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Promoting Better Practice Program

REVIEW REPORT

WINGECARRIBEE SHIRE COUNCIL

APRIL 2012



Division of Local Government
Department of Premier and Cabinet

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EXECUTIVE SUMMARY

In 2010, Council took proactive steps to review its operations by using the Promoting Better Practice (PBP) checklist to identify areas for improvement in Council's operations. As a result, Council has developed its own detailed action plan based on its assessment of its performance against the checklist. The action plan summarises the areas for development/improvement, person/s responsible and timelines. It has been noted that Council has made progress toward implementation of the matters referred to in the action plan and is to be commended for its efforts.

The review of Wingecarribee Shire Council involved focussing on areas of better practice, areas requiring improvement and otherwise noteworthy practice. In this regard, the report does not focus on every aspect of Council's practices.

Overall, Council has some effective systems and processes in place to ensure it meets its legislative obligations. Council has a staff position that is charged with the responsibility of overseeing corporate governance for the organisation. However, there are some important aspects of Council governance that will need to be reviewed and improved, particularly in the areas of meetings, code of conduct and internal controls.

Council was a Group 2 Council for the implementation of the Integrated Planning and Reporting Framework and was able to meet the timeframe set for implementation of the framework. Council has a genuine commitment to engaging with its community and has clearly articulated the activities it proposes to undertake to meet the needs and expectations of the local community.

Council regularly reviews its development assessment processes and has a sound approach to the processing of development applications. However, the review team is concerned about the councillors' approach to 'calling-up' development applications to Council for determination and conflicts between councillors and planning staff in terms of recommendations made.

In summary, the review identified no practices beyond or above minimum compliance requirements, some noteworthy practices and several issues that the Council will need to address and improve on. The report provides details of these and recommends how they should be addressed.

PART I. BACKGROUND

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 (the Division) 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. It does 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 and areas requiring improvement or further development.

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 the review report is limited to documenting those areas the review team identified as:

- exceeding good practice (referred to as better practice)
- in need of improvement or further development

- otherwise noteworthy for the reasons detailed in the body of the report.

SIGNIFICANT OBSERVATIONS	DESCRIPTION
Better practice	<ul style="list-style-type: none"> • Beyond or above minimum compliance requirements and good practice indicators. • Innovative and/or very effective. • Contributes to continuous improvement within the sector.
In need of improvement or further development	<ul style="list-style-type: none"> • Does not satisfactorily meet minimum compliance and good practice indicators and may impact negatively on council operations. • Significant improvement initiatives that are in progress and which need to be continued.
Otherwise noteworthy	<ul style="list-style-type: none"> • May include successful initiatives which respond effectively to local circumstances or practice that is in other ways significant for the council/community. • Practice which in general exceeds good practice but may have some aspects that require fine tuning.

Wingecarribee Shire Council Review

Wingecarribee Shire Council was asked to complete a comprehensive checklist/questionnaire about key Council practices. The review team comprised Senior Investigations Officer, Katrina Annis-Brown, Assistant Investigations Officer, Cathy Collins, and Senior Finance Officer, Ross Bailey, who examined these and a range of other source documents prior to visiting Council in order to gain a preliminary understanding of the circumstances of Council and how the Council is responding.

The on-site component of the review took place in July 2011. It involved initial interviews with the Mayor and the General Manager, interviews with a cross-section of staff, attendance at a Council meeting, and review of Council policies and other documents.

Implementation and monitoring of recommendations of final report

Council has developed an action plan to assist with the implementation and monitoring of the outcomes from the review program. The recommendations from the review report are to be incorporated into this plan. The Division does not propose to monitor the

implementation of the recommendations of this report. This responsibility will rest with the elected body and senior management of Council.

In monitoring the implementation of the outcomes of the review, Council should ensure that the PBP review remains a standing item on the Executive agenda to review Council's response to the review. Council should also be provided with quarterly reports advising on the progress of implementing the PBP actions.

