

capacity building good governance improvement

Promoting Better Practice Program

REVIEW REPORT

PALERANG COUNCIL

MAY 2010



Division of Local Government
Department of Premier and Cabinet

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EXECUTIVE SUMMARY

Palerang Council commenced operations in February 2004. Since then Council has struggled to achieve financial sustainability. While a succession of special variation increases, approved for 2006/07, 2007/08 and 2008/09 have improved its financial position, there remains an underlying vulnerability to its position. Its financial position for 2007/08 was sound, but this result was largely achieved through income earned from private and RTA works. There is no certainty that this income stream will continue into the future.

The Council has argued that lack of resources has prevented it from maintaining the depth of staffing it needs to operate successfully at a strategic level. Senior managers are required to fill the gaps caused by staff shortages by undertaking basic operational tasks themselves. This prevents them from attending to the strategic needs of the organisation.

As a result, Council does not currently have the strategic framework in place necessary to assist it in meeting the considerable challenges it faces. The review team also believes that Council faces a significant task in successfully implementing an integrated planning and reporting framework, as will be required under recent amendments to the Local Government Act 1993.

Council does not have an overarching strategic plan, long term financial plan or workforce management strategy. Council has taken preliminary steps to develop an asset management framework, but this will need to be reviewed to ensure that it complies with requirements under the new integrated planning and reporting regime.

While the structure of Council's management plan and annual report is generally sound, their content is mostly generic in nature and specific programs are dealt with in a cursory fashion in the management plan and omitted from the annual report. The quarterly budget review is a good document, but Council has not undertaken quarterly management plan reviews until recently. This does not merely represent a breach of statutory requirements, but also a serious failure in the governance of the organisation.

The review team has also identified a number of gaps in Council's governance framework that have the potential to pose significant risks to the organisation. Among

other things, these include a lack of formal procurement, asset disposal and contract management procedures and lack of an internal audit function.

Council meetings are conducted poorly and Council appears to routinely struggle to get through its business. Councillors appeared to lack a clear understanding of their role as demonstrated by the excessive amount of time in meetings taken up with consideration of operational issues.

In the planning and regulatory area, Council has made good progress in developing its comprehensive LEP and has ambitious plans to develop a consolidated DCP. However, the exercise of its development assessment functions is constrained by a number of factors including staff vacancies, the maintenance of separate development control units, lack of a comprehensive procedure manual and deficiencies in the IT framework that supports these functions. Similarly, Council appears to perform many of its environmental compliance functions in an ad hoc manner and lacks policies and documented procedures to guide the exercise of these functions.

The review team also found that Council lacked documented processes or procedures manuals in a number of key areas in relation to its workforce management.

This is not to say that there are not things that Council does well. There are a number of areas, commented on in this report, where Council's performance has been commendable.

Nor should the above comments be seen to be an indictment on the performance of Council staff. The staff the review team interviewed demonstrated an admirable commitment to the performance of their roles in the face of considerable challenges. Many of the senior management staff were required, due to the lack of depth of staffing referred to above, to perform routine operational functions in addition to attending to their management responsibilities. However, on the assessment of the review team, this has contributed to many of the deficiencies identified in this report.

The review team believes that it is necessary for the whole organisation to undertake a fundamental reassessment of how it operates in light of the considerable challenges it faces. Concurrent with this review, the review team has also undertaken a Promoting Better Practice Review of Council's neighbour, Queanbeyan City Council. The review

team believes there are obvious synergies between the two organisations. In light of this, the review team has recommended that both councils explore options for formalising ongoing closer cooperation between the two organisations.

1 ABOUT THE REVIEW

Review objectives

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

Review process

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

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

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

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

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

The scope of a review report such as this is limited to documenting those areas the review team has identified as:

- exceeding good practice (referred to as better practice)
- in need of improvement or further development
- otherwise warranting comment for the reasons detailed in the body of the report.

Palerang Council Review

The review team comprised two Senior Investigation Officers with the Division's Investigations and Review Branch, John Davies and Katrina Annis-Brown.

Palerang Council was asked to complete a comprehensive checklist/questionnaire about key Council practices. The review team examined this and a range of other source documents prior to visiting Council, in order to gain a preliminary understanding of the circumstances of the Council and how it is responding.

The on-site component of the review took place over two visits in June 2009. It involved initial interviews with the Mayor and the General Manager, interviews with a cross section of staff, observation of a Council meeting and a review of Council policies and other documents.

Councillors were invited to complete a survey form to assist the review team to gauge councillor views on their role and the functioning of the Council. The survey form also provided councillors with the opportunity to indicate whether they wished to meet with the review team. Completing the survey and the option of a follow up meeting was voluntary. Two councillors completed the survey form. The review team met with one councillor and had a telephone discussion with another.

Implementation of the recommendations made in this report

This report identifies a number of areas where Council's performance has been deficient and requires improvement. In total, 69 recommendations have been made. In view of this, Palerang Council is required to prepare an action plan for the implementation of the recommendations, based on the template contained in the report, and to provide this to the Division of Local Government. Council will be required to report to the Division on a six monthly basis on its progress towards implementing the recommendations.

2 ABOUT THE COUNCIL AND THE AREA

Location and demographics

The Palerang local government area (LGA) is located in the Canberra region. It covers an area of 5,144 square kilometres and has a population of approximately 13,419 people. The LGA comprises the towns of Bungendore, Braidwood and Captains Flat, the outlying villages of Araluen, Mongarlowe, Majors Creek and Nerriga, and the areas of Wamboin, Burra, Bywong, Hoskinstown and parts of Carwoola and Sutton.

Council History

Following an inquiry, Eastern Capital City Regional Council was proclaimed and commenced operations in February 2004. The new Council comprised the former Tallaganda Shire Council and parts of the former Gunning, Yarrawlumla, and Mulwaree Shire Councils. The first election of the new Council was held in May 2004. Following a request from Council, the name Eastern Capital City Regional Council was subsequently changed to Palerang Council.

Current Council

The Council currently comprises 9 councillors. Five (5) councillors are new to local government; 4 were elected for the first time at the September 2008 local government elections. Another councillor was elected at a by-election held in March 2009. Of the remainder who have served since the 2004 election, one served on the former Tallaganda Shire Council, and two on the former Yarrawlumla Shire Council.

The Mayor is elected by the councillors. The Mayor at the time of the on-site component of the review was first elected to his office in October 2008. In September 2009 a new Mayor was elected.

Council staffing

The General Manager is the only employee of Council designated as senior staff under the *Local Government Act 1993* (the Act).

Council is split into 5 divisions: Works; Infrastructure and Planning; and Environmental Services (which are overseen by Directors); Executive Services; and Finance (which are overseen by managers). An IT systems coordinator and human resources manager also report directly to the General Manager.

Council has been required to maintain two offices at Bungendore and Braidwood as a result of the operation of section 218CA and other provisions of the Act. Section 218CA applies to councils that are constituted as a result of the amalgamation of two or more areas, where the council of one of those areas employed regular staff at a rural centre of 5,000 people or fewer in the area of the new council immediately before the amalgamation took effect. Under that section, the new council is required to ensure that the number of regular staff of the council employed at the rural centre is, as far as reasonably practicable, maintained at not less than the same level of regular staff as were employed by the previous council at the centre immediately before the amalgamation took effect. The obligation imposed by section 218CA on amalgamated councils such as Palerang is not time limited.

To meet its obligations under section 218CA, Council is required to maintain the Braidwood offices of the former Tallaganda Shire Council. Council also constructed a separate new office at Bungendore to accommodate staff employed by the former Yarrawlumla Shire Council as a result of the operation of section 354I of the Act. This provides that staff cannot be required to work outside the boundaries of the area of their former council as they existed immediately before the transfer day for three years after the transfer day. The offices of the former Yarrawlumla Shire Council were located in Queanbeyan outside of the former Yarrawlumla LGA.

Council currently employs 128 full-time equivalent staff. Of these, Palerang Council is required to maintain the same number of full-time equivalent positions in the Braidwood office as was employed by the former Tallaganda Shire Council to meet its obligations under section 218CA.

Local issues

Palerang Council has struggled to achieve financial sustainability since its proclamation.

Shortly after the amalgamation, in 2005/06 the Council applied for a special variation to increase its general income by 28.5% to cover a funding shortfall. The request was declined. In 2006/07 a special variation request for a 9.9% increase was approved. Council made further requests in 2007/08 and 2008/09 for increases of 10.31% and 9.79%, respectively. Both requests were approved.

Despite these increases to its rating income, Council continues to face financial challenges. While its financial position for 2008/09 was assessed as sound, Council's auditors have identified an underlying vulnerability to its financial position.

3 SUMMARY OF KEY FINDINGS

Better/Noteworthy practices		Areas for improvement	
STRATEGIC POSITION			
4.3	<i>Council has sought to establish resource sharing arrangements with neighbouring councils</i>	4.1	<i>Council is yet to adopt a strategic plan</i>
		4.2	<i>The Council may lack the capacity to establish an integrated planning and reporting framework</i>
GOVERNANCE			
5.1.3.11	<i>On balance Council's management plan is generally good</i>	5.1.3.1	<i>Council's code of meeting practice is inconsistent with the Act an Regulation</i>
5.1.3.12	<i>On balance Council's annual report is generally good</i>	5.1.3.2	<i>For a number of reasons, Council struggles to get through its business at Council meetings</i>
5.1.3.13	<i>Council has appointed a regional conduct review panel with other neighbouring councils</i>	5.1.3.3	<i>Council meetings could be conducted more efficiently if Council were to streamline the provision of information to councillors outside of meetings</i>
5.1.3.15	<i>The quality of PI returns is generally good but there is a need for improvement in the way interests are disclosed in meetings</i>	5.1.3.4	<i>Council does not have policies and procedures for procurement, asset disposal and contract management</i>
5.1.3.16	<i>Council has made a good start in developing a risk management framework</i>	5.1.3.5	<i>Council does not have an internal audit function</i>
5.1.3.18	<i>Council's complaints management policy incorporates a number of best practice elements but there is room for improvement</i>	5.1.3.6	<i>Council does not keep a register of political donations as required under s328A</i>
		5.1.3.7	<i>Council's expenses and facilities policy is inconsistent with the guidelines</i>
		5.1.3.10	<i>Council has not until recently undertaken quarterly management plan reviews</i>

Better/Noteworthy practices		Areas for improvement	
PLANNING AND REGULATORY			
5.2.3.1	<i>Council's enforcement and compliance policy represents better practice</i>	5.2.3.2	<i>Council's development assessment function is constrained by staff vacancies, poor structure, lack of a procedural manual and IT issues</i>
5.2.3.4	<i>Council has made good progress in developing a comprehensive LEP</i>	5.2.3.3	<i>Council lacks formal procedures to guide the exercise its environmental compliance functions</i>
5.2.3.6	<i>Council subscribes to a good regional State of the Environment Report</i>		
ASSET AND FINANCIAL MANAGEMENT			
5.3.3.5	<i>Council's current financial position is sound but subject to underlying vulnerability</i>	5.3.3.2	<i>Council does not have a long term financial plan</i>
5.3.3.1	<i>Council's quarterly budget reviews are informative for both lay and expert readers</i>	5.3.3.3	<i>Council does not comply with its statutory obligations in relation to the management of community land</i>
5.3.3.4	<i>Council has made a good start in establishing an asset management framework</i>	5.3.3.4	<i>Council does not make adequate financial provision for asset maintenance</i>
COMMUNITY, COMMUNICATION AND CONSULTATION			
5.4.3.2	<i>The social plan is generally good</i>	5.4.3.1	<i>Council does not have a guarantee of service</i>
5.4.3.3	<i>Community engagement is good but should be informed by formal consultation strategy</i>		
WORKFORCE RELATIONS			
		5.5.3.1	<i>Council does not have a workforce management strategy</i>
		5.5.3.2	<i>Council has not re-determined its organisational structure recently</i>
		5.5.3.3	<i>Council does not have a human resources manual</i>
		5.5.3.4	<i>Council does not have formal recruitment procedures</i>

4 COUNCIL'S STRATEGIC POSITION

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

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

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

Diagram 1: Proposed planning and reporting framework



Areas for improvement

4.1 Palerang strategic planning

Notwithstanding that it was a condition of the approval of its 2006/07 special variation application, to date Council has not adopted a strategic plan or commenced any process for the development of such a plan. Under the new integrated planning and reporting framework, this has become a statutory requirement.

