mid-Western's population is ageing. All sections of Council should work toward developing appropriate integrated planning and service delivery for older people.

A draft report was submitted to the Council for comment. Council has responded to the draft report indicating that it is pleased that the review was undertaken and indicating that it is pleased with its outcomes.

Council has made comment on each of the recommendations in the draft report.

In a number of instances the Council has provided information on what action Council intends to or has commenced to take. In other instances the Council indicates that it does not concur with the opinions expressed in the report, particularly those affecting the relationships between some councillors and some senior staff.

Following the review of Council's response, two recommendations were removed and other recommendations were modified. Similarly, parts of the body of the report were amended to reflect matters raised in the response.

3. RECOMMENDATIONS

Ambitions, Priorities and Future Focus

1. Council should work towards the integration of its planning processes to integrate its strategic, social and community, management, asset management and long-term financial plans.

Governance

2. Training should be provided to councillors on their statutory role.
3. Council should review its meeting practices to make meetings more efficient, transparent and participation in meetings more equitable.
4. It is recommended that the General Manager and Councillors pursue avenues to resolve their on-going differences in order to develop a professional working environment in the Council.
5. The Council should develop a tourism plan, which should be integrated with Council's Strategic, Management, Social and Cultural Plans.
6. The Council facilitate compliance with the code of conduct by creating the required register and by adopting a policy/procedure for declaring gifts and benefits.
7. Council should record and develop a system for monitoring and auditing its purchasing and tendering, disposal of assets and contract management. Council should also consider including a representative from the Finance Branch on its Tender and Purchasing Panel.
8. Council should develop a system for managing contractors' performance.
9. Council should consider an easy and streamlined way of ensuring regulatory and legislative compliance.
10. Council should include the "Open Day" session as a part of Council's meetings.
11. Council should adopt a guarantee of service and should ensure that its staff receive adequate training on its complaints handling policy and procedures.
12. Council should establish a system for collection and reporting of data associated with complaints and provide these reports to Council each quarter.

13. Council should ensure that all councillors and designated persons receive training on the pecuniary interest provisions of the Act and on their obligations under the Code of Conduct. Additionally, the Council should ensure that all councillors and designated persons receive a copy of the Division's circular to councils on Pecuniary Interest returns and all councillors and designated persons should ensure their return is complete.
14. A reference to the Statement of Business Ethics should be included in Council's tender documentation.
15. Council should identify training opportunities to develop councillor skills.
16. Many of the policies adopted in December 2008 are key policies for good governance and will require Council to provide staff training. Additionally, Council should also place these policies on its website.
17. Council should develop a risk management plan to effectively control and reduce Council's risk profile. The plan should facilitate legislative compliance, an internal audit process and a disaster recovery and business continuity plan.
18. Council should develop an internal audit plan, preferably with other councils, and establish an internal audit committee.
19. Council should undertake a fraud risk assessment and prepare an appropriate fraud policy and strategy to meet ASA240 *The Auditor's Responsibility to Consider Fraud in an Audit of a Financial Report*.
20. Council should provide training for councillors, staff and council delegates on the *Protected Disclosures Act 1994*.
21. Council should finalise its business continuity policy as a matter of priority and put it to Council for adoption.
22. Council should review its privacy management plan and provide training to staff and councillors on privacy issues.
23. Council should make changes to its record management practices to ensure compliance with the *State Records Act 1998*. All councillors should be provided with a copy of the councillors leaflet titled, "What have records got to do with me?", published by the State Records Authority of NSW.

Planning and other regulatory functions

24. Council should undertake a review of the IT needs of its Planning Branch with a view to introducing e-planning.
25. Council should that it develops and adopts appropriate plans of management for all community land.
26. Council should review its policy and procedures in relation to dealing with non-compliant development and compliance issues. The NSW Ombudsman's enforcement guidelines may be a useful resource in developing this policy.
27. Council should prepare and adopt a companion animals management plan.
28. Council should develop a compliance regime to ensure compliance with the provisions of the *Swimming Pools Act 1992*.

Asset and financial management

29. Council should adopt a Hardship Policy and implement a procedure to reduce the risk of escalating unrecovered debt.
30. Council should prepare a long term financial plan.
31. Council should take steps to ensure management of all of Council's assets is integrated. The Council should identify a position with responsibility for ensuring that its various departments liaise on asset management.

Community and consultation

32. Council should consider working with neighbouring councils to develop a greater focus on regional planning in future Social Plans and should ensure that timeframes for the implementation of initiatives are more clearly documented.
33. Council should develop an information strategy

Workforce relations

34. Council should develop a detailed and integrated human resources strategy. This strategy should link with Council's other plans and strategies.
35. Council should distribute minutes of Consultative Committee meetings to councillors for information only.

36. Council should develop a succession plan for key positions in the organisation.

CONTEXT

This section of the report describes the context in which the council operates, including the make up of the council area, population characteristics and trends, councillor experience, and council functional structure.

Situated in the Central West of NSW in the Cudgegong River valley, the Council area is approximately 250 km from Sydney and covers an area of 8,737 square kilometres. It is an amalgamated council made up of the former Mudgee and Rylstone Shire Councils and part of the former Merriwa Shire Council.

Mudgee is the hub of the Mid-Western Regional Council. The Council area includes the towns of Rylstone, Kandos, Gulgong, Ulan, Goolma, Running Stream, Lue, Ilford, Bylong and Birriwa.

The economic base of the area is agriculture, forestry, winegrowing and mining.

The Council area is known for its national parks and is home to the Wollemi Pine. The Australian Bureau of Statistics information estimated that the population of the local government area was 22,093 at 30 June 2007.

The 2006 Census contained the following information in regard to the local government area:

- 2.7% were Indigenous persons, compared with 2.3% Indigenous persons in Australia
- 21% of the population were children aged between 0-14 years
- 30.5% were persons aged 55 years and over
- the median age of the Council area is 41 compared with 37 for the rest of Australia
- 7.3% of labour force was unemployed.

Council has nine councillors who were elected in September 2008. The Council area is not divided into wards.

4. 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.

While Council has developed a strategic plan for the period 2007 - 2017, it does not fully integrate its strategic plans with other more operational plans (such as the management plan and financial plan) to develop a community strategic plan.

(Recommendation 1)

This community strategic plan needs to be revised by Council to include other strategies currently being developed or reviewed. Elected members, employees and the community should share this strategic direction and the plan should be a working document for Council's decision making.

The Council's strategic plan should be a tool to guide the Council. There was little evidence that the Council was following this strategic plan and as such it should review this plan to reflect its aspirations.

Integrated planning and reporting

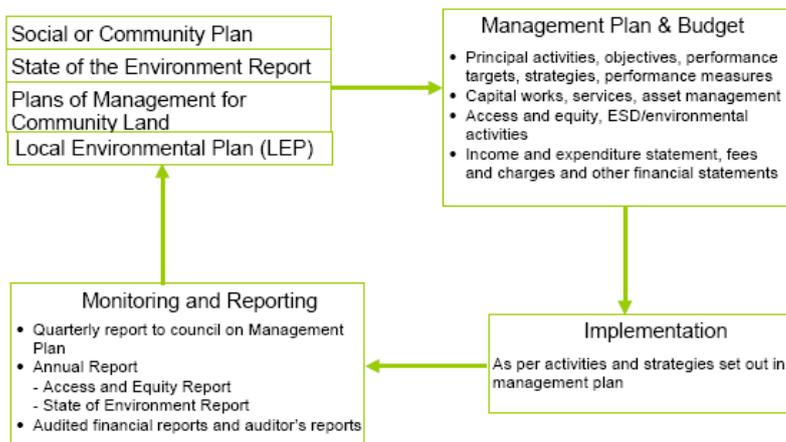
The Division of Local Government's vision is of a strong and sustainable local government sector that meets community needs.

A major corporate priority of the Division is to work with councils to better integrate their planning, service delivery and reporting. Integrated planning is about ensuring that councils' planning requirements and processes are sufficiently interconnected to maximise the achievement of the council's goals and desired outcomes. If plans are not integrated it is likely that their implementation will work against each other to fragment and confuse responsibilities and targets, and undermine the achievement of the council's goals.

Integrated reporting is about ensuring that reporting is linked to council plans, particularly in regard to the progress toward achieving those plans and then accurately informing the development of future plans.

Figure 1 provides an example of the sources and processes that a council may use to achieve a “whole of council” strategic management approach.

Figure 1: Factors to be included in whole of council approach to Management Planning¹



Council should work towards the integration of all its plans. Currently, the Council is driven by its management plan. It does not have a long-term financial plan; however, Council has undertaken substantial work towards developing a comprehensive asset management plan.

Leadership

Prior to its visit to Council, the review team was made aware of numerous concerns by members of the local community. These concerns had been raised with the Minister for Local Government, the Division of Local Government and a number of other Government agencies. They raised issues relating to the leadership shown at the elected level of Council. The review team found indicators that some councillors appear to get bogged down in the detail of running the Council. Additionally there are indications of poor relationships and a lack of co-operation among councillors and between councillors and staff.

¹ NSW Department of Local Government Discussion Paper - Integrated Planning And Reporting. 2006

Some councillors that the review team spoke with appeared to lack an understanding of their statutory roles under the Local Government Act, or of their obligations under the Council's Code of Conduct. Overall, they were unable to demonstrate an understanding of Council's strategic direction and focus on the 'big picture'.

There are a number of aspects of Council's operations that are performing well, indicating a mature approach to delivering services to the community.

On the other hand, Council should, as a matter of urgency, reconsider the strategic and policy setting role of councillors, as opposed to their involvement in the operational management of Council. **(Recommendation 2)**

Council should review its meeting practices to make meetings more efficient, transparent and participation in meetings more equitable. **(Recommendation 3)**

Relationships

The review team has significant concerns regarding councillor conduct.

These concerns stem from:

- observations of councillor conduct in council meetings
- complaints to the Division
- councillor interviews
- staff interviews.

Some of the behaviour is considered to be below an acceptable standard and demonstrates a lack of respect for colleagues. This is evidenced by interruptions, ongoing commentary and derogatory remarks being made when councillors speak.

The review team found that leadership and management (both at the elected body and senior management levels) can at times be unprofessional and requires urgent attention. There appear to be significant issues involving the relationships among some councillors and between some councillors and Council staff.