2 ABOUT THE COUNCIL AND THE AREA

Location and demographics

The Wingecarribee Shire local government area is located 75 kilometres from the south western fringe of Sydney and comprises three main towns: Mittagong, Bowral and Moss Vale, situated in close proximity and home to 61% of the population. Located 20 kilometres further south is the smaller town of Bundanoon, home to another 6% of residents. Villages scattered throughout the Shire collectively represent 17% of the population as do rural districts Shire-wide. The total area of the Shire is 2,700 square kilometres with a total population in 2006 of 42,272 people (Australian Bureau of Statistics 2006 Census data) and a median age of 42 years.

Current Council

Council consists of 9 councillors including the Mayor. The current Council has a mix of experienced and new councillors with one female councillor. Council meets on the second and fourth Wednesday of every month.

Council staffing

Wingecarribee Shire Council is one of the largest employers in the local government area, employing 336 equivalent full-time staff. Council's annual expenditure budget for the 2011/2012 financial year is \$75.7M.

Council has 1 senior staff position as defined by the *Local Government Act 1993* (the Act), being the position of General Manager, who was appointed to the role in December 2009. The organisation is divided into 3 business units: Corporate Services Division, Environment and Planning Division, and Infrastructure Services. The General Manager and the Directors of each business unit form the senior Executive team. Council's organisation structure was last reviewed in 2010, which saw a number of changes made.

3 SUMMARY OF KEY FINDINGS

Better practices/Other noteworthy practices		Areas for improvement	
STRATEGIC POSITION			
	<i>Council has a genuine commitment to community consultation</i>		<i>Council needs to provide more information in its Community Engagement Strategy</i>
	<i>Council’s community strategic plan is comprehensive and well laid out</i>		<i>Council needs to ensure its Delivery Program meets legislative requirements</i>
GOVERNANCE			
			<i>Council should review its Complaints Handling policy, particularly in relation to unreasonable complainant conduct, and report on complaints received</i>
			<i>Council should adopt its revised code of meeting practice, as a matter of priority, to ensure consistency with the Act and Regulation</i>
			<i>Council should examine its meeting practices</i>
			<i>Council should finalise its Gifts and Benefits policy</i>
			<i>Council should review its gifts and benefits register and provide adequate training to staff</i>
			<i>Council should consider seeking the Division’s assistance in holding a workshop with councillors</i>
			<i>Council should develop an induction program for</i>

Better practices/Other noteworthy practices		Areas for improvement	
			<i>councillors</i>
			<i>Council should submit the completed return of interest forms to the Division for the period 2010/2011</i>
			<i>Council should develop a pamphlet to assist councillors and designated persons in the completion of their Disclosure of Interest Returns</i>
			<i>Council should engage a person to facilitate a process to assist councillors in reconciling their differences</i>
			<i>Council needs to develop a Fraud Control policy and conduct a fraud assessment</i>
			<i>Council should develop a compliance register to ensure legislative and regulatory obligations are met, as a matter of priority</i>
			<i>Council should review the membership of its Audit Committee</i>
PLANNING AND REGULATORY			
			<i>Council should develop a policy relating to the call-up of development applications</i>
			<i>Council should include provisions in the call-up policy requiring councillors to provide reasons where they go against the recommendations of planning staff</i>

Better practices/Other noteworthy practices		Areas for improvement	
			<i>Council should develop a register of all domestic swimming pools</i>
			<i>Council should develop and implement a formal swimming pools compliance program</i>
ASSET AND FINANCIAL MANAGEMENT			
			<i>Council should look at various measures to either increase its revenue or decrease its expenditure</i>
			<i>Council should be replacing its infrastructure assets as they are being consumed</i>
			<i>Council should review its pricing policy for its Water Supply Fund to allow it to recover costs</i>
			<i>Council should review its Long Term Financial Plan to at least report an operating surplus before capital grants</i>
			<i>Council should complete its Asset Management Plans in line with the Integrated Planning and Reporting Guidelines, and, if necessary, update its Long-Term Financial Plan</i>
			<i>Council should ensure that it has plans of management for all of its community land and that there is a process in place for the ongoing review and updating of those plans</i>