The lack of strategic focus within the organisation discussed below highlights the pressing need for Council to develop a strategic plan. While Council has made progress in putting in place some of the components that will inform its community strategic plan, for the reasons outlined below the review team believes that Palerang Council faces significant challenges in successfully implementing an integrated planning and reporting framework.

Recommendation 1

Council should explore options on how best to achieve the successful implementation of an integrated planning and reporting framework given its limited resources.

4.2 Strategic capacity of the organisation

Council's comparatively low revenue base has meant that Council is finding it difficult to allocate sufficient resources to maintain the depth of staffing that it needs to operate successfully at a strategic level. This is compounded by the proximity of the Palerang LGA to the ACT and the Queanbeyan LGA. Council seems unable to compete with the higher salaries paid by Queanbeyan City Council and the ACT and Federal Governments to attract suitably skilled staff (and for that matter unskilled staff).

This lack of staffing depth has meant that Council's senior management staff are undertaking routine administrative and other tasks which prevents them from giving their full attention to their management responsibilities or to attending to the strategic needs or planning of the organisation. For example, the lack of administrative support staff has meant that Council's Manager Executive Services, who is responsible for the oversight of the governance framework of the organisation (as well as the delivery of community services) types up the minutes of Council meetings and undertakes other routine administrative tasks. Because Council has been unable to fill a Development

Coordinator position, the Director of Planning and Environmental Services undertakes routine development assessments. The Environmental Coordinator who is responsible for the oversight of the exercise of Council's environmental regulatory functions is also required to act as a ranger.

It would appear that this malaise has affected senior management across the whole organisation. While the executive management team meets weekly, a number of senior managers commented on the lack of strategic focus of the meetings.

While it would appear that this situation is in part driven by externally imposed constraints on the organisation, the review team has made a number of recommendations in the Workforce Relations section of this report aimed at promoting the allocation of staff and resources across the organisation on a more efficient and rational basis.

Other matters that warrant comment

4.3 Council's relationship with neighbouring councils

Commendably, Council has recognised that the most effective way to overcome resource constraints is by entering into resource sharing agreements with neighbouring councils. For example, in 2007, the General Manager proposed establishing a business unit with other councils called Southern Tablelands Planning to meet the statutory planning needs of Palerang and neighbouring councils. Regrettably for Palerang, this proposal was never implemented. Council has also explored making use of Goulburn Mulwaree Council staff to assist it in identifying and addressing gaps in its governance framework.

Council currently has a number of resource sharing arrangements in place with neighbouring councils. These include an agreement with Queanbeyan City Council for the provision of library services. Palerang also uses the Queanbeyan dog pound. Palerang in turn provides water, sewerage and roads construction services to Queanbeyan on a fee for service basis. This provides Council with much needed financial support.

It would seem, however, that there is potential for greater cooperation and resource sharing arrangements with neighbouring councils. That such cooperation does not

currently exist is not due to any lack of willingness on the part of the Council. It would appear that the greatest impediment to enhanced cooperation between the Council and its neighbours is that neighbouring councils have little to gain from such arrangements.

This report identifies a number of gaps and deficiencies in Council's governance framework and other policies and systems. However, as the above discussion implies, the review team acknowledges that the Council has limited in-house capacity to address these.

Concurrent with this review, the review team has completed a review of Queanbeyan City Council. Prior to the Division commencing this review, Queanbeyan completed the promoting better practice review checklist with a view to systematically identifying and addressing gaps in its organisation. Queanbeyan has also successfully implemented an integrated planning and reporting framework. As a result, it has developed considerable in-house expertise that would be of benefit to Palerang. The review team therefore suggests that both councils consider the possibility of Queanbeyan City Council providing advice and assistance to Palerang Council in implementing the recommendations made in this report.

Furthermore, given the ongoing challenges to Palerang's sustainability discussed elsewhere in this report, the obvious synergies between the two organisations and their geographical proximity, the review team also recommends that both councils explore all options for formalising ongoing closer cooperation between the two organisations.

Recommendation 2

Palerang and Queanbeyan City Councils should consider the possibility of Queanbeyan providing advice and assistance in implementing the recommendations made in this report.

Recommendation 3

Palerang and Queanbeyan City Council should explore all options for formalising ongoing closer cooperation between the two organisations.

Council response

Palerang Council acknowledges the benefit of the PBP review process and accepts that there are a number of shortcomings in its operations. The reason why most of the identified issues have not been the major focus of Council can be found in Council's history.

Council was created by proclamation on 11 February 2004. The Boundaries Commission report that preceded the proclamation said that the proposal 'may (emphasis added) mean that the proposed new council has the financial capacity to continue to maintain its assets and provide adequate services in the short to medium term'. But this ambivalent statement was, in the words of Council's auditor, based on "flawed and demonstrably incorrect" data. In particular the Auditor noted that the rates for the proposed Council were overstated by \$1 million, which exceeded the proposed operating surplus. Other errors included the incorrect inclusion into ongoing operating revenue, the one-off sale of assets, and using 2001/2002 rather than 2002/2003 figures for the calculation of expenses attributable to the former Yarrawlumba Shire. It should be noted that the three special variations granted Council have not recouped the "missing" \$1m.

Early in 2005, in a move unprecedented for local government but demonstrating Palerang's parlous financial state, the bank froze Council's credit including its overdraft.

In December 2005, Council's Manager Finance, and responsible accounting officer, reported to Council that "(t)he 2005/06 General Fund Budget has now been reviewed and the result can only be described as serious with a forecast underlying operating deficit in (the) General Fund of \$1.6 million with total unfunded expenditure of \$1.5 million". The report went on to say "In accordance with the Regulation, it is the opinion of the responsible accounting officer that the financial position of council is unsatisfactory".

Council went on to dramatically cut basic services such as road grading.

Council therefore considers self-evident the reasons for its emphasis on financial viability and real service delivery, namely the basics of roads, waste and water and waste water services. Council's success in these basics can be seen in the 20-year

strategies for waste, water and waste water and a level of road asset maintenance and renewal that far exceeds that which existed in the predecessor Councils.

It is a tribute to the hard work, and hard decisions, of Councillors and staff that Palerang is in a much stronger position today.

Nevertheless, staff and Councillors have worked hard to meet other statutory obligations and community expectations, recognising that in time considerable more effort would be required. As will be demonstrated through Council's response to this report, considerable progress has been made over the past 12 months as a consequence of the lessening of the pressures to merely survive. That further resources are required to complete the work necessary is evidenced by Council's draft budget for 2010/2012 which contains funding for an additional part-time staff in the governance area of Council. This is the only staffing increase over the 2009/2010 budget where, to balance the budget, Council resolved not to fund seven positions that were unfilled at the time.

Some responses to particular points made in the report above follow.

- 1. Palerang seeks to cooperate on a regional basis wherever possible. In some cases this can be a relatively informal arrangement. In other cases it can be a formal arrangement. Palerang has actively sought the creation of a ROC in this region since 2005. This is now on the cusp of being created.*

Some of the formal arrangements include:

- i. Resource sharing MoU with Goulburn Mulwaree and Upper Lachlan*
- ii. South-East Weight of Loads*
- iii. Palerang Library Service (provided under contract by Queanbeyan)*
- iv. South East Resource Recovery ROC*
- v. Regional State of the Environment report*

vi. Recyclables collection in the Burra Royalla areas

2. *Palerang make uses of regional connections but often there is more benefit from the informal networks that exist amongst individual staff. This has worked particularly well within the HR and OH&S areas and to a lesser extent in the IS.*

5 DELIVERING AND ACHIEVING

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

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

5.1 GOVERNANCE

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

5.1.1 Scope of review

- *Ethics and values*
- *Management planning*
- *Procurement, disposal and tendering*
- *Privacy management*
- *Code of conduct*
- *Communication devices*
- *Disclosure of pecuniary interests*
- *Risk management, legislative compliance and internal control*
- *Council's decision-making processes, including delegations and conduct of meetings*

- *Records management*
- *Access to information*
- *Support for councillors*
- *Complaints handling*
- *Information technology*

5.1.2 Overview of Palerang Council's governance practices

The review has identified three areas of weakness in the Council's governance practices.

First, Council appears to routinely struggle to get through its business at meetings. This is due to a combination of factors: poor meetings practice; the manner in which meetings are chaired; confusion by councillors about their roles; and excessive public participation in meetings.

Second, while the architecture of Council's planning and reporting framework is sound, it is not utilised as effectively as it could be. Council relies too heavily on generic content and does not plan and report on specific programs. Of particular concern, prior to 2 April 2009, Council had not reported quarterly management plan reviews to the Council as required under section 407 of the Act. Not only does this constitute a serious breach of Council's statutory obligations, but also represents a significant failure in the governance of the Council.

Third, the review team has identified a number of gaps in Council's governance framework. A number of these potentially pose serious risks to the organisation, in particular the lack of internal controls or a procurement policy.

These concerns are commented on in greater detail below and recommendations are made to address them.

5.1.3 Significant Observations

Areas for improvement

5.1.3.1 Code of Meeting Practice

Council has adopted a code of meeting practice under section 360(2) of the Act. Under that section, a council's code of meeting practice may supplement the provisions of the Regulation relating to the conduct of meetings with provisions that are not inconsistent with them.

Council's code of meeting practice contains supplementary provisions. The review team has identified a number of concerns about these. In particular:

- Provisions relating to pecuniary interests are inconsistent with current requirements of the Act. The Division notes that Council is currently proposing to amend one of the relevant clauses (clause 55) to reflect the requirements of section 451 of the Act. However, the proposed amendment will leave clauses 54.1 and 56.1 (which are inconsistent with section 448 of the Act) unchanged.
- Clause 58.1 permits Council to resolve to prevent councillors from attending meetings where they have a pecuniary interest. The Act does not confer this power on councils.
- Clause 39.2 permits the Council to expel a councillor or other person from meetings they are not “entitled” to attend. It is unclear what circumstances clause 39.2 relates to. The preceding provision relates to expulsion for acts of disorder. Neither the Act nor the Regulation confers any power on councils to expel councillors or other persons from meetings other than for acts of disorder.
- Clause 60.2 refers to the grounds on which Council meetings may be closed to members of the public. These are inconsistent with the grounds permitted under the Act and indeed permit closure on grounds that are not permitted under the Act.
- Clause 64 relates to access to records. It is unclear why this is addressed under the code of meeting practice and would be more appropriately incorporated into a separate access to information policy. Clause 64.1 confers a broad discretion to refuse to allow a councillor to inspect a record. Any such discretion should be expressed to be subject to section 12 of the Act.
- A new proposed clause under Part 3 relates to what is termed “censure motions”. The Model Code of Conduct prescribes the process whereby a councillor may be censured for a breach of the code of conduct. The new proposed provision does not reflect this process. A motion that purports to censure another councillor without having first been considered under the code of conduct and formed the subject of a report by a conduct reviewer or conduct review committee is arguably unlawful.