Councillors and the senior management team must work together to provide good leadership and direction to the organisation to enable it to perform its functions well and so that it can provide the services and infrastructure needed by the community.

The second aspect of the above comment about problematic relationships between elected councillors and Council staff is more insidious and more difficult to capture, with possibly farther reaching consequences for the organisation's culture if it is not addressed properly and immediately. Council appears to be distracted by infighting that is doing damage to the Council leadership and consideration should be given to undertaking mediation to resolve these conflicts.

Through assessment of various background documents, including complaints to the Division and other regulatory agencies by councillors and members of the community, as well as on the basis of various media reports, and following a brief observation of the organisation, the review team found that in some cases the difference between "us" and "them" was overwhelming.

The review team notes a number of complaints to the Division and others raise concerns about bullying and harassment, as well as concerns that complaints to the conduct committee may lead to retribution. This is unacceptable.

Councillors should bear in mind that they have prominent roles and are equals. They must treat each other, staff and other people with respect.

Some councillors demonstrate a lack of respect, particularly, for the General Manager and, to a lesser extent, for other staff. Councillors must demonstrate respect for all staff and for the professional advice that staff provide.

While it is acknowledged that steps have been taken to resolve on-going differences between the General Manager and some Councillors further efforts are required in order to develop a professional working environment.

It is recommended that the General Manager and Councillors pursue avenues to resolve their on-going differences in order to develop a professional working environment in the Council. **(Recommendation 4)**

Local government attracts people from diverse backgrounds and experience. It is important that differing opinions are respected by all senior officers and councillors. Councils should be a mirror to the community they represent and the aspirations of their communities should be translated into strategies and policies.

Ageing population

In October 2005 Council undertook a review of its population projections for the period 2005 – 2031. This study indicated that in 2001, 14.1% of its population was aged 65 years and over. The study forecast that, by 2031, this age group would grow to 23.1%.

Recently, the Council has been approached to develop a \$70 million retirement village.

This increase in the ageing population will be heightened by a decline in children aged under 18, from 28.1% in 2001 to an estimated 17.1% by 2031.

Council's social plan includes a number of valuable strategies for older people including transport, social activities and training, access to health services and respite services. It is evident that Council has integrated strategies across all its functional areas to address the challenges of an ageing population. It is noted that while the Social Plan dates from 2006, some of the recommendations have only recently being implemented, for example an ageing strategy.

The Local Government and Shires Associations have produced "Planning the Local Government Response to Ageing". The 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 the general population trends and access to population projection information for each local government area
- providing information on the existing and likely diversity among older people
- providing evidence on what population ageing means for all roles that councils perform, 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, and to identify what roles they may need to change.

The Division encourages councils to use this paper as part of their planning process.

At the Council meeting attended by the review team, Council resolved to develop a strategy to address the ageing population and has set aside \$30,000 to develop the strategy. It is important for Council to prepare and to implement an ageing strategy and to provide sufficient resources to address the aims of the strategy.

Tourism

Tourism is a significant economic driver for the region, estimated to be worth over \$240 million annually and creating direct and indirect jobs for the area. Council demonstrates a positive commitment to tourism through a range of programs and activities and spent \$358,000 on tourism development in the 2007/08 financial year. This included contributions to Mudgee Regional Tourism Inc (MRTI), the regional tourism body, plus building rental.

Council does not have a tourism plan. The development of a tourism plan should be considered in relation to the Economic Development Strategy for the area. Given the significance of tourism, it is important that Council develop a tourism plan in co-operation with the MRTI.

The Council should develop a tourism plan, which should be integrated with Council's Strategic Plan, Management Plan, Social Plan and Cultural Plan.
(Recommendation 5)

5. 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.

5.1 Governance

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

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*
- *Business Continuity*
- *Council Meetings*

Gifts register

Council has adopted a code of conduct that provides some information on the procedures to be followed by staff and councillors in relation to gifts and benefits. In December 2008 Council adopted its gifts and benefits policy. However, at the time of the review, the Council did not have a gifts register. It is recommended that the Council facilitate compliance with the code of conduct by creating the required

register and by adopting a policy/procedure for declaring gifts and benefits.
(Recommendation 6)

Procurement, disposal of assets, tendering, contract management

Procurement, disposal of assets, tendering and contract management are areas of any organisation's operations where benefits passing between the public and private sectors may provide ample opportunity and incentive for corrupt dealings. Non-existent or weak policies and procedures for procurement, disposal of assets, tendering and monitoring of contractors' performance and failure by organisations to conduct risk assessment and regular audits of those policies and practices have been identified by the regulatory agencies as areas of highest risk. In addition, weak and unchecked policies and practices may provide additional opportunities and incentives for circumventing the procedures and making that circumvention harder to detect.

Council has an overarching Purchasing Policy that sets out the general requirements for procurement of goods and services. This policy aims to ensure Council's procurement of goods and services is legal, ethical and to Council's best advantage. To support this policy, Council also has an Administration Instruction on purchasing. This sets out the delegated authority of individual employees as authorised by the General Manager.

Council has a Disposal of Assets Policy, which was adopted by Council in December 2008 that sets out the considerations and requirements for disposing of Council goods.

Council adopted a Procurement Policy in December 2008. This is based on the principle of obtaining value for money when evaluating and selecting goods and services and provides staff with a set of basic procurement guidelines.

A review of tenders revealed a number of inconsistencies, such as the date of the receipt of the tender, failure to display a notice of successful tenders in a conspicuous place, amounts being tendered and reasons for awarding of the tenders apparently outside the scope of the tender conditions.

Council should consider using a tender checklist to ensure that the tendering process complies with the Local Government Act and Regulation. Further, Council may wish to review the composition of its tendering panel to include a representative from its Finance section to give some independence in the purchasing of goods and services and to integrate purchasing into a whole of council approach.

Council should develop processes for monitoring and auditing its purchasing and tendering, disposal of assets and contract management. **(Recommendation 7)**

Council has in place documented policies and procedures for the purchasing of goods and disposal of assets (other than land and buildings – the purchasing and disposal of these assets are regulated through different processes). There is a separation of responsibilities in the purchasing process. Council should have regular audits of contract management and purchasing files to ensure compliance with Council's policies and tender requirements. Given the potential for preferential treatment to be given to some contractors or suppliers, systems to ensure this does not occur should be implemented.

Council does not have an articulated process for recording contractors' performance during and upon the completion of a contract. Such records would assist the organisation in future selection of contractors. Council should record and develop a system for management of contractors' performance. **(Recommendation 8)**

Legislative compliance

A fundamental principle of good public administration is that public officials comply with both the letter and the spirit of the law. 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 that 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.

It is important for councils to consider what systems they have for identifying their compliance obligations, for staying on top of legislative changes and for ensuring they are meeting those obligations on an ongoing basis.

Mid-Western Regional Council does not have a protocol for systematically identifying and reviewing its compliance obligations. Staff should keep up-to-date with changes to the legislation pertaining to their specific expert areas of responsibility and circulate information to staff in order to ensure continued compliance with legislative requirements.

Council should consider an easy and streamlined way of ensuring regulatory and legislative compliance. **(Recommendation 9)**

Delegations

The power of delegation is an important tool that assists council officers to carry out the functions of a council in an effective and timely manner. Delegations need to be made in accordance with sections 377-381 of the Act and regularly reviewed to ensure they remain current. Council's delegations are reviewed in December each year.

Council meetings

The review team observed a Council meeting on 18 February 2009 and also reviewed Council's code of meeting practice, business papers and minutes.

Closing council meetings

As a general rule, meetings of a council and its committees are required to be open to the public. Where a council determines that a matter should be dealt with in confidential session, sections 10A to 10D of the *Local Government Act 1993* outline the requirements for closing meetings.

At the time of the onsite review, the grounds for closing the meeting as contained within section 10A(2) of the Act were not being stated at the meeting as required under section 10D(2). Specifically, the information required by section 10D(2)(a) and (c) was not included in the reasons for closing the meeting.

In deciding whether or not a matter should be discussed in closed session, Council should ensure that it applies the public interest test as required by section 10D of the Act. The General Manager can help facilitate this by ensuring that reports discuss why dealing with the item in open session would not be in the public interest and a full explanation provided.

During the meeting that the review team attended, at the end of the Council meeting the chamber was cleared of the public to conduct business in closed session. There was no notice of this business and the required procedure for closing the meeting was not observed.

Business without notice

The Division issued a circular to councils on transacting business without notice (Circular to Councils 07/14). Questions during a council meeting should be related to the business before council. Councillors should not raise business unless the provisions of clause 241 of the Regulation have been met.

Business that can be discussed and dealt with at council meetings under clause 241 includes:

- business that a councillor has given written notice of within the required time before the meeting (clause 241(1)(a)) and of which notice has been given to councillors (section 367 of the *Local Government Act 1993*)
- business that is already before the council or directly relates to a matter that is before the council (clause 241(2) (a)). For example, business that was discussed at the last council meeting or business in a report made by staff in response to an earlier council request for a report.
- the election of a chairperson for the meeting (clause 241(2)(b))
- a matter raised in a mayoral minute (clause 241(2)(c))
- a motion to adopt committee recommendations (clause 241(2)(d))

- business ruled by the chairperson to be of great urgency (clause 241(3)), but only after a motion is passed to allow the particular business to be dealt with.

The *Local Government Act 1993* provides a number of other methods for councillors to bring matters to council, such as using notices of motion or holding councillor information sessions on significant matters.

Open Day

Council has a public forum session, called “Open Day”, prior to commencing council and committee meetings. “Open Day” allows members of the public to comment on Council matters including matters before Council that night. This forum is not a meeting or committee meeting and as a consequence, the forum is not minuted nor are disclosures of pecuniary interest made.

The review team observed an “Open Day” session. The forum had the appearance of a meeting of the Council and could be considered as having an impact on the decision making processes of Council, which follow “Open Day”.

The review team noted:

- councillors leaving the chamber during the forum
- councillors not making declarations of pecuniary or non-pecuniary interests and
- no mechanism for recording disclosures of interests.

Councillors should be mindful of the public perception, particularly if members of the public raise matters that are on the agenda for the meeting that follows.