Better practices/Other noteworthy practices		Areas for improvement	
COMMUNITY, COMMUNICATION AND CONSULTATION			
	<i>Council’s Community Engagement Strategy, while yet to be adopted by Council, outlines the various roles and responsibilities of councillors and staff regarding community engagement</i>		<i>Council should develop a set of customer service standards to monitor and report on all Council services</i>
			<i>In developing customer service standards, Council may wish to consider seeking input from the community</i>
WORKFORCE RELATIONS			
	<i>Council is involved in a WorkCover Alliance and has developed a Strategic Safety Plan</i>		<i>Council needs to develop a Secondary Employment policy and develop an application form and guidelines to assist staff regarding their secondary employment obligations</i>
			<i>Council should develop and implement, as a matter of priority, an Injury Management and Return to Work policy</i>

PART II. PLANNING A SUSTAINABLE FUTURE

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.

4 STRATEGIC PLANNING AND REPORTING

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. The community strategic plan is supported by a resourcing strategy that includes long term financial planning, asset management planning and workforce management planning. The framework is set out in the following diagram.



Noteworthy practices

Council's strategic approach

Council nominated itself to Group 2, which means that the provisions of the Local Government (General) Amendment (Planning and Reporting) Regulation 2010 applied from 1 July 2011. From that time, Council has been required to comply with the requirements of the *Planning and Reporting Guidelines for Local Government in NSW*. A supporting manual has been made available to assist councils in implementing the new requirements.

Development and successful implementation of the components of the framework require effective leadership and commitment from the Mayor, General Manager and all councillors. The specific roles of each of these officials are highlighted in the *Integrated Planning and Reporting Manual*.

Wingecarribee Shire Council has prepared the plans required to comply with the integrated planning and reporting framework. The Community Strategic Plan (*Wingecarribee 2031+*), Delivery Program and Operational Plan are comprehensive, easy to navigate and understand. Council's commitment to community consultation (see comment in the Community and Consultation section of this report) appears genuine and reflects the needs of a broad cross-section of the community. The Delivery Program and Operational Plan directly address the themes, goals and strategies of the Community Strategic Plan and identify the principle activities that Council will undertake to achieve these.

Community strategic plan

The *Wingecarribee 2031+* plan is comprehensive, well laid out and easy to read. The plan includes 5 key themes, which broadly align with the quadruple bottom line principles. Each theme highlights links to relevant State plans and is broken down into a number of clear goals. Each goal contains a number of clear strategies. Council's role is clearly identified under each goal, either as leader, facilitator or advocate. The plan also contains a useful section explaining how to read the plan.

However, Council should be mindful that some of the indicators in the 'Measuring our progress' section of each theme may be beyond the scope of Council's influence, for

example, references to number of people who are overweight or obese and number of people who have insufficient fruit intake. In addition, Council could update the plan to clarify how community priorities were established, including how issues raised during community engagement were incorporated into the plan.

Areas for improvement

Community engagement strategy

A Community Engagement Strategy was developed and implemented during the Community Strategic Plan development process. The 'Report on Community Engagement Strategy' details the engagement undertaken in the development of the plan. However, it does not appear to include detailed information about the nature of responses during each step of consultation, for example, how many residents responded to surveys or participated in workshops. It is also unclear how community feedback was incorporated into the plan during the consultation process or how social justice groups were engaged.

Recommendation 1

Council should provide more information in the Community Engagement Strategy about how community feedback was incorporated and how social justice groups were engaged during development of the plan.

Council response

Council developed a community engagement strategy for Council which underpins Council's Community Engagement Policy. Both these documents are broad in their nature to reflect all of Council's operations. Detailed plans were developed by an internal project team for each phase of engagement for development of W2031+. These are not included in the Council's community engagement strategy as these are organisational documents, not project specific.

Detail regarding how community feedback was incorporated into W2031+ is outlined in 'Report on Community Engagement Strategy W2031+'.

A review of Council's community engagement strategy will be undertaken in 2012 as part of our ongoing improvement processes. Identification of specific methods of engaging with social justice groups on issues and projects will be part of this review.

Delivery program

The Delivery Program is effectively presented together with the Operational Plan in a single document, with timeframes, performance measures, responsibility for implementation and budget source clearly allocated for each Delivery Program Strategy and Operational Plan action.