The review team recommends that Council review its code of meeting practice to ensure that it is consistent with the Act and Regulation. It may assist Council in doing so to simply limit the supplementary provisions of its code of meeting practice to prescribing notice requirements, setting the order of business and prescribing the rules for any public participation.

Recommendation 4

Council should review its code of meeting practice to ensure that it is consistent with the Act and Regulation.

5.1.3.2 The conduct of meetings

The review team reviewed the minutes of Council meetings and attended the meeting of 4 June 2009.

It would appear that Council routinely struggles to get through its business at meetings. Meetings, which until recently commenced at 5pm, regularly do not conclude before 11pm. In the case of the meeting of 7 May 2009, the meeting had to be adjourned and reconvened on 14 May 2009 to enable the Council to get through all the business on the agenda. Council also holds a disproportionately large number of extraordinary meetings. Since the local government elections held in September 2008, Council has had 7 extraordinary meetings. It is unclear to the review team why much of the business considered at these meetings could not have otherwise been dealt with at ordinary meetings. While Council has sought to address this by rescheduling its meetings to commence at 2pm, this does not address the underlying causes.

The review team has identified a number of concerns about the manner in which Council meetings are conducted:

- The amount of time spent adopting minutes of previous meetings
- Unrestricted public participation in meetings
- The excessive amount of time spent on particular items and the use of committee of the whole to allow matters to be debated twice at the same meeting

- The number and nature of questions without notice asked by councillors at meetings
- The participation by the Chair in debate
- The routine failure by Council to follow the order of business set in the agenda
- The failure to comply with requirements of the Act in closing meetings.

Adoption of minutes

The amount of time spent confirming the minutes of meetings is in part due to the level of detail currently recorded in the minutes. Section 375(1) of the Act requires a council to keep full and accurate minutes of council meeting proceedings. Although the minutes should contain enough detail to make the council's decisions understood, they are not meant to be a detailed transcript of council proceedings nor a record of the behaviour of individual councillors. The review team has noted that Council is seeking to address this through proposed amendments to its Code of Meeting Practice.

The review team has also noted a tendency by some councillors to go beyond a consideration of whether the minutes represent an accurate record of the previous meeting to revisiting the substance of the matters considered at the meeting. In future, Council should confine its consideration of the minutes of the previous meeting to the question of whether they accurately reflect the proceedings of that meeting.

Recommendation 5

In adopting the minutes of previous meetings, Council should confine its consideration of the minutes to the question of whether they accurately reflect the proceedings of that meeting.

Public participation

Council permits members of the public to address Council and ask questions in relation to matters on the agenda and other matters not being considered at the meeting. While Council's commitment to public participation is to be commended, the absence of any rules governing this has permitted it to be conducted in an

uncontrolled manner, disrupting the effective and efficient conduct of meetings. In particular:

- Meeting time is taken up by members of the public addressing the Council on matters that are not being considered at the meeting and that can readily be raised with the Council and individual councillors by other means
- There is no registration process or prior scrutiny of the matters to be raised at meetings. At the meeting attended by the review team, a number of members of the public were permitted to address the meeting on matters that it was not appropriate to raise at a council meeting
- There are no limits to the numbers of members of the public who are permitted to address the Council on any matter before it. It is open to question what value is added to Council's decision making by giving unlimited numbers of people multiple opportunities to repeat the same arguments in relation to a matter before Council. This will particularly be the case where they have previously had an opportunity to make a written submission to the Council on the matter
- Council staff are given no prior opportunity to address, respond to or rebut matters raised in these addresses to Council.

The review team notes that Council is currently considering addressing this issue by removing public participation from Council meetings and instead allowing members of the public to address councillors at proposed councillor briefing sessions. However, it is recommended that Council consider developing procedures governing public participation to address the above issues.

Recommendation 6

Council should develop procedures to govern public participation in Council meetings.

Use of committee of the whole

The review team noted that Council often uses committee of the whole to overcome restrictions on the number and duration of speeches in formal Council meetings. While committee of the whole, where used effectively, can represent a useful device

for allowing open discussion on a matter, the review team questions whether Council uses it effectively or in the manner in which it is intended to be used. Instead of making a recommendation in committee and adopting the recommendation once the formal meeting resumes, Council tends to debate the matter all over again once the formal meeting resumes. This does not represent an effective use of the committee of the whole or an efficient use of Council's time. Furthermore, the review team noted that frequently moving in and out of committee caused confusion, and councillors had to be constantly reminded of whether or not they were still in committee. The review team recommends that Council minimise its use of committee of the whole in the future.

Recommendation 7

Council should minimise its use of committee of the whole.

Questions without notice

The review team noted that an excessive amount of the meeting is taken up with councillors' questions and statements without notice. At the meeting of 7 May 2009 (which was adjourned to 14 May), there were 23 questions or statements. At the meeting of 4 June there were 26. At the meeting of 12 July there were 12. Many of these related to day to day operational matters that fall outside a councillor's role. In other councils the tendency to focus on day to day operational matters at the expense of more strategic ones has been indicative of a failure by the governing body to understand and to effectively fulfil its role as provided for under the Act.

The Division recognises that in fulfilling their roles as elected representatives, it will be necessary for councillors to raise questions and issues in relation to day to day operational matters on behalf of constituents. However this should not be done in council meetings. To this end, the review team has recommended elsewhere in this report that Council put in place a formal protocol to enable councillors to raise such matters outside of Council meetings.

Recommendation 8

Councillors should refrain from asking questions without notice or making statements at council meetings about day to day operational matters.

Participation of the Chair in debate

The review team noted that at the meeting of 4 June 2009, the Chair participated in debate on a number of instances. On at least one occasion, this led to an altercation with another councillor. The Chair is responsible for presiding over and ensuring the orderly and efficient conduct of Council meetings. As such, and in the interests of ensuring the effective exercise of this role, the Chair should refrain from participating in debate.

Recommendation 9

The Chair should refrain from participating in debate at meetings.

Order of business

Under clause 239 of the Regulation, at a meeting of a council (other than an extraordinary meeting), the general order of business is as fixed by the council's code of meeting practice or (if the council does not have a code of meeting practice or its code of meeting practice does not fix the general order of business) as fixed by resolution of the council.

Council's code of meeting practice prescribes an order of business. Under the Regulation, the order of business may only be altered if a motion to that effect is passed. Such a motion can be moved without notice. This requirement is reflected in clause 16.2 of the Council's code of meeting practice. Councils should, as a general rule, endeavour to follow the order of business set in the code of meeting practice and agenda for each meeting.

The review team has noted that Council routinely departs from the order of business as set in its code of meeting practice and the agenda. Items are brought forward or deferred by way of what is termed as an 'order of the day' made by the Chair. It is unclear what an "order of the day" is and on what basis it is made. Neither the Act, Regulation, or Council's code of meeting practice provide for the making of such orders. None of the items in question were brought forward by way of resolution as required under the Regulation and Council's code of meeting practice.

Recommendation 10

Council should refrain where possible from departing from the order of business set in the agendas for meetings.

Recommendation 11

Council should cease using ‘orders of the day’ at meetings.

Recommendation 12

Where Council needs to bring an item of business forward in the agenda, it should only do so by resolution.

Closure of Council meetings

Councils are permitted to close parts of their meetings to consider certain types of matters in the absence of the public. In doing so, they are required to comply with statutory requirements. A review of the minutes of Council’s meetings that have been closed to the public indicates there is scope for improvement in doing so. In particular:

- Council resolves into what it terms as “closed committee” to consider matters in the absence of the public. It is open to Council to simply close its meetings to the public under section 10A of the Act. In doing so, it is not required also to resolve into committee.
- In closing its meetings, Council cites the grounds for doing so by reference to the relevant provisions of its code of meeting practice. However, it is required under section 10D of the Act to refer to the grounds provided for under section 10A in doing so. Given the relevant provisions of Council’s code of meeting practice are inconsistent with section 10A, this is more than a mere technical distinction.
- Where the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret, councils are required, in closing meetings, to explain why considering the matter in an open meeting would be, on balance, contrary to the public interest. Council appears not to comply with this requirement.

Recommendation 13

Council should ensure that it complies with the requirements of the Act in closing meetings to the public.

Recording Council meetings

The review team notes that at its adjourned meeting of 7 May 2009, Council resolved to make recordings of Council meetings available on its website. One councillor the review team spoke to said he would like to see Council move to webcasting meetings in the future. Council is to be commended for seeking to use technology to make meetings accessible to residents unable to attend in person. However, the review team would observe that this carries significant risks, particularly in terms of Council's obligations under the *Privacy and Personal Information Protection Act 1998* and its potential legal exposure in relation to the subsequent publication of statements made at Council meetings.

The review team is aware of at least two other councils that have webcasted meetings, Shoalhaven City Council and Port Macquarie-Hastings Council. There may be others. Shoalhaven has since ceased doing so due to what it terms as "insurance issues". The review team would strongly suggest that before Council take any further steps to post recordings of meetings on its website or to webcast meetings, that it undertakes a thorough risk assessment of the practice. The review team would suggest that as part of that assessment, Council should speak to other councils such as Shoalhaven and Port Macquarie-Hastings that have webcasted meetings and to consider seeking legal advice.

Recommendation 14

Before Council takes any further steps to post recordings of meetings on its website or to webcast meetings, it should undertake a thorough risk assessment of the practice.

5.1.3.3 Interaction between councillors and staff

As stated above, it would appear that Council routinely struggles to get through its business at meetings. On the review team's assessment, this is due in part to the following:

- the excessive amount of time spent on items before Council
- the amount of time spent on sections of meetings dealing with councillors' questions and statements in relation to day to day operational matters and other matters.

On the assessment of the review team, Council meetings could be conducted more efficiently if Council were to put in place a number of processes to facilitate and streamline the provision of information to councillors outside of meetings.

The review team notes that Council staff have proposed to hold councillor information sessions prior to Council meetings to brief councillors on business to be considered at the meeting. It is proposed that the first half hour of the sessions be made available for questions and statements from the public and the remainder to be closed to the public.

The review team endorses this proposal. However, Council should ensure that councillor information sessions do not become de facto Council meetings. They should be used purely for the purposes of briefing councillors on items on the agenda and to answer their questions. They should not be used to debate matters. For more information on this, Council should consult the section on workshops in the Division's *Meetings Practice Note*. To ensure the appropriate conduct of councillor information sessions, Council should consider developing formal protocols to govern them.

As stated above, the Division recognises that in fulfilling their roles as elected representatives, it will be necessary for councillors to raise questions and issues in relation to day to day operational matters on behalf of constituents. However, this should not be done at Council meetings. Council has a staff-councillor interaction policy that describes how councillors may obtain information from staff. However, on the assessment of the review team, this would be more effective if it prescribed the following:

- a clear easy-to-use procedure for councillors to make requests for information or action through a single point of contact or prescribed form
- a process for registration of such requests

- timeframes for actioning requests
- a process for reporting on the progress and outcome of requests
- provides for an alternative process for having a request actioned where it has been refused (eg, by requiring it to be submitted to Council as a notice of motion).

Councillors should be encouraged to make requests for information or action using the above processes. In doing so, however, councillors need to be mindful of their role and the role of the General Manager and Council staff in relation to day to day operational matters.