As the Council meeting commences following the “Open Day” session, to remove any doubt, consideration should be given to commencing the meeting before the commencement of “Open Day” and dealing with procedural matters such as apologies and disclosure of interests prior to the “Open Day” session. This will also allow Council to move matters of interest to the public earlier in the agenda and to allow councillors to consider the comments as part of the formal debate.

(Recommendation 10)

Section 252 policy

All councils are required to adopt a policy on the payment of councillors' expenses and the provision of facilities to councillors pursuant to section 252 of the Act.

A council must not pay any expenses or provide any facilities otherwise than in accordance with its section 252 policy. Council reported in its 2007/08 annual report that councillor expenses were \$189,165. The annual report only shows \$49,466 of specific expenses, in accordance with the statutory requirements. Council is encouraged to disclose full details of councillor expenses, rather than the statutory minimum.

Customer service and complaints handling

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

Council has developed a complaints handling policy, which was adopted in December 2008. This sets out timeframes and procedures on how Council will respond to complaints. Council has not developed a customer service standard (also known as a guarantee of service). The standard should establish clear service values and standards that customers can expect to receive from Council. While some of these appear in the complaints handling policy, it could be enhanced with a standard showing the Council's customer service commitment.

Council has not fully trained staff on the complaints handling policy and procedures. This training needs to be developed and Council's commitment to customer service highlighted. **(Recommendation 11)**

Council should also develop a system for reporting on complaints, giving details of the numbers and nature of the complaints. This report should be provided to councillors on a quarterly basis. **(Recommendation 12)**

Pecuniary interest

Chapter 14 of the Local Government Act sets out the parameters that must be complied with when councillors and staff have a conflict between their public duty and private pecuniary interests. The Act also requires councillors and designated staff to lodge returns of interest. Part 8 of the Regulation prescribes the information required to be included when lodging returns.

The review team examined the most recent section 449 returns. The review team found that there were a number of omissions in the returns. While some of these omissions were minor, more serious non-disclosure of property ownership was found. Councillors and designated staff should ensure that returns are accurate and fully disclose their interests.

Council should provide all councillors and designated staff with a copy of the Division's Circular to Councils 08-71 *Self-Help Guide to Complete Section 449 Returns of Interests* to assist them in completing their returns and all councillors and designated persons should ensure their return is complete. **(Recommendation 13)**

The review team notes that the Division has received a large number of pecuniary interest complaints and allegations. While councillors have had training in non-pecuniary conflicts of interest and pecuniary interest, the review highlights the need for further training in this area.

The Division proposes to address these concerns directly with Council by conducting an information session for councillors on conflicts of interest and pecuniary interest issues. The Division will liaise with the General Manager to organise a suitable date.

Statement of business ethics

A statement of business ethics can be an excellent tool for raising private sector awareness of public sector values. In December 2008 Council adopted a Statement of Business Ethics; this complements the Council's value statement, the Workplace Environment Statement.

This is important because strong working relationships with the private sector are an essential part of building an efficient and cost-effective public sector.

Council's statement of business ethics should be available from Council. It covers key issues around the values Council stands by. This statement, together with a copy of the Council's Code of Conduct, should be provided to all persons conducting business with or on behalf of Council. The Council does not display its statement of business ethics or values or mission on its website.

A reference to the Statement of Business Ethics should appear in Council's tender documentation. **(Recommendation 14)**

Councillor induction and ongoing training

New councillors require induction training to equip them with the skills required to properly carry out their duties and allow them to be effective members of Council's elected body. To assist councillors in achieving these goals, councillor induction training should familiarise councillors with the activities and functions of their Council and the legislative framework in which they operate. The program should ensure that councillors are made aware of their general legal responsibilities as elected members and their obligations under the Local Government Act. While Council provided training to new councillors, it appears that this training may have been less comprehensive than in the past.

Councillors' knowledge and skills have a significant impact on the organisation's capacity to make sound and transparent decisions. New councillors require both induction and ongoing development to equip them with knowledge and skills required to properly carry out their duties and allow them to be effective members of the council's elected body. For long-serving councillors there is the ongoing challenge to keep up- to-date with changes in the areas where they are making decisions for their communities. It is therefore appropriate that councils allocate appropriate resources to councillor training and development.

The Division encourages councils to continue to provide opportunities for their councillors to keep abreast of developments in those areas that are most likely to be beneficial for carrying out their strategic role within the organisation.

Further, it is important for each individual councillor to critically review his or her skills and knowledge and commit to on-going development over their term as a councillor.

While Council has conducted induction training for new councillors and provided training regarding the General Manager's contract, the Council should identify other courses and training opportunities to develop councillor knowledge and skills. Further, such strategies will also assist Council in promoting team building and informal forums to exchange ideas and experience. **(Recommendation 15)**

Policy register

Council policies and formal protocols are an important mechanism for setting, monitoring and reviewing Council's systems and processes.

Under section 222 of the Act councillors comprise the governing body of council. Section 223 provides that "the role of the governing body is to direct and control the affairs of the council in accordance with this Act". Section 232 expands on this provision, indicating that one of the key roles of councillors is, as members of the governing body, "to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions". Therefore, policy making and review is a key function of the councillors.

The review found that Mid-Western Regional Council had a number of policies to support and guide its operations. Policies and protocols should link directly to the Council's strategic plan and other relevant plans. All Council policies have an adoption date with a reference to the council minutes, a review date, and the area of the Council responsible for the policy.

It is considered good practice for councils to review and, as appropriate, amend or replace the organisation's policy suite following ordinary local government elections. This ensures that policies clearly delineate the responsibility of the elected body for the strategic aspect of policies and of the various sections of council responsible for

the operational aspect of policies. It has been the Division's experience that where there is a lack of commitment by the elected body to a council policy framework the council has experienced problems.

The review team noted that a number of policies were adopted in December 2008, just prior to the review and that many are yet to be communicated within the organisation. Many of these policies are key policies for good governance and will require Council to provide staff training. Additionally, Council should also place these policies on its website. **(Recommendation 16)**

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 the 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. A risk management plan should provide a council with a framework to proactively identify, communicate and manage generic and specific risks. It is important that Council consider the development and implementation of a risk management plan to minimise the likelihood of negative events that could have otherwise been foreseen and thereby managed or avoided. Such a plan should extend beyond those risks that are insurable. Council may wish to refer to AS/NZS 4360:2004 for more information on risk management.

Council does not have a risk management policy or a risk management strategy.

An invaluable mechanism for implementation of any risk management strategy is the undertaking of an organisational wide risk assessment. It is good practice to undertake an organisational risk assessment at least every three years. Such a risk

assessment can be used to identify areas of high risk that Council should focus on and manage, as well as facilitate the development of an internal audit plan for Council. Risk assessment processes such as this will ensure that Council looks beyond insurable risks and OH&S matters and works to identify and manage all business risks. While the review team acknowledge that some work has been done in this area, Council needs to address all risks it faces. **(Recommendation 17)**

Internal audit and 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. An internal audit program will also provide councillors and members of the public with assurance that Council is managing its operational risks and performance appropriately.

Council does not have an internal audit committee or an internal audit plan. An internal audit committee and/or an internal audit function would assist the Council in monitoring and improving its internal controls.

Council has proposed to work with its neighbouring councils, Lithgow and Oberon, to develop its internal controls. It should pursue this task and continue to work with Lithgow and Oberon Councils. **(Recommendation 18)**

Council does not appear to have undertaken any fraud risk assessment. Changes to the Australian Auditing Standard 240 now require all external auditors to obtain a written representation from management that the organisation has systems to deal with fraud risks. Council needs to address this issue. **(Recommendation 19)**

Protected Disclosures

Protected disclosures are an important means by which councils can signal commitment to ethical practice. They also can act as an early warning system for management.

Council has a policy that was adopted in December 2008 to assist staff in making any disclosures of alleged corrupt conduct, maladministration or serious and substantial waste of public money under the *Protected Disclosures Act 1994*.

Council needs to inform its councillors, staff and council delegates of the requirements and protections of the *Protected Disclosures Act 1994* through staff induction and development training programs. **(Recommendation 20)**

Business Continuity

Council does not have a disaster recovery/business continuity plan, although a draft plan is being prepared. The Division issued Circular to Councils 07/12 *Business Continuity Plans* to assist councils in developing such a strategy. Council should finalise its policy as a matter of priority and put it to Council for adoption. **(Recommendation 21)**

Privacy management

The *Privacy and Personal Information Protection Act 1998* (“PPIPA”) provides for the protection of personal information and for the protection of the privacy of individuals. Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan. Council adopted the Model Privacy Management Plan in 2000. The model plan provides for regular reviews. Council has not reviewed this plan. Council should review this plan and conduct privacy training for staff and councillors. As Council routinely deals with large volumes of personal information, it is essential that staff and councillors are aware of the Council’s obligations under the PPIPA. **(Recommendation 22)**

Section 355 Committees

Council has a number of section 355 committees. These committees provide an opportunity for community involvement and can be an effective way of delivering services.

As these committees carry out functions on behalf of Council, it is important they all have a constitution or charter setting out their membership, functions and delegations, to ensure that committee members carry out their functions in an

appropriate manner. Council should provide appropriate training, as well as provide an operational manual to which they can refer on an ongoing basis. It was noted that many of the committees have terms of reference but it is not clear how Council ensures that these terms of reference are met and the committee is operating effectively.

Working with other councils

Council is a member of the Central Tablelands Alliance that consists of Oberon, Lithgow and Mid-Western Regional Councils. The Alliance is focussed on providing more efficient use of resources and sharing information. The General Managers of each Council meet monthly. They are currently developing generic policies and procedures for Human Resources and OH&S, a GIS cadetship, joint purchasing and plant hiring, asset management and weed management.

In February 2008 Council chose to withdraw its membership from the Central NSW Regional Organisation of Councils (CENTROC) and is currently looking to neighbouring regional organisations of councils to work with.

Planning and reporting framework

Each year Council is required to prepare a draft management plan with respect to its activities for at least the next 3 years and its revenue policy for the next year.

Sections 403 and 404 of the Local Government Act and the Local Government (General) Regulation 2005 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.

Similarly, Council must prepare and release an annual report. Section 428(1) of the Act requires each council to prepare a report within five (5) months of the end of each financial year as to its achievements with respect to the objectives and performance targets set out in its management plan for that year. Matters to be included are set out in section 428(1) of the Act.