However, the Delivery Program only includes detailed budget and financial projections for all Council activities for the 2011/12 and 2012/13 period. The integrated planning and reporting framework requires the inclusion of detailed budget and financial projections for a 4 year period.

Recommendation 2

Council should review its Delivery Program to ensure it meets the legislative requirements of the Integrated Planning and Reporting Framework.

Council response

Producing a 2 year Delivery Program is a valid transitional arrangement for Group 2 Councils. The above recommendation is inconsistent with advice previously received from Divisional staff.

PART III. DELIVERING AND ACHIEVING

This part of the review focussed on examining key structures, systems and processes involved in delivering the stated outcomes of Wingecarribee Shire Council's Community Strategic 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 GOVERNANCE

5.1 OVERVIEW

"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

- | | |
|--|---|
| • <i>Ethics and values</i> | • <i>Council's decision-making processes, including delegations and conduct of meetings</i> |
| • <i>Management planning</i> | • <i>Support for councillors</i> |
| • <i>Procurement, disposal & tendering</i> | • <i>Records management</i> |
| • <i>Privacy management</i> | • <i>Access to information</i> |
| • <i>Code of conduct</i> | • <i>Complaints handling</i> |
| • <i>Communication devices</i> | • <i>Information technology</i> |
| • <i>Disclosure of pecuniary interests</i> | |

- *Risk management, legislative compliance and internal control*

5.1.2 Overview of Wingecarribee Shire Council's governance practices

Overall, Wingecarribee Shire Council has some effective governance systems and processes in place. Council has established a position that is charged with the responsibility of overseeing corporate governance for the organisation, being the position of Manager Governance. However, there are some important areas where Council should improve its practices.

5.1.3 Significant Observations

Areas for improvement

Complaints handling

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

Council's Complaints Handling Policy and associated Procedure Statement was issued on 9 May 2007. A review of the policy has revealed a number of areas requiring improvement. For example, the policy does not identify that complaints relating to alleged breaches of the code of conduct by a councillor, member of staff or delegate of Council must be dealt with in accordance with the procedures prescribed under the Model Code of Conduct, rather than Council's normal complaint handling procedures. In addition, the policy refers to '*Dealing with Difficult Complainants*'. Council should review the language used in its policy to ensure that it is consistent with the Practice Manual developed by the NSW Ombudsman titled *Managing Unreasonable Complainant Conduct – 1st edition (June 2009)*. This manual advocates the need to focus on the conduct of the complainant, rather than on the complainant as a 'difficult' person.

Council's Complaints Handling Procedure Statement provides that Council officers at all levels of the organisation can be involved in the first level of complaint handling. However, Council advised that only customer service staff have been provided with training in Council's Complaints Handling policy. Council should ensure that all staff are provided with training in Council's Complaints Handling policy to enable them to be in a

position to recognise complaints and understand their roles and responsibilities under the policy. Staff should also be provided with direction as to the manner in which unreasonable complainant conduct may be appropriately managed.

Council advised that it is not capturing complaint data and separating this from customer service requests. It is important that complaint data is captured accurately to enable Council to identify whether changes are required to Council's systems and the areas of change, as a result of complaints received. It is suggested that Council report on the number of complaints received, the progress of handling complaints and the outcome of complaints to Council on a regular basis.

The NSW Ombudsman and the then Department of Local Government produced a joint publication titled *Practice Note No 9 – Complaints Management in Councils*. This resource has been prepared to assist councils in the management and handling of complaints. In particular, it has been designed for use by councils to develop and implement effective complaints management systems.

Recommendation 3

Council should review and update its Complaints Handling policy to ensure that it is consistent with Practice Note 9 – Complaints Management in Councils.

Council response

Complaint Policy was adopted by Council on 9 May 2007 and will be revised taking into account unreasonable complainant conduct.

Complaints are currently being reported in Performance Planning.

Reviewers' comment

Council has advised that, since January 2012 a total of 50 staff have been provided with training in complaint handling. Further, complaint handling was introduced into Council's corporate induction sessions from March 2012. As a result the recommendation relating to Council staff training in complaints handling procedures has been removed.