The review team also notes that the section of Council's staff-councillor interaction policy that deals with breaches is inconsistent with the Model Code of Conduct in so far as it requires the General Manager to report breaches to the Council. A breach of the policy would generally also constitute a breach of the code of conduct and as such, should not be reported to Council without first having been examined by a conduct reviewer or conduct review committee. Council needs to amend the policy to ensure that it is consistent with the Model Code of Conduct.

Recommendation 15

Council should develop rules governing the conduct of councillor information sessions.

Recommendation 16

Council should amend its staff-councillor information policy to provide a clear process for dealing with councillor requests.

Recommendation 17

Council should amend its staff-councillor information policy to ensure that the provisions for dealing with breaches are consistent with the Model Code of Conduct.

5.1.3.4 Procurement

Council does not have any policies or procedures in place for the following:

- the conduct of tenders for contracts with a value that exceeds the \$150,000 threshold prescribed under the Regulation
- procurement of goods and services below the \$150,000 threshold
- the disposal of assets
- the management of contracts.

Council staff acknowledged that in the absence of such policies and procedures, Council procurement, asset disposal and contract management are undertaken in an ad hoc manner. This not only carries significant corruption and probity risks for the Council, but also potentially exposes the Council to commercial risks. The review team considers this to be a gap in Council's governance framework that needs to be addressed as a matter of urgency.

Recommendation 18

Council should, as a matter of urgency, develop and adopt policies and procedures in relation to the following:

- *the conduct of tenders for contracts with a value that exceeds the \$150,000 threshold prescribed under the Regulation*
- *procurement of goods and services below the \$150,000 threshold*
- *the disposal of assets*
- *the management of contracts.*

5.1.3.5 Internal Control

Internal audit is an essential component of good governance for all councils. The combination of an effective audit committee and internal audit function provides a formal means by which councillors and members of the public can obtain assurance that the council has in place a robust system of controls, processes, and procedures to manage the risks to its operations.

To assist councils to put in place an effective internal audit function, the former Department of Local Government issued Internal Audit Guidelines. All councils are encouraged to implement the Guidelines.

Council has recently established a Finance and Audit Committee. The Committee is yet to meet. This is not an audit committee as contemplated by the Guidelines. It is a committee comprising all councillors which has a broad role in relation to the oversight of the financial management of the organisation. As far as the review team can ascertain, the Council has no audit committee in the strict sense of the term or an internal audit function. However, the review team notes that the Finance and Audit Committee's functions include:

- The appointment of members of Council's Internal Audit Committee (if any)
- To receive and review reports of the Internal Audit Committee and adopt actions arising
- To review and adopt Council's Internal Audit Policy and methodology.

The review team also notes that Council lacks other internal controls. It does not have a fraud control policy or strategy and has never undertaken a systematic fraud risk assessment.

Recommendation 19

Council should establish an Audit Committee and develop and adopt an Internal Audit Policy and methodology.

Recommendation 20

Council should develop a Fraud Control Policy and routinely undertake systematic fraud risk assessments.

5.1.3.6 Disclosure of political donations

Under section 328A of the Act, general managers are obliged to keep a register of copies of current declarations of disclosures of political donations lodged with the Election Funding Authority by or on behalf of councillors of the council concerned.

Council appears not to have complied with this requirement. Council may wish to do so by simply maintaining a link on its website with the Election Funding Authority website.

Recommendation 21

Council should ensure that it complies with the requirements of section 328A of the Local Government Act 1993.

5.1.3.7 Councillor expenses and facilities policy

Under section 252 of the Act, councils must, within 5 months after the end of each year, adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to the Mayor, the Deputy Mayor and the other councillors in relation to discharging the functions of civic office. Such a policy must comply with the provisions of the Act, the Regulation and any relevant guidelines issued under section 23A. To assist councils, the former Department of Local Government issued *Guidelines for the Payment of Expenses and the Provision of Facilities for Mayors and Councillors for Local Councils in NSW*. These have recently been updated.

Council adopted its current section 252 policy on 2 April 2009. There are a number of areas where it does not comply with the Guidelines. In particular, the policy:

- does not specify expenditure limits as required by the Guidelines
- permits private usage (eg, the Mayoral car)
- does not provide a mechanism to recoup costs for private usage
- does not provide for the provision of training or skill development
- does not specify limits for mobile phone usage by councillors
- permits payment of registration and dinner costs for spouses at any conference (the Guidelines state that such costs may only be paid in respect of LGSA conferences).

Recommendation 22

Council should review its section 252 policy to ensure that it complies with the Guidelines.

5.1.3.8 Protected Disclosures

Council appears not to have adopted an internal reporting policy in relation to the making and management of disclosures under the *Protected Disclosures Act 1994*. Council should adopt an internal reporting policy based on the Model Internal Reporting Policy for Councils contained in the NSW Ombudsman's *Protected Disclosures Guidelines* (6th edition).

Recommendation 23

Council should adopt an internal reporting policy based on the Model Internal Reporting Policy for Councils contained in the NSW Ombudsman's Protected Disclosures Guidelines (6th edition).

5.1.3.9 Policy Register

Council does not currently have a policy register or a single point of access to its policies. It has commenced posting policies on its Intranet but has not completed this process. Council should complete this process. Council should also consider providing training or information sessions to promote staff awareness of policies.

Recommendation 24

Council should post its policies on its Intranet and provide training to staff on its policies.

5.1.3.10 Quarterly reporting

Under section 407 of the Act, the general manager must report to the council within 2 months after the end of each quarter as to the extent to which the performance targets set by the council's current management plan have been achieved during that quarter. In addition, under clause 203 of the *Local Government (General) Regulation 2005*, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council

has adopted for the relevant year, a revised estimate of the income and expenditure for that year. These represent important accountability mechanisms that serve to inform both the governing body and the community on a quarterly basis of the Council's financial performance and its progress in achieving the goals set in its management plan.

A review of the business papers for meetings indicates that while quarterly financial reviews have been reported to Council as required within 2 months of the end of each quarter, it would appear that prior to 2 April 2009, quarterly management plan reviews have not been reported to Council. This does not merely constitute a serious breach by the Council of its statutory obligations, but also represents a significant failure in the governance of the Council. Council should ensure that it complies with its obligations in this regard in the future.

At the time of writing, Council's most recent management plan quarterly review was reported to the Council meeting of 2 April 2009. Its financial quarterly review was reported separately to the meeting of 7 May 2009. This is discussed elsewhere in this report. Many councils present these reports together. This provides a broader overview of the performance of the organisation. If possible Council should in future also seek to provide a consolidated report comprising both its financial and management plan quarterly reviews.

The quarterly management plan review prepared for the meeting of 2 April 2009 carries the same deficiencies of the management plan described below. In particular:

- While progress in relation to generic activities identified in the management plan is recorded, the quarterly review does not include information about the more specific activities proposed in the management plan.
- Information on Council's progress in relation to some activities is meaningless, reflecting the ambiguities of the KPIs set for those activities in the management plan.

Recommendation 25

Council must ensure that it complies with its obligations under section 407 of the Act.

Recommendation 26

Council should consolidate its quarterly budget and management plan reviews into a single report.

Recommendation 27

Council should ensure that its quarterly management plan reviews cover all of the activities identified in its management plan.

Other matters that warrant comment

5.1.3.11 Management planning

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

The review team made an assessment of Council's management planning practices based on Council's 2009 management plan, adopted on 25 June 2009. Overall, this is a concise, easily navigated document. Highlights include the following:

- A series of 21 strategic statements which are referenced against quadruple bottom line criteria (ie, environmental, social, economic and governance). Each item identified in the management plan is cross-referenced with the relevant strategic statement. This practice represents a good starting point for the development of the architecture Council will need to put in place to comply with its integrated planning and reporting obligations.
- A clear, engaging discussion of the principles and considerations that underpin Council's revenue policy.
- A table identifying a series of pricing principles that inform its fees and charges and the pricing basis to be applied against that principle (ie, zero/partial/full cost recovery). Each fee identified in Council's schedule of fees and charges is cross-referenced against each of the principles.

However, the review team has identified the following areas that require improvement:

- While the draft version of the management plan contains the budget, the adopted version posted on Council's website omits this.
- The projects identified in the management plan against key performance indicators (KPIs) appear to be generic in nature. Specific projects that have been identified for the coming year are simply listed, are not cross referenced against strategic statements and have no KPIs identified for them.
- Some KPI's are somewhat nebulous and do not set clear performance targets.
- While estimated yields for rating income are identified, the review team was unable to identify such information in relation to charges. This information is required under section 404(3) of the Act.
- The list of borrowings does not include in every case the source of the borrowings or the means by which they are to be secured, as required under section 404(1) of the Act.

Council appears to have consulted well in developing its 2009 management plan. As well as placing the draft management plan on public exhibition, Council held public meetings in Braidwood and Bungendore to discuss it. In addition to this, members of the public had the opportunity to address Council on the draft plan on each occasion it was considered by Council.

Council received a number of submissions on its draft management plan and these have clearly been considered and addressed.

Recommendation 28

In its next management plan, Council should set KPIs for each of its proposed activities for the coming year and ensure they are all cross-referenced with its strategic statements.

Recommendation 29

In its next management plan Council should ensure that the KPIs it sets for each of its proposed activities are clear and readily measurable.

Recommendation 30

Council should ensure that its next management plan complies with the requirements of the Act.

5.1.3.12 Annual report

Under section 428 of the Act, each council is required to prepare an annual report compiling its achievements with respect to the objectives and performance targets set out in its management plan for that year. The annual report is to be prepared within 5 months after the end of each year. The Act and the Regulation prescribes what information councils must include in their annual report.

The review team reviewed Council's 2007-08 annual report. As with Council's management plans, it is a concise and easily navigated document. Against each of the activities proposed in the 2007/08 management plan, the annual report identifies results and, where the KPIs have not been met, an explanation of why they have not been met. However, as with the quarterly management plan review discussed above, the annual report carries the deficiencies of the management plan.

On the review team's assessment, the annual report does not comply with statutory requirements in a number of respects. In particular:

- It does not contain a report on the condition of public works, as required under section 428(2)(d) of the Act
- While total sums are provided for expenditure on 'councillor travel' and 'councillor sustenance', this does not include the separate details prescribed under clause 217 of the Regulation
- It does not contain details of any contracts awarded for amounts greater than \$100,000, as required under section 428(2)(h) of the Act (it is unclear whether any such contracts were in fact awarded)
- It does not contain information on the total amount contributed in financial assistance under section 356, as required under section 428(2)(l) of the Act.

Sections of the report dealing with access and equity activities, programs to promote services and access for people with diverse cultural and linguistic backgrounds,

human resources activities and implementation of the EEO management plan lack detail and arguably do not meet statutory requirements.

Recommendation 31

Council should ensure that its annual report covers all of the activities identified in its management plan.

Recommendation 32

Council should ensure that its next annual report complies with statutory requirements.

5.1.3.13 Code of Conduct

Council's adopted code of conduct reflects the provisions of the Model Code of Conduct. However, these have been supplemented. The supplementary provisions do not appear to be inconsistent with the provisions of the Model Code. No matters have been dealt with under the current version of the code of conduct.

Council is a party to the appointment of a joint panel of conduct reviewers under the Model Code to be shared by the Southern Tablelands Group of Councils. Council, together with the other member councils, is to be commended for this regional approach to the appointment of the panel.

Despite having received training on their obligations under the code of conduct as part of the former Department of Local Government's councillor information sessions held in late 2008, a number of Palerang councillors appear to continue to be confused about key concepts under the code. This may be due in part to the contradictory and often incorrect perspectives on councillors' obligations under the code being propounded by members of the community.