The review team examined Council's management plan for 2008 - 2013 and annual report for 2007/2008. Both documents appear well presented and easy to read. However, the management plan should integrate with Council's strategic plans.

Code of conduct

The Council's code of conduct adopted under section 440 of the Local Government Act is important because it assists Councillors and Council staff to understand the standards of conduct that are expected of them. All councillors, staff and council delegates are required to observe provisions consistent with the Model Code of Conduct for Local Councils in NSW.

Mid-Western Regional Council formally adopted the Model Code of Conduct as Council's Code of Conduct at its meeting on 16 July 2008; this was confirmed by the incoming Council at its meeting in October 2008.

Records management

The *State Records Act 1998* requires councils to make and keep full and accurate records of their activities. It also requires councils to establish and maintain a records management program that conforms to best practice standards and codes. The review identified several opportunities for council to improve its record keeping practices. The Council appeared to have an awareness of a number of these prior to the review and was proposing to take appropriate action.

Council does not have a records management policy. It clearly needs such a policy and detailed procedures to facilitate compliance with the State Records Act and to meet its operational business needs.

Council should ensure that its records management systems are integrated and provide training to relevant staff (including all "indoor" staff) on records management and the need to comply with the State Records Act.

Council currently archives its documents at the Council depot. Council should review whether this arrangement affords an adequate level of security. Council should

consider working with other councils to establish or participate in other records repository.

A good records management policy should incorporate information about, and procedures for, community access to records under section 12 of the Local Government Act. While the Act provides for access, it is important to note that the Act also imposes an obligation on the council's Public Officer to assist people gain access. A well-written policy and straightforward procedures can be a practical way of assisting the public to gain access.

Council should make the required changes to its record keeping practices, to facilitate compliance with the State Records Act, to ensure that its record systems support the needs of the organisation and to facilitate community access.

(Recommendation 23)

Councillor records

Council needs to act in an educative role to ensure councillors understand and meet their recordkeeping responsibilities, both to facilitate the efficient conduct of Council business and to ensure that decisions and actions are transparent and accountable.

One way councillors can be informed of their responsibilities is through the issue of policy and procedures. State Records NSW has created a *Sample records management policy and procedures for councillors* that can be modified by councils to suit their needs. State Records NSW also produce a brochure entitled *What have records got to do with me?* All councillors should be provided with a copy.

(Recommendation 23)

5.2 Planning and other regulatory functions

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

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

- *Planning instruments and policies*
- *Development assessment*
- *Section 94 plans*
- *Companion animals*
- *Environmental management*
- *Enforcement practices*

Development applications

Council has effective planning areas, which handle approximately 427 development applications (DAs) per annum and are assessed on average in less than 35 days. Planning decisions are clearly documented and developments of any significance are referred to Council for determination. Councillors only dealt with approximately 4% of all development applications in 2007/08. It is noted that there has been a downturn in the issuing of construction certificates in 2007/08 to 284 from 425 the previous year.

Council does not have an electronic system for lodging or tracking of development applications. There does not appear to be any plan to upgrade the IT systems in the Planning Branch to address matters such as e-planning. Council should undertake a review of its IT needs in its Planning Branch with a view to introducing e-planning.

(Recommendation 24)

Planning – keeping environmental planning instruments under review

Council is required by section 73 of the *Environmental Planning and Assessment Act 1979* to keep its planning instruments and policies, such as local environmental plans and DCPs, ‘under regular and periodic review’.

Council has been developing a new local environment plan (LEP) for the Council. Prior to the amalgamation, Council had a number of LEPs and is proceeding to develop a single LEP.

Council has a clear focus on its land use planning. Recently, it has seen an increase in residential subdivisions in Mudgee and Gulgong.

Council’s Planning Department reports to Council regularly on the planning and regulatory operations. All DAs assessed and determined under delegated authority are reported to Council.

Plans of management for community land

The Division issued Circular to Councils 00-30 *Public Land Management - Revised Practice Note* that included a copy of the revised Practice Note 1 – Public Land Management (May 2000). Point 4.4 of the Practice Note details the minimum requirements for plans of management. Council does not have plans of management for all of its community land. In December 2008 Council resolved that the Recreational and Open Space 2007 Strategic Plan be extended as the current plan of management for land classified as community land. Council proposes to develop new plans of management for its community land.

Section 38 of the Local Government Act requires that public notice of the draft plan of management be given and exhibited for not less than 28 days. A further 42 days after that day is given for submissions to be made to Council. The report to Council in December 2008 does not demonstrate a public consultation process, nor community input into the Recreational and Open Space 2007 strategic plan, which is the generic plan for all community land in the Council area.

Council should that it develops and adopts appropriate plans of management for all community land and undertake the consultation and other processes required by the Act. **(Recommendation 25)**

Section 94

Council maintains a section 94 contributions register and monitors expenditure to ensure that funds are utilised within a reasonable time and applied to the purposes for which they were levied.

Enforcement

In the exercise of their functions under the *Local Government Act 1993* and various other Acts, councils are required to ensure compliance and, where necessary, to take enforcement action.

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

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

The enforcement practices of councils must be resolute and demonstrate both parity and transparency. They must signal the position taken by the particular council regarding such issues. It is good practice that councils and other agencies exercising such powers set out, in a considered way, a policy to be used to ensure rational and consistent decisions are taken. An enforcement policy should 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 in which discretions may be exercised.

Council has a Section 159 Local Orders policy and an Enforcement Policy.

It is evident that Council undertakes investigations into matters and issues penalty infringement notices. Council also undertakes routine inspections in a range of its areas of regulatory responsibility. This includes the inspection of food premises. Council has developed an inspection report form to assist in the inspection and recording of these outlets.

Council should review its policy and procedures in relation to dealing with non-compliance issues. The NSW Ombudsman's enforcement guidelines may be a useful resource in developing this policy. **(Recommendation 26)**

Companion Animals

The primary aim of the *Companion Animals Act 1998* is to provide for the effective and responsible care and management of companion animals. Local councils are responsible for implementing and enforcing the provisions of the *Companion Animals Act 1998*. The Act imposes requirements on both councils and the owners of companion animals.

Council needs to meet its obligations under section 64 of the Act to seek alternatives to that of euthanasia and, in this regard, the Council has a relationship with the RSPCA whereby animals are fostered out for a period to assist in finding homes for animals.

Council does not have a companion animals management plan that identifies the strategies that Council will pursue in meeting its obligations under the *Companion Animals Act 1998*. The plan should include community education, enforcement, environmental and community amenity strategies. **(Recommendation 27)**

Swimming Pools

The *Swimming Pools Act 1992* requires Council to promote awareness of the requirements of the Act in relation to private swimming pools within the Council's

area. Mid-Western Regional Council does not currently have a compliance program to ensure it is notified of all swimming pools in its area and which will allow it to be satisfied that swimming pools comply with the *Swimming Pools Act 1992*.

While the Council provides brochures on pool safety, it does not have a fully documented inspection program for private pools to ascertain those that are not fully complying with the requirements under the *Swimming Pools Act 1992*.
(Recommendation 28)

5.3 Asset and 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 and through borrowings and grants. The Council is also the custodian and trustee of public assets and must effectively account for and manage those assets.

Overview of financial position

Council achieved an operating surplus before capital items for the past three years. The Council is in a satisfactory financial position. The unrestricted cash balance of \$3,424,000 in 2007/2008 represents the liquid assets available to cover non-budgeted discretionary expenditure and short-term cash flow requirements and reflects Council's positive financial position.

It is noted that actual expenditure for 2007/2008 exceeded the budgeted expenditure by \$3,340,000. This compares with a surplus of \$5,257,000 in the previous year. It is noted that materials for road maintenance was \$3,600,000 over the initial budget; however, the Council has advised that this amount includes contract works performed for the RTA.

Liquidity and cash position

Council's unrestricted current ratio (UCR) for the 2007/08 period was 4.61. For the period 2005/06 and 2006/07 it was 4.05 and 5.34 respectively. The UCR 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 UCR of greater than 2 is acceptable.

The percentage of Rates and Annual Charges Outstanding (RACO%) in 2007/08 was 4.02%. This is a good result and has been steady for the last 3 years.

Council's Hardship Policy, which is yet to be adopted by Council, reveals that while it outlines the steps to be followed in respect to recovery of outstanding rates and charges, it does not set any timeframes within which these steps should be taken. It is recommended that Council adopt Hardship Policy and implement a procedure to reduce the risk of escalating outstanding debts. **(Recommendation 29)**

Employee costs grew by \$2,078,000 to \$15,669,000 in 2007/2008 due to an increase in employee numbers.

Infrastructure maintenance

The written down value (WDV) of Council's assets for the 2007/08 period are as follows:

- Roads, bridges and footpaths 45%
- Stormwater drainage 51%
- Water supply network 62%
- Sewerage 43%.

The Division considers that WDV below 50% may be a cause for concern. Council's estimated costs to bring assets to a satisfactory condition were \$108,206,000 in 2007/08. The Council currently spends \$15,399,000 on annual maintenance. This is in excess of the required annual maintenance of \$9,827,000. This is reflected in Council's positive approach to the need to improve roads in the Council area and this will result in long-term savings to the Council.

Long term financial planning

Council has limited borrowings, which has allowed Council to manage funds within its own budget and has produced a good current ratio. Internal borrowings were in accordance with the *Local Government Act 1993*. However, given the current low

interest rates, Council may wish to look to borrowing to address infrastructure needs and undertake community projects.

Councils are required to develop a budget each financial year as part of the management plan. This includes providing estimates of revenue and expenses for the next two years.

The Division is also encouraging councils to develop long-term financial plans that are integrated with the council's strategic plan. These financial plans allow a council to forecast the revenue and expenses that are associated with the council's strategic direction. By undertaking longer-term financial planning, a council is able to forecast its financial position, measure the sustainability of its proposed activities and decide whether it can fund additional activities and services and consider appropriate debt levels to finance its activities, as recommended by Council's external auditor.

It is imperative that Council develop a long-term financial plan that should be integrated with its asset management plan. **(Recommendation 30)**

The plan should take into account the following considerations:

- alternative sources of revenue
- long term rates strategy (rating structure, special variations, etc)
- long term borrowing needs and debt service ratio
- investment strategies
- the alignment of its long-term financial plan with other strategic directions, asset management, social and strategic plans
- long-term plans for capital works, land acquisition and anticipated demand for community facilities
- reserves and section 94 contributions
- asset management planning.