Councillor expenses and facilities policy

A policy on the payment of expenses and provisions of facilities to the Mayor and councillors is a requirement under section 252 of the *Local Government Act 1993*. Councils are required to submit their expenses and facilities policies to the Division by 30 November each year. Policies are required to comply with the provisions of the Act, the Local Government (General) Regulation 2005 (the Regulation) and relevant guidelines issued under section 23A of the Act.

The Division issued updated guidelines for the preparation of policies under section 252 in October 2009. Council's policy indicates that it was approved in November 2010. Aspects of the policy considered as being good practice are that it is well structured and easy to read, includes a clear definition of Council business and the reporting of the policy in the annual report includes a breakdown of Mayoral and councillor fees by individual councillor.

However, the policy is inconsistent with the Guidelines issued by the Division in a number of respects, including:

- a prohibition on the payment of expenses and the provision and use of Council resources for political purposes, such as re-election or political fundraising;
- a statement that gifts and benefits should be of token value only;
- clear limits for all expenses provided;
- a suitable rate and/or mechanism for the reconciliation and reimbursement by councillors of private use of Council facilities (other than incidental use);
- a dispute resolution process for expenses and facilities;
- expenses for training and development.

In addition to revising the policy to address the above, Council should consider including a separate statement in the policy outlining approval processes for all councillor expenses and facilities.

Meetings

Consistent and proper meeting practices contribute to good public decision-making and increase councils' transparency and accountability to their communities. The review team inspected a sample of Council's minutes and attended Council's ordinary meeting

on 27 July 2011. Some general observations about meetings and areas for improvement are as follows:

- Wingecarribee Shire Council has adopted a code of meeting practice to guide the conduct of its meetings. Under section 360 of the Act, councils can adopt a code of meeting practice that incorporates the provisions in the Regulation and supplements those provisions with ones that are not inconsistent with them. Council's code of meeting practice makes provision for 'General Business Questions from Councillors'. The general provision is that a council must not transact business at a meeting unless a councillor has first given notice of the business in writing within the period fixed by the council's code of meeting practice or by council's resolution (clause 241 of the Regulation). The Regulation provides limited exceptions to the general provision. The review team was provided with a copy of a revised draft code of meeting practice, prepared by staff, which removes the general business section. Unfortunately, staff have met with resistance from councillors and the revised code has yet to be adopted by Council. The inconsistency with the Regulation should be rectified immediately.
- Council holds Council meetings on the second and fourth Wednesday of each month. In addition, Council holds councillor briefing sessions on the Monday prior to each Council meeting and has a large number of Council committees. Council's code of meeting practice and the Regulation allows councillors to ask questions of a staff member. Questions must be put succinctly and without argument. The chairperson must not allow any discussion on any reply or refusal to reply to such questions (clause 249 of the Regulation). At its Council meetings, Council has matters referred to as 'Visitor Items', where staff are requested to attend the meeting to provide presentations to Council regarding the subject of the report and answer questions from councillors. The review team observed that discussion was allowed on the reply provided by staff and that in some instances, councillors engaged in debate with the staff member. Not only is this practice inconsistent with the Regulation, it also has the effect of holding up Council business and does not indicate efficient decision making. It is suggested that councillors should take time before the Council meeting to clarify matters in staff reports with the General Manager. If the reports do not provide sufficient information for councillors to make decisions, then the content and format of the

report should be reviewed to ensure that the reports meet the councillors' needs. Council should also consider reviewing its meeting practices with a view to introducing efficiencies into its decision making.

- During the course of a council meeting a council may resolve itself into 'committee of the whole' under section 373 of the Act. That part of the council meeting then becomes a committee meeting. The only advantage of a council forming a committee of the whole is that by reason of clause 259 of the Regulation the limits on the number and duration of councillor speeches referred to in clause 250 of the Regulation do not apply. The committee of the whole may not pass a resolution. It makes recommendations to council in the same way as any other committee of council. Once the committee has completed its business and the council meeting has resumed council considers any recommendations made by the committee of the whole.