To address this, the Division would be prepared to provide Palerang councillors with further specialised training on their obligations under the code of conduct. Such training could also cover the role of councillors and meeting practice to address the issues identified above in this regard.

5.1.3.14 Gifts register

Council maintains an electronic gifts register. The format is good, but could be improved by the inclusion of fields that indicate the following:

- whether gifts of value were accepted or refused
- if gifts of value were accepted, on what grounds they could not be refused
- If gifts of value were accepted, what was done with them (ie, were they surrendered or kept).

The gifts register has been sparsely populated. There are only two entries by senior members of staff. Council should ensure that all staff and councillors are aware of their obligations in relation to the disclosure of gifts.

Recommendation 33

Council should include fields in its gifts register to ensure all relevant information is entered where a gift of value has been accepted.

Recommendation 34

Council should incorporate information on the obligations of councillors' and staff in relation to the disclosure of gifts into its induction and ongoing training programs.

5.1.3.15 Disclosure of pecuniary interests

The review team examined returns of interests and reviewed the manner in which interests are declared at meetings.

The standard of returns of interests lodged by councillors and designated persons was good. All but one return was submitted within the required time. However, the review team identified a number of minor areas where the completion of returns could be improved. In particular:

- The return date and return period must be identified on the return
- Where there is no interest to be disclosed, the word 'nil' should be recorded
- Councillors need to disclose their councillor fees as a source of income

- The addresses of employers and corporations in which a person holds office or has an interest must be recorded.

Council posts councillors' returns of interests on its website. This represents good practice, as it promotes accountability and transparency through ease of access.

The manner in which interests are disclosed at meetings is variable. The review team has identified the following areas where improvement is required:

- The disclosure must identify the nature of the conflict of interests in question (ie, pecuniary, significant non-pecuniary or less than significant non-pecuniary).
- The disclosure must disclose the nature of the interest giving rise to the conflict of interests.

Council does not currently have procedures in place to inform councillors and staff of their obligations under the pecuniary interest provisions of the Act. The review team recommends that this be incorporated into their induction and ongoing training programs.

Council has sought an exemption from the pecuniary interest provisions of the Act under section 458 in relation to its draft LEP. The Council's application has been approved conditionally. While it is open to Council to request the exemption in circumstances where the number of councillors with pecuniary interests in a matter is so great to impede it from dealing with a matter, Council should also consider other options open to it for dealing with the matter. For example, it is also open to Council to request the Minister for Planning to appoint a planning assessment panel under section 118 of the *Environmental Planning and Assessment Act 1979* to determine the LEP. This has the benefit of ensuring that the matter will be determined by persons who do not have a pecuniary interest in the matter.

Recommendation 35

Council should incorporate information on the obligations of councillors' and staff under the pecuniary interest provisions of the Act into its induction and ongoing training programs.

5.1.3.16 Risk management

Council has established a comprehensive governance framework for the identification and treatment of risk. This comprises a number of components, namely:

- an overarching risk management policy
- a risk management plan
- a risk register.

The risk management policy appears not to have been reviewed since late 2006, despite the fact that the policy requires an annual review.

Council has appointed a risk management officer and established a risk management committee to coordinate implementation of the plan. The plan takes a broad approach to identifying risk and allocates responsibilities for implementation of the plan. While the formal identification of risk and input of data into the risk register is in its early stages, the information currently contained in the register suggests that the methodology used is sound. Many of the assessments made reflect the assessments made in this report.

Council does not currently have a business continuity plan in place to manage the impact of adverse events on its operations.

Council also does not currently have any systems or processes in place to ensure that it meets its statutory and regulatory obligations or to report non-compliance.

These are areas that will require attention.

Recommendation 36

Council should develop a business continuity plan.

Recommendation 37

Council should develop a legislative compliance framework.

5.1.3.17 Delegations

Council reviewed its delegations to the General Manager at its September 2009 meeting, as required under section 380 of the Act.

The General Manager's delegations to staff are clearly documented. However, the instrument of sub-delegation that the review team sighted was unsigned and undated.

Council does not currently have an audit program to examine the exercise of delegations on a regular basis. This is something Council should undertake as part of an internal audit program.

Recommendation 38

As part of its internal audit program, Council should audit the exercise of delegations on a regular basis.

5.1.3.18 Complaints management

Council has adopted a complaints management policy. The policy incorporates a number of best practice elements as reflected in the Division's *Complaints Management Practice Note*. These include clear definitions and a three-tiered approach to complaints management. However, the review team has identified the following areas where the policy requires improvement:

- While the policy appropriately requires frontline staff to seek to resolve complaints in the first instance, it does not provide for referral to another officer or identify circumstances where such referral should be made (eg, where investigation is required).
- It does not provide for referral of code of conduct complaints to the General Manager (or to the Mayor in the case of complaints about the General Manager) as required under the Model Code of Conduct.
- Pecuniary interest complaints should be referred to the Division and not the Pecuniary Interest and Disciplinary Tribunal, as stated in the policy. Such referral should be made by the General Manager.

- It does not provide for the collection, analysis and reporting of complaints data.

While Council's website contains a page for complaints and comments, the link that enables such complaints or comments to be made does not exist.

Recommendation 39

Council should review its complaints management policy to ensure that it reflects best practice as described in the Division's Practice Note 9 - Complaints Management in Councils.

5.1.3.19 Access to information

While Council, as a matter of practice, returns FOI applications where the documents requested are otherwise available under section 12 of the Act, this practice is not reflected in a formal policy. Council should develop an access to information policy to ensure that it complies with its statutory responsibilities in providing access to information.

Recommendation 40

Council should develop an access to information policy.

Council response

Most of the issues identified are process-orientated, and had been identified by staff. The deficiencies have been primarily the result of a lack of resources, but management acknowledges that some have not been given the priority the Division would prefer. However, it should be noted that significant progress has been made since the review and many shortcomings have been or are about to be addressed. Council's draft 2010/2011 budget allows for an additional part-time staff position within executive services.

The issues were not being ignored, but issues such the bank cancelling credit, including Council's overdraft, have taken priority. Management believes that, while Palerang is not 'out of the woods' financially, the emphasis can move from simple crisis survival mode to a more reflective mode that will enable these issues to be addressed. This is evident in the progress made since the review.

5.2 DEVELOPMENT CONTROL & OTHER REGULATORY FUNCTIONS

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

5.2.1 Scope of review

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

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

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

Council has made good progress in developing the strategic framework that underpins the exercise of its development assessment and regulatory functions. It is preparing a draft comprehensive LEP and has nearly reached the point where this can be placed on public exhibition. It has ambitious plans for the development of a single web-based consolidated DCP. It is a party to a web-based regional State of the Environment Report prepared by the ACT Office of the Commissioner for Sustainability and Environment.

However, many of the broader issues affecting the Council identified elsewhere in this report have impacted on the efficacy with which it exercises these functions. Staff and resource limitations have meant that Council lacks a policy or procedural framework to guide the exercise of these functions. Lack of staff has meant that management staff have been forced to perform day to day operational functions.

This in turn has prevented them from attending to the development of such a framework and other strategic needs of the organisation.

Similarly, lack of staff, the inefficient distribution of staff across two development control units (DCUs) located in different administration centres and a deficient IT framework have contributed to long DA processing times and limited Council's capacity to perform its compliance functions.

5.2.3 Significant Observations

Better practices

5.2.3.1 Compliance and enforcement policy

Council's Enforcement and Compliance Policy is one of the better ones seen by the review team. It is comprehensive, well structured and clearly written. It addresses key issues such as:

- How complaints may be lodged
- Timeframes for actioning complaints
- Options for dealing with unlawful activity
- Criteria to guide the exercise of Council's discretion
- Specific provisions relating to building works
- The role of PCAs and Council's role where a PCA has been appointed.

One concern, however, is that Council does not currently have an electronic customer requests system in place for registering complaints. This is currently done by way of an email from customer service officers.

Recommendation 41

Council should put in place an electronic customer request system.

Areas for improvement

5.2.3.2 *Development assessment*

Overview

In 2007/08 Council determined 470 development applications (DAs) with a value of \$47m. In the same period, it dealt with 63 section 96 applications. Of the DAs determined 41% were for alterations and additions, 34% for single new dwellings and 3% for commercial/retail or office developments.

Mean gross determination time was 117 days for DAs and 51 days for section 96 applications. The State average for the same period was 74 days for DAs and 58 days for section 96 applications. The processing time for DAs represented an increase of 23% on the previous year. Palerang was one of 28 councils with mean gross determination times in excess of 100 days. Processing times exceeded 100 days for all classes of DA, irrespective of their value. However, it would appear that processing times for commercial/retail or office developments are substantially higher than for other types of developments.

Council uses the 'stop the clock' provision on 38% of DAs. The mean gross processing times for those where 'stop the clock' was used was 182 days. Processing times minus the period during which the clock was stopped was 86 days.

95.3% of DAs were determined under delegation.

Staffing issues

Council has 7 specialist planning positions of which 3 are currently vacant. This has clearly impacted on DA processing times. In 2007/08 the number of DAs processed per effective full-time staff position was 118. This represented an 88.6% increase on the previous year. The average figure for category 11 councils is 63.

Council maintains two development control units (DCUs), one in its Bungendore office and the other in its Braidwood office. Both units appear to be functionally separate from each other. Each unit reports to separate Development Coordinator positions (East and West). Each unit holds separate unit meetings (though there are monthly meetings comprising both units, the Strategic Planner and the

Environmental Coordinator). Staff in each of the offices are only familiar with the LEPs that apply to their part of the LGA.

As a result of the functional separation of the two units, the Director of Planning and Environment Services has been required to undertake the duties of the vacant Development Coordinator East position (which Council has been unable to fill) in addition to her own duties. As discussed above, this has meant that a disproportionate amount of her time has been taken up with processing DAs instead of attending to the strategic and management needs of the Planning and Environmental Services Division.

The adoption of the comprehensive LEP and a single consolidated DCP will invariably promote greater integration between the two development control units. However, Council should undertake a functional review of both units prior to this to determine how the units can be better integrated and to identify any efficiencies that can be achieved by doing so in terms of DA processing and the allocation of staff and resources.

Recommendation 42

Council should undertake a functional review of both the East and West Development Control Units to determine how the units can be better integrated and to identify any efficiencies that can be achieved by doing so.

Pre-lodgement

Council's DA forms contain a supplement which provides information to assist in the completion of the form. Council also provides checklists to assist applicants to ensure they have provided all information they are required to submit in support of their application. Council also has a flow chart that documents the lodgement, assessment, approval and post-approval processes. These are all available on Council's website.

Curiously, while the flowchart refers to pre-lodgement meetings with officers, in its response in the review checklist, Council has stated that it does not have a pre-lodgement advice service for applicants. If Council does not currently provide pre-lodgement advice or offer pre-lodgement meetings to applicants, it should do so as a strategy for reducing the need to use the 'stop the clock' provisions.

Recommendation 43

Council should provide a pre-lodgement advice or meeting service to DA applicants.

Process issues

Council does not currently have a procedures manual to guide or assist staff when assessing DAs. However, it has checklists for the receipt and assessment of DA documentation and undertaking site inspections. Notwithstanding this, in the interests of streamlining the DA assessment process and ensuring consistency of practice across the two DCUs, Council should develop a comprehensive procedure manual for processing DAs. This should be linked with the development of the comprehensive LEP and consolidated DCP.

Recommendation 44

Council should develop a comprehensive procedure manual for processing DAs.