Asset management

Asset management is a systematic process to guide the planning, acquisition, operation and maintenance, renewal and disposal of assets. Its objective is to

maximise asset service delivery potential and manage related risks and costs over the assets' entire lives. It involves effective coordination of the Council's financial and engineering resources.

Within the context of limited traditional sources of income and increasing costs, the renewal and maintenance of existing community assets is a major issue for Council and the community.

The cost of managing and maintaining Council's assets or services at the ideal or even a satisfactory level could have a significant impact on Council's annual budget.

Council has been proactive in developing in 2007 the Road Network Strategic Plan. This has driven the improvement of roads within the Council area and establishes a road hierarchy that will assist in Council targeting grant funding. It is noted that, since the amalgamation, a number of road projects have been realised including the sealing of the Bylong Valley Way. Council's activities in road improvement is acknowledged and encouraged.

In 2005 Council developed a Strategic Asset Management Policy and Asset Management Policy. This document underpins Council's direction in how it handles its infrastructure including roads, footpaths, stormwater systems, parks and water and sewerage. The assets plan goes to the purpose of the assets. It focuses on facilitating community access to services rather than just maintaining assets without analysing the need for the asset and the economic sustainability of assets to meet community needs.

Council should continue with its comprehensive asset management plan and revise its asset management strategy. The strategy should include the rationalisation of assets and a review of the maintenance program for other assets other than roads, which is adequately addressed in the Roads Strategy. Council should implement a total asset management system to ensure that it has an empirical basis for determining what funding will be required to maintain, replace and enhance assets when needed. Council's asset management plan should include potential rationalisation of assets and a maintenance program. Council should identify a

position that is responsible for ensuring that its various departments liaise on asset management and that there is integration of the management of all of Council's assets. **(Recommendation 31)**

Information technology

Council developed a formal information technology strategy for 2007-2010 that incorporates plans of action for information technology, information management and information systems.

Council has 26 sites spread out over Mudgee, Gulgong, Rylstone and Kandos. These sites are linked with various mediums including licensed wireless, fibre optic and ADSL services. Council supports over 150 users and members of the public.

The corporate software used includes the Technology One suite of products (Finance One, Business One, People One and Proclaim One), Bluepoint to provide Records and Imaging Management and Mapinfo to provide spatial geographic information.

The strategy contains five main areas being:

- Risk Management
- Technical
- Energy Conservation
- Human Factors
- Economic.

This strategy gives Council a clear direction for its IT requirements until 2010. Council has developed clear procedures for electronic telecommunication and has a suite of policies including acceptable use of the Internet, radio, video and telephone.

5.4 Community and 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.*

Social and community planning

The Social Plan 2006 (the Plan) was developed in-house by Mid-Western Regional Council and builds on the previous Mudgee Shire Council (2000) and Rylstone Shire Council (1999) Social Plans. The Plan contains an evaluation of both of these plans, although the review of Mudgee's plan is more extensive and appears to have been used more in the preparation of the current Plan.

The Plan notes that the Community Services division of Mid-Western Regional Council has been developed in recent years and social planning undertaken by the Council is much better resourced than has previously been the case. Council has also established a Social Planning Advisory Committee during the development of the Plan. The positive impact of these changes is evident in the level of detail and scope of the Plan.

The Plan's introduction contains background information which discusses the importance of social planning. It also contains a section entitled "How to Use this Plan", both of which would be of benefit to council staff, elected representatives and community members unfamiliar with the social planning process.

Other key features of the Plan include:

- A detailed discussion of the methodology used in developing the Plan, including the community consultation undertaken.
- Recommendations for council initiatives are set out in a comprehensive and well laid out Executive Summary section. They are also documented in each relevant section of the Plan.
- Recommendations cover all mandatory target groups and are well integrated. The recommendations set what appear for the most part to be realistic and achievable goals for Council. They also reflect suggestions made by the community as part of an extensive and well documented consultation process. However, the timeframes for implementation of these initiatives are not clearly documented, which presents problems for the accurate monitoring of the Plan's implementation.
- A number of other key issues which impact on many or all mandatory target groups are included, specifically: housing, transport, domestic violence, drug and alcohol use and mental health issues. This is outside the scope of the Division's social planning guidelines but is a welcome addition. The Plan notes that these additional issues have been included in an effort to be responsive to all major social issues raised within the community, in particular where significant gaps in services or access to resources is identified.
- Links to other internal council plans are clearly documented. The Plan also documents links to other State Government plans and consultation with other agencies, most notably the Department of Housing. However, the inclusion of other councils in the region in the planning process is lacking. Similarly, regional needs are identified in a number of areas but few coordinated regional responses are included in the strategies section.

The mechanisms for monitoring and reporting on the implementation of the Plan need improvement. Council's *Management Plan 2008-2013* and *2007/08 Annual*

Report provide only basic overviews of the broader intentions of the Social Plan in their respective Access and Equity Statements. Neither of these statements mentions the key target groups.

The 2007/08 Annual Report's Access and Equity statement summarises key social planning initiatives undertaken by the Council during the year, but does not provide any detailed commentary about how the initiatives have been implemented or how Council continues to monitor their implementation. This is in contrast to the 2006/07 Annual Report, which reports on specific programs and activities in more detail, including those related to the social plan.

The Social Plan notes that *“Annual reviews of the social plan will be conducted annually commencing 2008, to enable identified social priority projects to be included in Council's budget consideration process”* (section 1.2 – Key Directions, page 5). It was unclear how and when these would occur.

Mid-Western Regional Council's Social Plan 2006 is a comprehensive and useful planning tool for Council. It is also an excellent resource for the local community, especially in regard to the information it contains about issues affecting the community and how Council plans to address them.

However, the current level of reporting in Council's Management Plan and Annual Report means that it is difficult to gauge progress in implementing the Plan's initiatives or identifying achievements. Council should ensure that meaningful reporting on the implementation of the Plan is undertaken in future.

Council should also consider working with neighbouring councils to develop a greater focus on regional planning and ensure that timeframes for the implementation of initiatives are more clearly documented in future social plans.

(Recommendation 32)

Communication protocol and practices

Councils have statutory obligations to communicate and consult with their communities. The means by which councils do so is a key strategic issue for them.

There is little doubt that the councillors have a lot of direct and informal contact with their constituents. However, the Council as a corporate body does not have an integrated or documented strategy for communicating and consulting with its community. As a consequence, its efforts to engage the community may not be as effective as they could be if a well thought out strategy was in place and implemented.

While Council has, for some time, published community newsletters, these are to be replaced by advertising in the local newspaper. In discussions with councillors there appears a desire to have more community consultation and input. Council could consider other areas to expand its consultative processes. While Council has a Media Policy, an Editorial Policy and a Communications Strategy, Council should develop an information strategy. **(Recommendation 33)**

The strategy should document Council's approach to:

- informing the community on the services Council provides and how to access these services
- consultation during the development of the draft management plan
- communication of the proposed content of the management plan
- eliciting formal and informal feedback on the proposed management plan
- communication of Council's values, priorities, progress and performance
- communication with residents throughout the LGA
- communicating and consulting on key issues and policies
- informing the community of complaint and review mechanisms.

5.5 Workforce relations

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

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

- *Consultative committee processes*
- *Workforce planning*
- *Recruitment and selection processes*
- *Staff development*
- *Occupational health and safety*
- *Secondary employment.*

Overview of the organisation

Council has 269 full-time staff and 75 part-time staff, of which 56 are aged 55 years and over. Women make up 48% of employees. The staff work well together and have a professional approach to their work. There is a willingness to accept a wide variety of tasks and to work cooperatively across all levels of the organisation.

Council has had an increase in lump sum termination payments, from 14 in 2007 to 22 in 2008. It is noted that normal sick leave has increased by 13% from 347 days in 2007 to 393 days in 2008.

Workforce planning and development of people strategy

Workforce planning and the development of a People Strategy 2009-2013 is intended to ensure there are sufficient, appropriately qualified and experienced staff to carry out Council's charter and vision. This strategy was prepared in January 2009, but had not been adopted by Council at the time of the on-site component of the review.

While staff matters are principally of an operational nature, Councillors should not be precluded from involvement in the setting of a strategic direction for Council's human

resources. This should be done in co-operation with the General Manager, who is ultimately responsible for staff matters.

All councils are exposed to a number of workforce issues, such as:

- the shortage of specialised skills in certain areas, such as in the area of environmental planning. The ‘National Skills Shortage Strategy for Local Government May 2007’ provides more information and is available on the Local Government Managers Australia website at www.lgma.org.au
- an ageing workforce
- changing workloads as council and government priorities change
- career opportunities outside council and the local government area.

While the Council has taken steps in developing a long-term workforce plan through the People Strategy, further development of a long-term workforce plan is needed. This should encompass continuous processes to shape the workforce so that it is capable of delivering its charter now and in the future. The long-term plan should:

- consider and address internal and external factors affecting its workforce such as those mentioned above
- consider the profile of the current workforce
- result in human resource policies and programs to address workforce issues. Examples are: recruitment and retention strategies and succession plans for key positions; increased opportunities for apprenticeships, cadetships and traineeships to address these concerns.
- outline methods to monitor and evaluate the effectiveness of workforce planning measures.

While the current people strategy is a step to achieving a human resource strategy, it does not integrate and guide Council’s overall human resources effort, particularly in the areas of recruitment and retention, and staff training and development. A strategy of this kind may be stand-alone or may be integrated into Council’s overall corporate and community strategy. The key is to ensure that, consistent with the Council’s view on the future direction of the organisation, planning is underway to support that direction at the human resources level. Its importance is underlined by

the requirement to report annually in the management plan on Council's human resource activities (section 403(2)).

Council should develop a more detailed and integrated human resources strategy. This strategy should link with Council's other plans and strategies.
(Recommendation 34)

Human Resources policies

Council has a set of comprehensive human resources policies and procedures. These are provided in the "New Start Pack" and included as part of the Council induction program.

All human resources policies are available on the shared network drive and are available in hard copy in all council offices and depots.