IT issues

It was apparent from the review team's discussions with staff that there are serious deficiencies in the IT framework that supports the exercise of the Council's development assessment and other planning functions. Particular concerns raised include:

- The DA tracking system (Proclaim©) has been poorly set up
- Section 149 certificates cannot be produced electronically and have to be produced by 3 different persons
- Key data has not been captured electronically and sometimes exists solely in individual staff members' heads
- The system does not currently reflect referrals to other agencies and this information can only be obtained by looking at the physical file
- Development consents are produced as Word© documents and could be easily manipulated or altered post consent
- The East and West DCUs store documents in different drives and cannot access each other's records.

In the interests of addressing the obvious risks to the organisation posed by the above deficiencies and improving the efficiency of the DA assessment process, Council should undertake a comprehensive needs analysis of the IT requirements of the Planning and Environmental Services Division.

Recommendation 45

Council should undertake a comprehensive needs analysis of the IT requirements of the Planning and Environmental Services Division.

DA monitoring

As stated above, Council staff identified problems with Council's DA tracking software. Notwithstanding this, Council produces comprehensive monthly reports on the progress of DAs and section 96 applications. These are reported to Council. Reports provide a description of each proposed development, the date received and the number of days the DA has been actively processed and the number of days the clock has been stopped.

While Council does not have online tracking of DAs, commendably it posts weekly reports of DAs received and monthly reports of DAs determined on its website.

5.2.3.3 *Environmental compliance*

Overview

Council appears to exercise its environmental compliance functions in an ad hoc fashion. Council appears to have little in the way of policies, procedure manuals or documented procedures to guide the exercise of these functions. While Council is trying to put these in place, it lacks the staff resources to do so. Lack of compliance staff has meant that the Environmental Services Coordinator, who is responsible for the oversight of the exercise of Council's environmental compliance functions, has been forced to undertake day to day compliance functions to supplement the shortfall of compliance staff. As is the case in other areas of the Council, this has prevented him from spending the time needed to put in place the necessary governance framework to underpin the exercise by the Council of its environmental compliance functions.

Specific deficiencies are addressed below.

On-site sewerage management

Council's on-site sewerage management strategy is the one adopted by the former Yarrawlumla Shire Council and is 10 years old. Council does not maintain an on-site sewerage management register.

Recommendation 46

Council should develop the following:

- *a new on-site sewerage management strategy*
- *an on-site sewerage management register.*

Companion animals

Council does not currently have a companion animals management plan in place. Nor does it have procedures in place for the following:

- Dealing with nuisance animals complaints
- Entering data into the NSW Companion Animals Register (though Council maintains that this is done)
- Returning seized animals to owners in preference to taking them to the pound.

Pound services are provided to Council by Queanbeyan City Council under contract.

Council runs a limited community education program on responsible management of companion animals. Information brochures are provided with rates notices. Information on companion animals and links provided on Council's website are also quite useful.

Council does not currently proactively pursue outstanding registrations and identifications of companion animals in the LGA. Council staff are seeking to address this. A funding proposal has been made for the employment of a new companion animals officer position to proactively pursue registrations. Council staff estimate that there are about 10,000 unregistered animals in the LGA and that the implementation of such a program could potentially fund a new position. As a means of promoting

the registration of unregistered animals, Council should consider offering micro-chipping services to the community, such as free or discounted micro-chipping days.

Recommendation 47

Council should develop a companion animals management plan.

Recommendation 48

Council should develop procedures to guide the exercise of its regulatory functions with respect to companion animals.

Recommendation 49

Council should develop strategies for proactively seeking companion animal registrations.

Swimming pools

Council does not currently have a compliance program to ensure it is notified of all domestic swimming pools in the LGA and that these comply with the *Swimming Pools Act 1992*. Council staff told the review team that they are currently using the development consent process, inspections associated with other approval processes, and aerial photography to identify domestic swimming pools in the LGA.

Council does not currently have a program to promote awareness of the *Swimming Pools Act 1992*. However, it is proposing to run an education program prior to Christmas.

Recommendation 50

*Council should develop a compliance program to ensure it is notified of all domestic swimming pools in the LGA and that these comply with the *Swimming Pools Act 1992*.*

Other matters that warrant comment

5.2.3.4 Development of comprehensive LEP

Council has faced a challenging task in preparing its comprehensive LEP. It inherited 5 separate LEPs as a result of the amalgamation. It has made good progress in preparing a draft LEP. However, this is yet to be exhibited and progress has been

stalled by the need for Council to obtain an exemption from the pecuniary interest provisions of the Act under section 458. This is discussed in more detail above.

5.2.3.5 Consolidation of DCPs

The Palerang LGA is subject to a wide array of DCPs which have been developed in connection with the 5 LEPs that currently apply to the area. As part of the development of its comprehensive LEP, Council is proposing to review its DCPs. Council proposes to replace these with a single DCP for the whole LGA that will comprise chapters that will apply to each zone in the area. Council is looking at utilising an electronic version that enables a person to input details of a parcel of land and receive a printout of all the development controls that apply to the land. The review team endorses this approach.

5.2.3.6 State of the Environment reporting

Palerang Council subscribes to the regional State of the Environment Report, prepared by the ACT Office of the Commissioner for Sustainability and Environment, on behalf of 17 regional councils.

The 2004 comprehensive report was submitted to the former Department of Local Government in 2006. However, the Division of Local Government has no record of receiving the 2005/06 and 2006/07 supplementary reports. A supplementary report was submitted for the 2007/08 period as part of the Australian Capital Region State of the Environment Report prepared by the ACT Office of the Commissioner for Sustainability and Environment.

The ACT Office of the Commissioner for Sustainability and Environment has prepared a well written and well presented report. The regional approach allows for the provision of a regional overview of themes and indicators. Detailed information is provided for each member LGA where it is available. The report utilises the pressure/state/response (used as condition/pressure/response) model and provides a discussion of responses to the various pressures identified. It presents case studies of community action towards improving the local environment.

However, the report carries the following deficiencies:

- The most recent supplementary report does not outline the condition of non-Aboriginal or Aboriginal heritage. All other environmental sectors are covered. The report notes that information about Aboriginal heritage is a data gap.
- The reports compare the condition of some environmental sectors, but not all. The reworked pressure/state/response model is not clearly defined in some cases.
- The reports identify gaps in relevant information, but do not indicate how missing information is to be obtained.
- The report is a web-based report. There is little scope for a printed report.
- There is some reference to management plans in the 2008 supplementary report, but all sectors are not addressed and the links between the various documents are not clearly established.
- Reference to Council projects is more comprehensive, but, again, does not specifically address each sector.
- There is very limited information or comment on the impact of Council activities.
- There is no specific reference to the consultative process, particularly for members of the general community. However, it would appear from the content of the report that working relationships have been established with key environmental groups.
- There is some evidence that environmental groups have had a limited involvement in monitoring changes.
- While the report provides information to the community, it is difficult to assess or determine strategic links between the management plan and the report.
- The Act requires that eight environmental sectors be covered in all State of the Environment Reports. However, the report has been reorganised into seven themes; atmosphere and weather, biodiversity, catchments and resource use. The sectors for Noise, Waste, Heritage and Aboriginal Heritage are included in resource use. This restructure at times makes this information

difficult to access. It is not clear why the sectors have been redefined. It is preferable that Aboriginal Heritage stays as a stand-alone sector given its importance and often the poor community understanding of these issues.

Recommendation 51

Council should seek to have the issues identified in this report in relation to its State of the Environment Report addressed in future State of the Environment Reports that are prepared for it.

Council response

Palerang, like most Councils, has struggled to find appropriate staff for its planning and environmental services area.

Recommendation 41 – Council is implementing an electronic customer complaint request system as part of its upgrade of data works.

Recommendation 42 – This has been implemented practically while a formal restructure is finalised.

Recommendation 43 – A pre-lodgement advisory service for DAs is in place via phone or meetings at Council offices. Relevant staff are available to answer all inquiries relating to Council's planning controls and DA process, including local government approvals and engineering requirements. While staff make notes of meetings, and to a lesser extent, phone calls the process is not usually documented for the applicant. Administrative support resources would be required to adequately document the process.

Recommendation 44 – Council's Director of Planning and Environmental Services commenced drafting of a procedure manual, in consultation with relevant staff, in July 2009. Finalisation of the document has stalled due to the Director's time being diverted to other more immediate tasks such as DA report writing. When staff resources permit the document will be finalised.

Recommendation 45 - Signed consents and plans are scanned into data works as PDF documents so that amendments can't be made. A new DA tracking system has been designed as part of the upgrade of Proclaim – this is currently being tested. The tracking system will include all referrals, including those to government

agencies. All documents relevant to development services have been incorporated into one drive as at end of July 2009.

Recommendation 46 – Council has a register for on-site sewerage management register in Proclaim. However, this is more of an internal management tool and is not readily available to the public.

Recommendations 47 to 49 – agree. The following corrections are suggested to the discussion of this topic – paragraph 3 on page 50 states Council does not run any education programs in relation to companion animals. Council does provide brochures inserted with rates notices – while it is acknowledged this is limited. Paragraph 4 on page 50 states Council has obtained the assistance of a companion animals (sic) officer from Yass Shire Council – this is only an option that was being considered but has not been implemented.

Recommendation 50 – January 2010 Council has initiated production of a register of all swimming pools in the council area.

Recommendation 51 – Council’s Environmental Services Coordinator has acknowledged this and will endeavour to include the issues identified in the annual review in 2010.

5.3 ASSET & FINANCIAL MANAGEMENT

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

5.3.1 Scope of review

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

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

5.3.2 Overview of asset and financial management practices.

Council's financial position has improved over recent years as a result of the three special variation increases approved for 2006/07, 2007/08 and 2008/09. As of 2007/08, Council's financial position was superficially sound. However, there remains an underlying vulnerability to its financial position and Council is heavily dependent on income from private and RTA works to sustain its financial position.

Council does not currently have a long term financial plan in place. Given the ongoing precariousness of its financial position and the requirement under the new integrated planning and reporting regime for councils to develop a resourcing strategy, the development of a long term financial plan should be a priority.

As suggested above, Council faces considerable challenges in developing a resourcing strategy required under the new integrated planning and reporting regime. While it has made a good start in the area of asset management planning, the work done to date will need to be reviewed to ensure that it complies with the new statutory requirements.

5.3.3 Significant Observations

Better practices

5.3.3.1 Quarterly financial reporting

Under clause 203 of the *Local Government (General) Regulation 2005*, the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the management plan that the council has adopted for the relevant year, a revised estimate of the income and expenditure for that year.

Council's quarterly financial reviews are presented in a manner that is informative to both laypersons and persons with greater expertise. They are presented as two reports: a summary report comprising high level financial data for each of the categories identified in the management plan; and a financial management tool providing greater detail on individual budget items. On its own, this information would be potentially impenetrable to the lay reader. However, the synopsis to the reports provided in the business papers provides an overview of the information that can be readily understood by the lay reader. A key to the data presented and explanation of the terminology used is also provided to assist lay persons in interpreting the financial data.

Areas for improvement

5.3.3.2 Long term financial planning

Council does not currently have a long term financial plan. As discussed above, the development of a long term financial plan is a key input into the resourcing strategy that will form part of a council's integrated planning and reporting framework. The development of a long term financial plan is now a statutory requirement. Under integrated planning and reporting requirements, long term financial plans must be for a minimum of 10 years.