Council is encouraged to refer to 'Human Resources Policies – A Manual for Local Government' produced by the Local Government and Shires Associations of NSW, when reviewing and finalising its human resources policies.

Consultative Committee

The Consultative Committee is composed of 10 employee representatives and 2 management representatives, as follows:

- 2 United Services Union (USU) Outdoor representatives from Mudgee
- 1 USU Indoor representative from Mudgee
- 1 USU Outdoor representative from Rylstone
- 1 USU Indoor representative from Rylstone
- 1 USU Outdoor representative from Gulgong
- 2 Association of Professional Engineers, Scientists and Managers, Australia (APESMA) representatives, and
- 2 Development and Environmental Professionals' Association (DEPA) representatives.

The committee has met 13 times in the last few years. As the committee's aim and purpose is operational in nature, it is the Division's view the General Manager (or his/her nominee/s) should represent Council on this committee.

Council should distribute minutes of Consultative Committee meetings to councillors for their information only. This will enable councillors to develop effective Council policy on industrial issues and remain informed about current issues and outcomes.

(Recommendation 35)

Succession planning

A central element of workforce planning is succession planning and management. This involves managing the recruitment and professional development processes in line with information on employees leaving Council and the potential workforce to ensure the workforce can be sustained to effectively achieve Council's objectives.

Given the ageing of the workforce in Australia in general and chronic skills shortages in some technical areas, succession planning is vital. An article published by the University of Dalhousie, Canada, lists the following ten top practices in the area of succession planning:

- 1 Identifying the broad skills, talents and experience needed in the future
- 2 Identifying what will attract and keep workers, starting with existing staff
- 3 Identifying collective opportunities for training and development of employees
- 4 Identification of career development opportunities for individuals
- 5 Regularly reconsidering rewards and recognition that are available to current and future employees
- 6 Providing opportunities for promotions and career advancement
- 7 Creating awareness and support for this particular issue
- 8 Taking a systematic approach
- 9 Opportunities for partnering with other councils to address this issue
- 10 Developing a plan with actions that align with other plans such as council's strategic plan, management plan and workforce plan.

A copy of this article is available from the university's website at:

<http://www.dal.ca/Continuing%20Education/Files/AMHRC/Top10Practices.doc>.

As mentioned, 56 staff are aged 55 years and over. While Council undertakes informal succession planning activities for key positions, these plans are not documented. The Council should develop a succession plan for key positions in the organisation. **(Recommendation 36)**

Occupational Health and Safety (OH&S)

The *Occupational Health and Safety Act 2000* and *Occupational Health and Safety Regulation 2001*, require both employers and employees to work to stringent safety requirements. Council is required to develop written safe work procedures.

The review did not involve a comprehensive audit of Council's occupational health and safety (OH&S) practices. However, the review team did consider a range of matters to gain an understanding of Council's OH&S system. These included Council's policy on OH&S obligations, the operation of its OH&S Committee and the system(s) for recording and following up on identified hazards/accidents.

An OH&S committee has been established and meets monthly in accordance with its constitution. The review team inspected the minutes of committee meetings. The business of the committee appears well documented.

Council records all incidents and provides statistical information on injuries in the workplace; this is reported at each senior management meeting. The Council has had a decrease in workplace injuries.

Overall it appears that Council has a commitment to occupational health and safety. This commitment is demonstrated through the establishment and ongoing review of an integrated system of policies and practices to create a safe work environment and minimise risk.

Trainees and apprentices.

Council employs a total of 21 trainees and apprentices. It has three apprentices (two heavy vehicle mechanics and one electrical apprentice) through Central West Group Apprentices. It has 14 funded traineeships ranging from water industry operations to the library and information services and from disability to asset maintenance (waste).

In addition it has a further 4 traineeships for which Council does not receive funding, including health and building, engineering and town planning.

Employee relations/communication

It is important that organisations have effective means of communication with staff. Effective communication systems will typically use a range of channels to disseminate and gather information. Council conducted an employee survey in October 2007. This is an effective tool to gauge job satisfaction, overall staff morale and seek suggestions of areas for improvement.

The survey provides a realistic assessment of the climate of Council's workforce and Council is encouraged to undertake these surveys on an on-going basis.

In particular, the information gathered would identify areas where intervention might be needed and would allow Council to develop proactive strategies to respond to create a positive and highly motivated workforce.

Equal employment opportunity (EEO)

Section 345 of the *Local Government Act 1993* outlines what a council's Equal Employment Opportunity (EEO) Management Plan is to include. Of particular significance are the requirements related to collection and recording of appropriate information and the setting of goals and targets. Other relevant legislation is the *NSW Anti-Discrimination Act 1977* and the *Commonwealth Disability Discrimination Act 1992*.

Council adopted an Equal Employment Opportunity Policy Management Plan for the period July 2007 to June 2009, which will need to be reviewed this year. The review

team noted that many of the actions in the plan are general. Most of the target dates are stated as “ongoing”. Without specific key performance indicators (KPIs), it is difficult to accurately monitor or analyse how well Council achieves its EEO objectives.

The Australian Local Government Women’s Association Inc released the Review of the National Framework for Women in Local Government – The Way Forward. The document is available on the Association’s website at www.algwa.org.au.

The Framework identified that in 2001 in Australia and NSW approximately 40% of people employed in the local government sector were women and 26% of councillors were women. Only 5% of General Managers and 30% of managers and administrators in local government were women.

The 2007 review has found that women are still significantly under-represented in elected member and employed positions in local government in Australia.

The Way Forward document provides strategies that can be applied by state and local authorities to achieve the full and equal participation of women in local government.

It is noted that a significant number of management positions are held by women and almost half of Council’s staff are female.

Secondary employment

Council has a policy and procedures on secondary employment, including an application form seeking approval from the General Manager. Any specific conditions of approval granted require formal acknowledgment by the staff member concerned.

Annual reporting of senior staff contract conditions

Mid-Western Regional Council has resolved that only the General Manager is defined as senior staff.

Section 339 of the *Local Government Act 1993* requires the General Manager to report to the elected council on the contractual conditions of senior staff. Better practice in this area is for general managers to include the following information in the report of senior staff employed by council:

- list of senior staff
- the specific term of each contract and when it was entered into
- the value of the remuneration package and any variations that have been made in the past year or which are proposed for the ensuing year
- the timing and outcome of any performance assessments that were undertaken
- a copy of any performance agreement entered into for the current year and/or proposed for the ensuing year, and
- details of any other "material" matters. These could include any requirement for the General Manager to advise if he is seeking an extension of the current contract or reappointment for a further term and similarly, any requirement for the council to advise the General Manager/senior staff member of any intention not to renew their appointment and/or to readvertise the position.

Exit interviews

Employee exit interviews are an important part of human resource management and monitoring employee retention and satisfaction. Avoidable losses can result from employee job dissatisfaction, poor management practices, the lack of advancement opportunity, and sometimes, personal harassment by or conflict with a co-worker or manager. The unnecessary loss of talented staff is a significant cost to a council.

Information gained from exit interviews, if consistent over time, may provide valuable pointers for developing and reviewing Council's human resource management policy. It may also help to clarify possible concerns in the culture of the organisation. The data can be gathered in a structured way by using either a questionnaire or interview, or perhaps both.

Mid-Western Regional Council does not conduct exit interviews with all staff that leave the organisation. Council is encouraged to conduct exit interviews. These

interviews should be conducted in confidence and be voluntary. Council should have a standard form for exiting staff to ensure consistent information is collected and recorded.

6. COUNCIL'S RESPONSE



Office of the General Manager

PO BOX 156
MUDGEE NSW 2850

86 Market Street MUDGEE
109 Herbert Street GULGONG
77 Louee Street RYLSTONE

Ph: 1300 765 002 or (02) 6378 2850
Fax: (02) 6378 2815

email: council@midwestern.nsw.gov.au

sim: A0170044

16 July 2009

Mr Ross Woodward
Acting Director General
Department of Local Government
Locked Bag 3015
NOWRA NSW 2541

20 JUL 2009

Dear Ross

MID-WESTERN REGIONAL COUNCIL'S BEST PRACTICE REVIEW DRAFT REPORT

Thank you for your letter dated 22 of June 2009 on the Promoting Better Practice review for the Mid-Western Regional Council.

Before commenting on the specifics in the draft report, it is important that some background information is presented on the positive way in which this Council has operated and its significant achievements in recent times.

In June 2009, Council adopted its 2009-14 Management Plan which sets out a firm direction for the Region for the provision of community infrastructure and services over which Council has an influence. The Management Plan sets the direction for Council to deliver a number of significant capital projects including:

- Developing a new, truly regional sports complex – cost \$9.5 million
- A major renewal the existing Mudgee sewerage plant to cater for future growth - cost \$11.8 million
- A major renewal of the sewer scheme for Kandos and Rylstone, and extension of that scheme to Charbon and Clandulla – cost \$8 million
- Upgrading the Mudgee, Gulgong and Rylstone showground – cost \$4.5 million
- The implementation of a new youth initiatives program – cost \$100,000pa
- Undertaking 9.3kms of new road seal extension – cost \$600,000
- Repairing black spots on our roads – cost \$1.1 million
- Increasing Council's investment in road maintenance – cost \$250,000pa
- Installing new roundabouts to improve road safety in our towns – cost \$1 million
- Developing a new regional library facility – cost \$7 million
- Major upgrading of the Rylstone and Kandos water supply – cost \$1.5 million
- Developing a comprehensive Land Use Strategy and Local Environment Plan covering the entire Council area

www.midwestern.nsw.gov.au

Those, of course, are only a few of the highlights of a Management Plan that continues to deliver major programs for the benefit of our residents while also maintaining core services and also keeping a steady course to maintain Council's sound financial position.