In the case of Palerang Council, the development of a long term financial plan is not merely necessitated by the need to comply with new statutory requirements. Given its precarious financial position, it is also imperative to its ongoing sustainability. The development of a long term financial plan may assist the Council to identify and

manage risks to its medium and long term financial position. It can also be used to identify potential cost savings and develop alternative revenue streams.

Recommendation 52

Council should develop a long term financial plan.

5.3.3.3 Land assets

The Act imposes obligations on councils in regard to the management of council land that is classified as community land. This includes a requirement that councils have a plan of management for community land. The former Department of Local Government issued a practice note, *Practice Note 1 – Public Land Management* to assist councils in the management of public land.

Council has substantial land holdings that are classified as community land. However, it does not have plans of management for that land, as required under the Act.

Council also does not maintain a register of leases or licences for land that it owns or is under its care and control.

Council does not deposit income generated from Crown reserves under Council's care and control into its trust fund, as required under section 411 of the Act and clause 204 of the Regulation.

Recommendation 53

Council should develop plans of management for its land holdings that are classified as community land.

Recommendation 54

Council should establish and maintain a register of leases or licences for land that it owns or is under its care and control.

Recommendation 55

Council should ensure that income generated from Crown reserves under Council's care and control is deposited into its trust fund.

5.3.3.4 *Asset management*

Asset management planning

Asset management plans and strategies are key inputs into the resourcing strategy that will form part of a council's integrated planning and reporting framework. The development of an asset management plan and strategy is now a statutory requirement. Asset management plans and strategies must be for a minimum timeframe of 10 years. The asset management strategy must:

- Include an overarching council endorsed policy
- Identify assets that are critical to the Council's operations and outline risk management strategies for these assets
- Include specific actions required to improve Council's asset management capability and projected resource requirements and timeframes.

Asset management plans must:

- Encompass all the assets under the Council's control
- Identify asset service standards
- Contain long term projections of asset maintenance, rehabilitation and replacement costs.

Council has made a good start in developing an asset management framework. At its meeting of 12 October 2006, it adopted an asset management policy. Consultants developed an asset management strategy in November 2006. Council is currently in the process of undertaking condition assessments and developing asset management plans.

Notwithstanding this, on the review team's assessment, it would appear that Council's current asset management strategy will not comply with the new statutory requirements. Furthermore, the strategy only has a five-year timeframe and will elapse in 2011. Council should therefore review its approach to developing an asset management framework to ensure that it complies with the new statutory requirements.

Recommendation 56

Council should review its approach to developing an asset management framework to ensure that it complies with the new statutory requirements.

Asset maintenance

There has been a persistent gap between the estimated cost to maintain Council's assets and actual expenditure over recent years. In 2007/08, this gap widened substantially. As part of the development of its asset management framework and resourcing strategy, Council needs to ensure that adequate provision is made for expenditure on asset maintenance.

Recommendation 57

Council needs to ensure that adequate provision is made for expenditure on asset maintenance.

Other matters that warrant comment

5.3.3.5 Overall financial position

For much of the period of its existence, Council's financial position has been precarious. Council received approval for three special variation increases in 2006/07, 2007/08 and 2008/09. This has contributed to an improvement in Council's performance and its financial position for 2007/08 was sound.

However, there appears to be an ongoing underlying vulnerability to Council's financial position. In particular, Council has relied on additional fees received from private works and the RTA single invitation maintenance contract work to achieve this result. In their report, Council's auditors highlighted this reliance and expressed the concern that any diminution in such works may materially impact adversely on Council's ability to achieve future satisfactory operating results. As part of the development of a long term financial plan, Council should develop a contingency plan in the event revenue from these works ceases.

Another favourable variance to the budget identified by Council's auditors in their 2007/08 report was the occurrence of staff vacancies during the year. It is unclear whether this was as a result of a deliberate strategy to reduce operating expenses. Council should consider the potential costs, as well as the financial benefits, of

maintaining such vacancies. As noted elsewhere in the report, the shortfall of staff has impacted on the capacity of the Council to meet its statutory and other obligations in a number of areas. Any strategy to achieve savings by reducing staff numbers should be informed by an assessment of where these savings can be made without impacting on the essential operations of the organisation. The most effective way this can be achieved is by way of a review of the organisational structure of the Council and the development of a workforce management strategy. This is discussed elsewhere in this report.

Recommendation 58

As part of the development of a long term financial plan, Council should develop a contingency plan in the event revenue from private and RTA works ceases.

5.3.3.6 Rates and Annual Charges Outstanding

While there has been an improvement in Council's position in relation to outstanding rates and annual charges, this remains above the benchmark for rural councils of 10%. Council's auditors expressed a concern about the escalation of several outstanding assessments. At the end of 2007/08, in excess of \$162,000 was collectively owed by ten assessments compared with \$139,000 at the same time last year. The auditors expressed concern about Council's potential exposure to this debt. Much of this outstanding debt is a historical legacy inherited from the previous councils.

Notwithstanding this, as evidenced by the reduction in outstanding rates and annual charges over recent years, Council has been diligent in recovering debts. Council has a policy on debt recovery. In the week prior to the review team's visit, Council had exercised its powers under section 713 of the Act to sell 12 lots of land to recover longstanding outstanding debt.

Council response

1. *Council is struggling with this. A sensible long-term financial management plan is dependent on the asset management plan and Council has engaged consultants to complete this project by June 2010. Council was originally attempting to complete this AMP in house but staff departures and other*

constraints delayed the project. A contractor has been engaged to complete the AMP prior to June 2010.

2. *It is absolutely key that Council is able to present an accurate picture of its finances, particularly in relation to its infrastructure shortfall and backlog. This cannot be done until the asset management plans are complete. Council has therefore nominated to be in Group 3 of integrated planning and reporting.*

5.4 COMMUNITY & CONSULTATION

A council's charter requires that a council:

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

5.4.1 Scope of review

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

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

5.4.2 Overview of community and consultation practices

Council does not have a stand-alone community services manager. This is one of the many roles undertaken by Council's Manager Executive Services. Notwithstanding this, Council performance in this area has been reasonably sound. Its Social Plan is a comprehensive document, albeit one that lacks the necessary linkages with the management plan and annual report necessary to monitor implementation.

Council uses a number of mechanisms for consulting with the community, but this could be placed on a sounder methodological footing through the development of a community engagement strategy.

Finally, Council does not currently have a guarantee of service to inform the community of the customer service standards they may expect of the Council.

5.4.3 Significant Observations

Areas for improvement

5.4.3.1 Customer service

Council does not have a set of specific customer service standards in place against which to measure its performance. Council should develop a guarantee of service to set customer service standards that the community can assess Council's performance against.

Recommendation 59

Council should develop customer service standards as part of a guarantee of service.

Other matters that warrant comment

5.4.3.2 Social and community planning

The Social Plan is a well developed and well structured document. It is comprehensive and includes a solid demographic profile. The needs assessment comprises the mandatory target groups, as well as issues-based planning and locality-based planning. The issues include health, recreation, transport, education and employment, housing, safety and crime prevention, emergency services, cultural activities, community facilities and access, tourism, communication, telecommunications, drought and environment.

There is a strong commitment to community consultation during the preparation of the plan and for its implementation with a number of Committees referenced in the plan.

However, the review of the plan has identified the following areas for improvement:

- Improvements could be made to the implementation of the Social Plan through strengthening the link between the Management Plan and the Annual Report. The access and equity statement in the Management Plan could also be much stronger.

- The method for preparing the plan could be clarified in more detail.
- The planning for certain target groups could be strengthened by the use of an ageing strategy.
- It is difficult to find clear mechanisms for monitoring and evaluation, including when the plan will be reviewed.
- While the plan identifies high, medium and low priorities, there are currently no timeframes against any of the strategies.
- The Social Plan should be located under the link to ‘Council Documents’ on Council’s Website for greater ease of reference.

5.4.3.3 *Community engagement*

Council has been active in the past in undertaking community engagement. In 2005 it engaged a consultant to undertake a community survey on a variety of topics. The sample size was 1,100. Given the LGA population of 13,419, this represents a substantial sample. Council has not repeated the exercise since. Council will need to do so as part of the process for developing a community strategic plan. Council should also consider making this a more regular exercise albeit in a more simplified form.

Council uses a number of other processes for consulting with the community. These include section 355 committees. Council has set up a large number of section 355 committees for a range of purposes including the management of specific Council controlled community sites and facilities and for the purposes of consulting on matters such as heritage, cultural development, tourism and climate change. Commendably, Council has developed Committee Management Guidelines to assist the functioning of these committees. One concern, however, is that the code of conduct applying to committee members incorporated into the Guidelines is inconsistent with the Model Code of Conduct. Committee members are in fact subject to the provisions of the Model Code.

As commented above, Council allows public participation in Council meetings. However, as discussed above, there are no controls in relation to this and public participation has been allowed to disrupt the effective and efficient conduct of

Council meetings. Recommendations are made elsewhere in this report in this regard.

Council also undertakes community consultation through informal networking. While this is useful in small communities, Council should place its community consultation practices onto a sounder methodological footing by developing a formal community consultation strategy.

Recommendation 60

Council should undertake community surveys on a regular basis.

Recommendation 61

Council should review its Committee Management Guidelines to ensure they are consistent with the Model Code of Conduct.

Recommendation 62

Council should develop a formal community consultation strategy.

Council response

Within its limited resources (financial and staffing), Council participates in all celebrations for state, national and international community events. Applications for grant funding to run these events are submitted wherever possible.

Council believes that its s.355 committees are functioning very effectively. Significant support is provided to these committees by the Executive Services and Works Departments.

Council expended considerable resources creating a manual for the operation of s.355 committees and subsequently reviewing its committees. As a consequence a number were disbanded while the charter and membership of others were updated. All s.355 committees now have a Council representative ensuring that there is a real link back to Council. Nevertheless not all committees submit their minutes for Council's consideration in an effective and timely manner.

5.5 WORKFORCE RELATIONS

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

5.5.1 Scope of review

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

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

5.5.2 Overview of the organisation

Council currently employs 128 full-time equivalent staff. As discussed elsewhere in this report, Council is obliged under section 218CA of the Act to maintain two administration centres. Council is also required to maintain the same number of full-time equivalent positions in the Braidwood office as was employed by the former Tallaganda Shire Council to meet its obligations under section 218CA.

Council is split into 5 divisions: Works; Infrastructure and Planning; Environmental Services (which are overseen by Directors); Executive Services; and Finance (which are overseen by Managers). An IT systems coordinator and human resources manager also report directly to the General Manager.

The General Manager is the only employee of Council designated as senior staff under the Act.

The management of its workforce represents one of the key challenges confronting the Council. As expanded on elsewhere in this report, the issues faced by the Council in this regard include:

- An apparent lack of resources

- The need to comply with section 218CA
- Lack of depth of staffing
- Longstanding unfilled vacancies
- Limited capacity to compete for suitably skilled and experienced staff in the local employment market
- An ageing workforce with at least one key position due to retire in the next 18 months.

Council is yet to develop a workforce management strategy to assist it to meet and better manage these challenges.

The review team has identified a number of other key weaknesses in the framework governing the management of Council's workforce. These include:

- Lack of a human resources manual
- No documented recruitment and selection processes
- No Equal Employment Management Plan, as required under the Act.

5.5.3 Significant Observations

Areas for improvement

5.5.3.1 Workforce planning

Under the integrated planning and reporting framework, councils are now required to develop a workforce management strategy to address the human resource requirements of the council's delivery program. The workforce management strategy must be for a minimum timeframe of four years.