The Council has also been successful in obtaining substantial State and Federal Government grants including:

- \$4.58 million to assist with creation of the regional sports complex capable of catering for State and National as well as regional events. Only 20% of Councils in Australia were successful applicants for these major infrastructure grants.
- \$572,000 under the Community Infrastructure Program which will be used to progress seven worthwhile projects ranging from sporting facilities and community hall upgrades to the revitalisation of the Cudgegong River that flows through the heart of our Region.
- \$300,000 to purchase a dwelling in Rylstone for a doctor or other health professional. This funding was part of the Federal budget's \$134.4 million package to confront the nation's rural health challenge.
- Black Spot funding of \$1,500,000
- Grants for water supply investigations and improvements totaling over \$250,000
- A \$10,000 grant to conduct a regional business survey
- RLCIP \$798,000
- Cycleways and footpaths \$90,000

Council has recently developed and placed online a new website that brings all Council information together for the availability of the community and provides a greater level of interaction with the site through the use of electronic forms. The website is the result of more than a year of research and development. By offering public internet access along with staff intranet access this site lays a strong foundation for a 21st Century Knowledge Management System. We encourage the Department to view this new website at www.midwestern.nsw.gov.au.

A management team from Mid-Western has just won the Australasian Local Government Management Challenge competition. This is a competition between top-ranked local government teams conducted from all states in Australia as well as New Zealand. Organised by Local Government Managers Australia, it is designed to strengthen and test management skills. For a medium sized Council to beat the largest Councils in the two countries is truly a remarkable effort. As a recent Editorial from the local paper stated:

"How lucky are we, the residents and ratepayers of this Region to have these seven staff members at the helm of our Council"

All of these actions don't just happen by chance. They result from and reflect good leadership and management throughout the organisation. This Council works extremely well together as a team for the benefit of the Mid-Western community and most importantly of all – we get results.

Now back to your report and our response to the Executive Summary, recommendations and other sections of the draft report. Council provides the following comments:

Executive Summary: It is this Council's opinion that the Executive Summary is negative and does not reflect the overall theme of your report. We believe that the Department

www.midwestern.nsw.gov.au

could have created a more balanced and accurate summary by addressing positive contents of the report as well as negative elements. For example the very last page the report comments on how well the Planning function of Council performs, but no reference is made to this effect in your executive summary.

The last paragraph on page 6 of the summary could have read:

Council is in a satisfactory financial position with all financial indicators showing performance at better than accepted industry standards. Council has developed some long term financial forecasting and planning, in particular 30 year financial plans for water sewer and waste business units and 10 year plans for Roads, Recreational, Pathways, Saleyards and Mudgee Airport Infrastructure. However the General Fund financial plan needs to be extended from the current five year forecast to a ten year forecast. A comprehensive long term financial plan to underpin the long term strategic Plan is critical to building sustainability for Council."

The Draft report states on page 15 that "there are a number of Councils operations that are performing well, indicating a mature approach to delivering services to the community". We strongly agree with this statement. This would be an excellent statement to include in your executive summary ensuring a more balanced overview is provided.

Before commenting on the report's recommendations, Council would like to comment on the relationships within the Council, an area which receives considerable attention in the Department's report. It is Council's opinion that some of those comments are at best very unfair and do not accurately reflect the reality of how closely the elected councillors and Council's management team cooperate and interact to achieve the results identified above.

You have stated that leadership and management both at the elected body and senior management levels is unstable. Again this is unfair and unreasonable. For example if management was unstable then why is there not significant staff turn over at a management level and among staff reporting to the Management Team. In fact the same Management Team has been in place for the last three years.

The report goes onto say that there appears to be significant relationship issues. That is simply not true. It is well documented that one Councillor and the General Manager were part of a Code of Conduct process. That issue has now been resolved and the organisation has moved forward. Certainly there are differences of opinion among Councillors, as in any political body, but the fact these Councillors can work well together despite those differences is demonstrated clearly by the cooperative way in which the Management Plan for 2009/10 was developed and approved. To indicate in a report that will become public that the leadership and management of the Council is unstable is in Council opinion unreasonable and unjustified, simply because it is not true. The Department can not confuse good, robust debate which is the basis of democracy in Australia with the inability to work together. We seek that those comments be removed from the report. The relationship and team work between Councillors and Management as a whole is excellent. It is friendly, courteous and respectful, contrary to what the Department's report indicates.

The way that Council arrived at its agreement on the 2009-14 Management Plan is significant, because this is without doubt, one of the most important documents Council deals with on an annual basis. Council and Management have been working together through workshops and committee meetings on this document. It contains a broad mix of projects promoted or shaped by Councillors, items suggested by the public and agreed budgetary initiatives such as the introduction of a mini-budget to reassess

www.midwestern.nsw.gov.au

spending plans in light of national and global economic uncertainties. When the final adoption of the 2009-14 Management Plan came to Council in the June 2009 meeting, the resolution to adopt was unanimously made in less than a minute.

Council is firmly of the opinion that the Department's negative comments are exaggerated and need to be tempered. It is important that when the report is made public it reflects the reality of the situation rather than fragmentary data including observations made during just three days in the region, interviews with a relatively few individuals whose collective comments may not reflect the broader reality, and attendance at one Council meeting.

You mention the need to improve engagement with the community; however you have not given credit for the fact that Councillors and Senior Management hold 17 village / town meetings throughout the region to engage the community and the Council is the publisher of a highly successful *Community News* which is provided free to all residents.

Now to the recommendations in the report:

Recommendation 1 – Agree. The proposed amendment to the Local Government Act will lead all Councils in New South Wales towards integrated planning and reporting. Council has made provisions in the 2009-14 Management Plan for additional resources to be allocated to Integrated Planning and Reporting.

Recommendation 2 – Agree. It is noted that your Department has already offered to provide this training. Recommendations 14, 21 and 23 also refer to training for Council on specific topics, viz, pecuniary interest and obligations under the Code of Conduct, Protected Disclosures Act and Privacy. Perhaps the Department might consider facilitating training on these issues as well.

Recommendation 3 – The body of the report does not address the issue behind this recommendation. It should be noted that Council and Committee meetings are run in accordance with the provision of council's Code of Meeting Practice which incorporates the relevant provisions of both the Act and Regulation. Bearing in mind the provisions of Section 10A (2) of the Act, Council endeavours, as far as practicable, to deal with matters in "Open Council", rather than in public-excluded sessions, as a means of projecting an open and transparent image. Moreover Council always advertises and conducts Open Day forums prior to each Council and Committee meeting, providing an opportunity for members of the community to address the elected Council on any issue. In the last four months Council and Committee meetings have been run in very efficient time frames ranging from 30 minutes to 2 hours, which is in our opinion, very efficient. As mentioned above, numerous village meetings are also held in an open forum format providing all attendees access to ask questions and make statements. If this recommendation remains, we would ask that the report please give more detail and examples of what the recommendation refers to?

Recommendation 4 – The relationship between the Councillors and the General Manager (and senior management) in the most part is excellent and very professional. We addressed in our introductory remarks the one Code of Conduct issue, since resolved, involving the General Manager and a Councillor. We are of the opinion that making such a sweeping statement on this issue creates a falsely negative impression.

The draft report's comment that both the elected body and senior management are unstable is simply incorrect. In fact it is contrary to other statements in the report including the comment that:

"There are a number of Council's operations that are performing well indicating a mature approach to delivering services to the community".

www.midwestern.nsw.gov.au

MID-WESTERN REGIONAL COUNCIL

5

We believe that this particular paragraph indicating the instability should be removed from the report.

Council therefore requests that this recommendation be removed from the report as well.

Recommendation 5 – Agree. We have KPIs in Council's contract with Mudgee Regional Tourist Inc, the organisation entrusted with the tourism functions which all but one other NSW council perform in-house. We acknowledge that this is not a strategic direction and given the importance of tourism to the economy of this region, Council is of the opinion that a tourism strategy should not stand in isolation from the Economic Development Strategy, with strong interaction to Councils other Strategic, Management, Social and Cultural Plans. Council will be reviewing the Economic Development Strategy over the next twelve months.

Recommendation 6 – Agree. This is already in practice.

Recommendation 7 – Agree. A new tender evaluation panel and supporting processes and is currently being planned and developed.

Recommendation 8 - Agree and while there are a number of policies and mechanisms in place to manage contractors, we acknowledge that this can always be improved. An internal purchasing and tenders committee has also been planned and will be established in coming weeks.

Recommendation 9 – Agree. Whilst Council has numerous mechanisms throughout the organisation for ensuring compliance with relevant regulatory and legislative requirements, we certainly believe a more centralised and streamlined protocol will be of benefit. Council is currently in the process of developing such a framework.

Recommendation 10 – Inaccurate. We have put the agenda and the business papers for Council meetings on the web site as well as publishing the agenda in a local newspaper the week before every Council meeting for a long time. Your statement that this is not the case is simply wrong and should be removed from the report / recommendations.

Recommendation 11 - We have legal advice that we should not do this. Council has forwarded that advice to you on the 15 May 2009 and as yet we have not received a response. This was also discussed with the Department on a recent visit by the General Manager. We record our Council meetings, but not our Open Days. There have been instances of blatant defamatory statements by members of the public during Open Day that Council could potentially be liable for if it recorded those statements which might subsequently be released. This matter is up for debate at the August 2009 Committee meeting.

Recommendation 12 – Agree and we will implement a training programme for staff accordingly.

Recommendation 13 – We currently keep a complaint register and will include this information in the quarterly reports to Council. Council has been capturing complaints and works requests for some time. Unfortunately that system was not capable of extracting useful reporting information. During 2008/09 we implemented a new system that should be capable of producing summarised reports to Council on a quarterly basis.

Recommendation 14 – Agree. This will form part of the Councillors training day being conducted by your Department. Council would request that your comment in the report on page 26 of the "non-disclosure of property ownership" be deleted. Unless the matter

www.midwestern.nsw.gov.au

refers to all of the Returns of Interest – it would be unreasonable to make such a generic, unqualified statement. As noted previously, the report will become public and such sweeping statements could lead the media and the community to the opinion that a number of non disclosures exist which this Council understands that this is not the case.

Recommendation 15 – Council has adopted a Statement of Business Ethics which applies to elected representatives, Council staff, contractors and business associates dealing with Council.

Recommendation 16 – Agree. This will be discussed at a Council level to determine where training is best directed.

Recommendation 17 – Agree. All policies are now on the new website. Staff training on the understanding and implementation of these policies is ongoing.

Recommendation 18 – Agree. Council has made significant progress towards the formulation of a Risk Management Plan.

Recommendation 19 – Agree. Council resolved in December 2008 that we work in partnership with Lithgow City and Oberon Council on the establishment of a joint audit committee. There will be a recommendation to Council in the future on extending that partnership to include the employment of an internal auditor on contract.