Council does not currently have a workforce management strategy and does not undertake any long term workforce planning. As with long term financial planning, given the challenges Council faces with respect to its workforce as described above, the development of such a strategy is imperative to its ongoing sustainability. Such a strategy will need to address these challenges.

Recommendation 63

Council should develop a workforce management strategy.

5.5.3.2 Organisational review

Under section 333 of the Act, councils are required to re-determine their organisational structure within 12 months of an ordinary election. As far as the review team can ascertain, Council has not re-determined its organisational structure since the September 2008 local government elections. Given the issues identified in this report, Council needs to attend to this as a matter of priority.

Council last undertook an organisational review in April 2007. Many of the issues identified in that review continue to be issues today and are reflected in this report. The review report anticipated that *“in time it may be necessary for functional areas to be split or relocated so as to ensure maximum resource efficiencies”*. There is no evidence that this has occurred in the intervening period.

In re-determining its organisational structure, Council should, undertake a functional review of the structure of the organisation to ascertain how it can better rationalise the allocation of staff and functions across the two administration centres in a manner consistent with the requirements of section 218CA.

Recommendation 64

Council should re-determine its organisational structure as required under section 333 of the Act, as a matter of priority.

Recommendation 65

In re-determining its organisational structure, Council should undertake a functional review of the structure of the organisation to ascertain how it can better rationalise the allocation of staff and functions across the two administration centres in a manner consistent with the requirements of section 218CA.

5.5.3.3 Employee surveys

Council does not currently undertake employee surveys. It will be necessary for Council to do so as part of the development of its workforce management strategy. Council should also consider undertaking such surveys on a regular basis.

Recommendation 66

Council should undertake employee surveys on a regular basis.

5.5.3.4 Human resources manual

In its response to the checklist, Council indicated that it did not have a human resources policy/procedure manual covering all of its human resources policies and procedures. The Human Resources Manager indicated that one was in the process of being developed but was yet to be formally adopted. Once adopted, this should be made available to all staff and posted on the intranet. Council should also provide staff with appropriate training in its adopted human resources policies and procedures.

Recommendation 67

Council should adopt a human resources policy/procedure manual covering all of its human resources policies and procedures, make it available to all staff, and provide appropriate training to staff on its human resources policies and procedures.

5.5.3.5 Recruitment procedures

Council currently does not have documented recruitment and selection procedures. To ensure appropriate selection processes, the Human Resources Manager sits on all recruitment panels.

While this practice may address some of the potential risks inherent in the recruitment process, it relies heavily on the availability of the Human Resources Manager and does not constitute a satisfactory substitute for documented recruitment and selection processes. Council needs to develop these as a matter of priority.

Recommendation 68

Council should develop and adopt documented recruitment and selection procedures.

5.5.3.6 Equal Employment Opportunity Management Plan

Council does not currently have an equal employment opportunity management plan. Councils are required to prepare an equal employment opportunity management plan under section 345 of the Act.

Recommendation 69

Council should develop an equal employment opportunity management plan consistent with the requirements of section 345.

Council response

- 1. Significant progress has been made on finalising the various policies and staff induction book.*
- 2. Council is currently undertaking a number of “staff refresher days” that are intended to cover all staff. These are in effect staff induction days covering a range of topics.*
- 3. Council has undertaken a staff climate survey and staff and management are working together to address the issues raised.*

6 RECOMMENDATIONS AND ACTION PLAN

The Action Plan is to be completed and adopted by Council to guide the implementation and monitoring of the recommendations in this report. The review team have allocated notional priority rankings using the risk rating analysis in the previous section. Council is encouraged to review and revise these, if necessary.

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
1. Council should explore options on how best to achieve the successful implementation of an integrated planning and reporting framework given its limited resources.	Medium				
2. Palerang and Queanbeyan City Councils should consider the possibility of Queanbeyan providing advice and assistance in implementing the recommendations made in this report.	Medium				
3. Palerang and Queanbeyan City Council should explore all options for formalising ongoing closer cooperation between the two organisations.	Medium				
4. Council should review its code of meeting practice to ensure that it is consistent with the Act and Regulation.	Medium				
5. In adopting the minutes of previous meetings, Council should confine its consideration of the minutes to the question of whether they accurately reflect the proceedings of that meeting.	Medium				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
6. Council should develop procedures to govern public participation in Council meetings.	Medium				
7. Council should minimise its use of committee of the whole.	Medium				
8. Councillors should refrain from asking questions without notice or making statements at council meetings about day to day operational matters.	Medium				
9. The Chair should refrain from participating in debate at meetings.	Medium				
10. Council should refrain where possible from departing from the order of business set in the agendas for meetings.	Medium				
11. Council should cease using 'orders of the day' at meetings.	Medium				
12. Where Council needs to bring an item of business forward in the agenda, it should only do so by resolution.	Medium				
13. Council should ensure that it complies with the requirements of the Act in closing meetings to the public.	Medium				
14. Before Council takes any further steps to post recordings of meetings on its website or to webcast meetings, it should undertake a thorough risk assessment of the practice.	Medium				
15. Council should develop rules governing the conduct of councillor information sessions.	Medium				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
16. Council should amend its staff-councillor information policy to provide a clear process for dealing with councillor requests.	Medium				
17. Council should amend its staff-councillor information policy to ensure that the provisions for dealing with breaches are consistent with the Model Code of Conduct.	Medium				
18. Council should, as a matter of urgency develop and adopt policies and procedures in relation to the following: <ul style="list-style-type: none"> the conduct of tenders for contracts with a value that exceeds the \$150,000 threshold prescribed under the Regulation procurement of goods and services below the \$150,000 threshold the disposal of assets the management of contracts. 	High				
19. Council should establish an Audit Committee and develop and adopt an Internal Audit Policy and methodology.	High				
20. Council should develop a Fraud Control Policy and routinely undertake systematic fraud risk assessments.	High				
21. Council should ensure that it complies with the requirements of section 328A of the Local Government Act 1993.	High				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
22. Council should review its section 252 policy to ensure that it complies with the Department's Guidelines.	High				
23. Council should adopt an internal reporting policy based on the Model Internal Reporting Policy for Councils contained in the NSW Ombudsman's Protected Disclosures Guidelines (6th edition).	High				
24. Council should post its policies on its intranet and provide training to staff on its policies.	High				
25. Council must ensure that it complies with its obligations under section 407 of the Act.	High				
26. Council should consolidate its quarterly budget and management plan reviews into a single report.	Low				
27. Council should ensure that its quarterly management plan reviews cover all of the activities identified in its management plan.	Medium				
28. In its next management plan, Council should set KPIs for each of its proposed activities for the coming year and ensure they are all cross-referenced with its strategic statements.	High				
29. In its next management plan Council should ensure that the KPIs it sets for each of its proposed activities are clear and readily measurable.	High				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
30. Council should ensure that its next management plan complies with the requirements of the Act.	High				
31. Council should ensure that its annual report covers all of the activities identified in its management plan.	Medium				
32. Council should ensure that its next annual report complies with statutory requirements.	High				
33. Council should include fields in its gifts register to ensure all relevant information is entered where a gift of value has been accepted.	Medium				
34. Council should incorporate information on the obligations of councillors' and staff in relation to the disclosure of gifts into its induction and ongoing training programs.	Medium				
35. Council should incorporate information on the obligations of councillors' and staff under the pecuniary interest provisions of the Act into its induction and ongoing training programs.	Medium				
36. Council should develop a business continuity plan.	Medium				
37. Council should develop a legislative compliance framework.	Medium				
38. As part of its internal audit program, Council should audit the exercise of delegations on a regular basis.	High				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
39. Council should review its complaints management policy to ensure that it reflects best practice as described in the Division's Practice Note 9 - Complaints Management in Council.	Medium				
40. Council should develop an access to information policy.	Medium				
41. Council should put in place an electronic customer request system.	Medium				
42. Council should undertake a functional review of both the East and West Development Control Units to determine how the units can be better integrated and to identify any efficiencies that can be achieved by doing so.	High				
43. Council should provide a pre-lodgement advice or meeting service to DA applicants.	High				
44. Council should develop a comprehensive procedure manual for processing DAs.	High				
45. Council should undertake a comprehensive needs analysis of the IT requirements of the Planning and Environmental Services Division.	High				
46. Council should develop the following: <ul style="list-style-type: none"> • a new on-site sewerage management strategy • an on-site sewerage management register 	Medium				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
47. Council should develop a companion animals management plan.	Medium				
48. Council should develop procedures to guide the exercise of its regulatory functions with respect to companion animals.	Medium				
49. Council should develop strategies for proactively seeking companion animal registrations.	Medium				
50. Council should develop a compliance program to ensure it is notified of all domestic swimming pools in the LGA and that these comply with the Swimming Pools Act 1992.	High				
51. Council should seek to have the issues identified in this report in relation to its State of the Environment Report addressed in future State of the Environment Reports that are prepared for it.	Low				
52. Council should develop a long term financial plan.	High				
53. Council should develop plans of management for its land holdings that are classified as community land.	High				
54. Council should establish and maintain a register of leases or licences for land that it owns or is under its care and control.	High				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
55. Council should ensure that income generated from Crown reserves under Council's care and control is deposited into its trust fund.	High				
56. Council should review its approach to developing an asset management framework to ensure that it complies with the new statutory requirements.	Medium				
57. Council needs to ensure that adequate provision is made for expenditure on asset maintenance.	Medium				
58. As part of the development of a long term financial plan, Council should develop a contingency plan in the event revenue from private and RTA works ceases.	Medium				
59. Council should develop customer service standards as part of a guarantee of service.	Low				
60. Council should undertake community surveys on a regular basis.	Medium				
61. Council should review its Committee Management Guidelines to ensure they are consistent with the Model Code of Conduct.	Medium				
62. Council should develop a formal community consultation strategy.	Medium				
63. Council should develop a workforce management strategy.	Medium				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
64. Council should re-determine its organisational structure as required under section 333 of the Act, as a matter of priority.	High				
65. In re-determining its organisational structure, Council should undertake a functional review of the structure of the organisation to ascertain how it can better rationalise the allocation of staff and functions across the two administration centres in a manner consistent with the requirements of section 218CA.	High				
66. Council should undertake employee surveys on a regular basis.	Medium				
67. Council should adopt a human resources policy/procedure manual covering all of its human resources policies and procedures, make it available to all staff and provide appropriate training to staff on its human resources policies and procedures.	High				
68. Council should develop and adopt documented recruitment and selection procedures.	High				
69. Council should develop an equal employment opportunity management plan consistent with the requirements of section 345.	High				

APPENDIX – RISK RATING OF RECOMMENDATIONS

The recommendations made in this report have been assessed for a priority ranking based on the following risk analysis.

		CONSEQUENCE		
		Significant <i>Significant risk to the operations of council and if not addressed could cause public outrage, non-compliance with council's statutory responsibilities, severe disruption to council's operations and council's ability to meet its goals.</i>	Moderate <i>Moderate risk to the operations of council and if not addressed could cause adverse publicity, some disruption to council's operations and council's ability to meet its goals.</i>	Minor <i>Minimal risk to the operations of council, little disruption to council's operations and will not limit council's ability to meet its goals.</i>
LIKELIHOOD	Almost certain	High	High	Medium
	Possible	Medium	Medium	Low
	Rare	Medium	Low	Low

Priorities for recommendations: <i>(based on application of risk analysis)</i>	Risk categories could include:
<ul style="list-style-type: none"> • High • Medium • Low 	<ul style="list-style-type: none"> • Reputation • Compliance with statutory requirements • Fraud/corruption • Financial • Legal liability • OH&S