Recommendation 20 – Agree. Council currently conducts an annual assessment of fraud risk and associated control mechanisms as part of its external audit process. Council has also adopted a Fraud Risk Policy.

Recommendation 21 – Agree. This will form part of the discussion in recommendation 2 above.

Recommendation 22 – Agree. As part of Council's Strategic Alliance with Lithgow and Oberon Councils, we are each in the process of developing a Business Continuity Plan with the guidance of our risk Management consultants.

Recommendation 23 - Agree. As pointed out, Council's Privacy Management Plan was adopted in 2000 and this has not been reviewed since that time. The review of this document has been the subject of discussions with Privacy NSW which has suggested that any review should be deferred until such time as their Guidelines can be amended. In relation to the suggestion that training be provided on Council's obligations under the Privacy legislation, the comments in respect of Recommendation 2 are relevant.

Recommendation 24 – Records Management Practices are reviewed on an ongoing basis. A project to upgrade Council archival processes and storage facility has just been completed.

Recommendation 25 – As indicated above, Council has recently launched a brand new web site with more comprehensive coverage of Council activities in the form of a Knowledge Management System providing this information both internally and externally. The next stage of this project is planned to be the introduction of several e-business tools including online lodgement of Works Requests and commencement of e-Planning Modules.

Recommendation 26 – Council has resolved that it will have one generic policy for Community Lands which was encapsulated in the adoption of the Recreational and Open Space Strategic Asset Management Plan in February 2008 (copy on our web site) and then only have policies for specific properties when those properties are of

MID-WESTERN REGIONAL COUNCIL

7

community significance. The cost of doing individual plans for all individual community lands is prohibitive.

Recommendation 27 – Agree. Council's Compliance Policy was adopted on 19 November 2008. A review of the policy having regard to the NSW Ombudsman's enforcement guidelines will be undertaken having regards to staff resources.

Recommendation 28 – Agree. Codifying procedures that Council already has in place is a reasonable approach. While Council is not aware of any legislative requirement to prepare a Companion Animals Management Plan, it is acknowledged that it is considered "best practice" to adopt such a plan. Accordingly, Council will be happy to work towards its development

Recommendation 29 - In addition to having inspectors, Council has for some years taken a proactive approach by publishing swimming pool safety information in community newsletters. Development of a compliance regime will be undertaken having regard to the proposed changes in legislation and staff resources.

Recommendation 30 – Councils Debt Recovery Policy was last reviewed in December 2008. This policy works very effectively as demonstrated by Councils consistently low outstanding rates and annual charges ratio. The policy is complemented by the Credit policy, which sets the framework for extending credit trading terms for sundry debtors. A Hardship policy has been drafted and will be submitted to Council for review and adoption. Therefore with these comments in mind the Department should delete this recommendation.

Recommendation 31 – Council currently has long term financial plans (30 years) for water, sewer and waste business units. Council for the last three years has adopted five year financial plans for the general fund. This needs to be acknowledged in the report which currently indicates that Council only provides forecasts for three years.. The Council agrees that the general fund financial strategy needs to be extended to ten years.

Recommendation 32 – Council first adopted its Road Network Strategic Plan in 2003. This plan has been updated annually since then incorporating feedback from town and village meetings as well as written submissions. The delivery of the works identified in that plan has occurred and continues to occur through continuous liaison and discussions across a number of departments. That model was extended with the development of a pathway plan the following year and since then the finalisation of a number of other plans including Recreation and Open Space, Saleyards, and Airport Master Plans, the adoption for public exhibition of the Buildings Strategic Asset Management Plan, the Waste Interim Plan and Showground Master Plan. In recent years these plans have been extended to provide linkages with the Social Plan and the Strategic Plan (after its adoption). Council has also adopted both Water and Sewerage Strategic Plan consistent with Best Management Guidelines. It is disappointing that your officers discussed these issues with our Group Manager, who is responsible for ensuring this occurs, but failed to reflect this in the report. This recommendation should be replaced with one that refers to the continued improvement of Asset Management Plans to ensure they are consistent with the proposed Community Strategic Plan legislation and guidelines.

Recommendation 33 – Agree. We will continue to work within our Central Tablelands Alliance on the matters raised.

Recommendation 34 - In addition to its Editorial Policy and Media Policy, Council has for a number of years had a Communication Strategy (available on our website). This

www.midwestern.nsw.gov.au

strategy is due for review in the coming year. This recommendation needs to be deleted as it is incorrect.

Recommendation 35 – Council does have an integrated Human Resource Policy and action plan which is called the "People Plan". This action plan was given to the review team. This recommendation needs to be removed from the report.

Recommendation 36 – This matter will be discussed with members of the Consultative Committee. These are their minutes and they may wish to retain their minutes for the information of staff only. For the Department's information and clarity in the report, the General Manager is part of the Consultative Committee and does attend most meetings. Those not attended by the General Manager are attended by another member of the Executive Management Team on his behalf. Further, the Consultative Committee met 13 times during 2008 alone, not as stated in your report which states "13 times in the past few years". In fact, most recently the Consultative Committee has met on a fortnightly basis to work through a number of issues.

Recommendation 37 – Agree and this is part of the Human Resource Strategy.

Recommendation 38 – This is very much part of the Council strategy. The comments in your report may apply generically to New South Wales local government, but they are not reflective of this Council. 48% of our staff are female. Many of our senior management positions are held by women. 50% of the members on our award winning Management Challenge Team were women. We are very proactive as a Council in providing equal rights and opportunities for all staff.

Additional Comments – there are a number of issues in the text of the report that either need to be amended or deleted because they are inaccurate or further explanation is required to clarify the statements:

1. Page 14 of the report states that the Department has received numerous complaints about Council. This is not reflected in the correspondence from the Department to Council. In fact, other than some enquiries concerning pecuniary interest returns, the Department has only sought follow-up about two complaints. We are therefore led to the conclusion that reference to numerous complaints is an exaggeration or relates to matters that are of such little consequence that they did not warrant any form of enquiry by your Department. No matter which, the statement should be removed from this report unless the Department can give substance to it.
2. Page 18 of the report states that tourism is a \$40 million annual business to the region. The correct figure is \$248 million.
2. On page 25 the report states that Council reported Councillor Expenses of \$189,165 in its 2007/08 annual report but only listed in specific expenses, \$49,165. While the amount of \$189,165 represents the total of Councillor expenses for the year which the Act requires Council to include in the Annual Report, the amount of \$49,466 is the sum of specific expenses which the Regulation requires Council to include in the Annual Report. There is confusion between what the Act states and the Regulations state. As you would appreciate the figure of \$189,165 also includes other expenses, such as reimbursement of travelling expenses to attend Council and Committee meetings, provision of refreshments for Councillors before and after Council and Committee meetings and so on. While not specifically required by the legislation, Council would be happy to include the details of these other expenses in the Annual Report if that is the Department's wish.

- 4 Page 39 of the report states the materials for road maintenance budget is \$3,600,000 overspent. This is not correct. Council 200708 financial statements show a variation from the original budget of \$3,600,000. This is made up of a number of items including additional contract works performed for the RTA in accordance with Councils single invitation contract and a resolution of Council to increase expenditure on roads maintenance. Budget variations were adopted by Council to reflect these changes during the course of the year and the variations compared to the original budget are fully disclosed in Note 16 of the 2007-08 General Purpose Financial Reports. This comment sends an incorrect message to the community, has no relevance to the Promoting Better Practices review and therefore should be deleted.

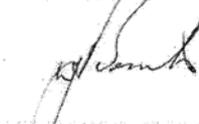
In conclusion, we thank you for the opportunity to comment on the draft report on the Department's Promoting Better Practices review. Right from the outset Council was pleased that this review was to occur. We are pleased with the outcomes and other than some amendments as presented in this response we are satisfied with the report. We trust the Department will note the concerns expressed and make changes accordingly, creating a final report that is balanced and accurate and will add considerable value to the ongoing leadership, management and operations of this Council.

Once this report is finalised, Council will be putting in place an action plan that will program the implementation of the recommendations. That action plan will include target dates for completion and the actual process that will occur to ensure the implementation of those recommendations.

For your information the elected Council has had a full input into the final contents of this response. The councillors were given an initial draft response for their comments, and those comments were all discussed at a workshop for finalisation of the contents of this letter. All councillors at the workshop agreed with this response.

Should you have any queries in relation to this matter please contact me on 02 6378 2820.

Yours sincerely



WARWICK L BENNETT
GENERAL MANAGER

On behalf of the Mid Western Regional Council

www.midwestern.nsw.gov.au

7. SUMMARY- WHAT'S WORKING WELL & CHALLENGES

COUNCIL'S PRIORITIES AND FOCUS

What is working well

- Council has developed a number of strategic plans and policies

Challenges to improve

- The corporate strategy for 2007 – 2017 needs to be reviewed to ensure achievable targets are set
- There is an urgent need to improve relationships between the councillors and between some councillors and senior staff
- Council needs to develop long term financial plans
- Council needs to review all strategies and integrate them to address community needs.

GOVERNANCE

What is working well

- Council is active in seeking resource sharing opportunities with neighbouring councils

Challenges to improve

- Council needs to develop a system to collect and report on complaint data and utilise the information to identify problem areas
- Council needs to develop a risk management plan to effectively control and minimise its risk profile
- Council needs to establish an internal audit process
- Council needs to develop a Business Continuity Plan
- Council needs to further broaden and develop Council's relationships with neighbouring and sister city councils
- Council needs to better manage pecuniary interest and conflicts of interest.

REGULATORY

What is working well

- Council operates its planning functions successfully

Challenges to improve

- Council needs to take steps to implement e-planning.

ASSET AND FINANCIAL MANAGEMENT

What is working well

- Council utilises its information technology well
- Council has established a strategy for asset management

Challenges to improve

- Council needs to develop a long term financial plan that is integrated with its management plan
- Council needs to develop plans of management for community land.

COMMUNITY, COMMUNICATION AND CONSULTATION

What is working well

- Council has a clear understanding of its community and actively consults with the community

Challenges to improve

- Council needs to develop strategies for an ageing population.

WORKPLACE RELATIONS

What is working well

- Staff survey
- Effective consultative and OH & S committee meetings

Challenges to improve

- Council needs to develop human resources strategies
- Council needs to document succession planning activities.