Council appears to be using the technique of moving itself into committee of the whole by resolving itself into 'Open Council'. During this time the Mayor vacates the chair, with another councillor nominated to chair the meeting and the provisions limiting the number and duration of speeches are relaxed. While this is considered to be an efficient way for Council to make decisions, the following matters are brought to Council's attention. Firstly, Council should consider renaming this part of the meeting 'committee of the whole' to remove any ambiguity that this part of the meeting has become a committee meeting. Secondly, when the Mayor resumes the chair at the conclusion of the committee meeting, Council should resolve to resume the Council meeting. Thirdly, with respect to planning matters, while each councillor's vote is recorded in the minutes pursuant to section 375A of the Act during the committee of the whole meeting (Open Council), the vote should also be recorded when Council adopts any recommendations made by the committee.

- A record of disclosures of conflicts of interests should be made at the beginning of Council's meeting and recorded in the minutes. This should include the type of interest (pecuniary or non-pecuniary; and if non-pecuniary, whether or not the interest is significant or less than significant), the nature of the interest and the action proposed to be taken by the councillor to manage the conflict.

The minutes of Council's meeting of 28 September 2011 record the following disclosures:

"Clr T D Gair declared a less than significant non-pecuniary interest ... as his son is a friend of the applicant. ... He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon.

Clr L A C Whipper declared a less than significant non-pecuniary interest ... as he is a member of the Board of the Sydney Catchment Authority (SCA) and the SCA was referred to in the report as a consent body. He stated that he would remain in the chamber when this matter was discussed, take part in the debate and vote thereon."

This disclosure fails to comply with the requirements of the Model Code of Conduct. Where the interest is less than significant and the councillor determines that no further action is required, an explanation must be provided of why the conflict does not require further action in the circumstances (section 7.18 Model Code of Conduct).

- Where councillors are unable to attend a meeting, a leave of absence should be sought from the Council. A leave of absence is a formal permission granted by way of a Council resolution to a councillor excusing that councillor's attendance at the Council meeting.

A review of Council's minutes indicates that councillors are advising Council of their inability to attend a meeting by tendering an apology. The minutes record this in a section titled 'Apology' and in the following terms: *"THAT the apology of ... be accepted and leave of absence granted"*. Notwithstanding the Council's grant of a leave of absence, the tendering of an apology has no recognition in either the Act or the Regulation.

It is important that councillors seek a leave of absence prior to the meeting because a leave of absence may be granted at the discretion of the Council. In addition, section 234(1)(d) of the Act provides that a civic office becomes vacant where the office holder is absent from three consecutive ordinary meetings of the Council without prior leave of the Council or leave granted by the Council at any of the meetings concerned.

Recommendation 4

Council should adopt its revised code of meeting practice, as a matter of priority, to ensure it is consistent with the requirements of the Act and Regulation.

Council response

A draft report is being prepared for Council's consideration in the new year.

Recommendation 5

Council should examine its meeting practices with a view to improving their efficiency and effectiveness.

Council response

A review of Council's meeting practices can be undertaken at an Information Session.

Gifts and benefits

Council officials at some stage in their career may be offered a gift or benefit in the course of their work. The gift or benefit could be offered innocently or in good faith, or could be offered in an attempt to influence the council official.

If council officials accept a gift or benefit, this can give rise to feelings of obligation on their part towards the giver. It can also create perceptions that they are, or will be influenced because of the gift or benefit.

Council does not have a Gifts and Benefits policy. Council advised that it considers the appropriateness of gifts and benefits under its code of conduct and that a draft Gifts and Benefits policy has been prepared. The development of such a policy would enable Council to expand and clarify Council's current procedures with regard to gifts and benefits.

Council maintains a gifts and benefits register. Several entries in the gifts and benefits register cover instances where it appears some staff, contrary to the Code, accepted gifts that could be described as a gift or benefit of value. While these may have involved instances where staff were unable to decline or to return the gift or benefit, there is no notation in the register to this effect. Further, the gifts and benefits register does not appear to contain details regarding the position of the person receiving the gift and what

happened to the gift, for example, whether it was accepted, returned or surrendered. In addition, Council does not appear to analyse trends in relation to the types of gifts/benefits offered, how regularly and in what circumstances.

Recommendation 6

That Council finalise the development of a Gifts and Benefits policy.

Council response

A draft policy is being prepared for consideration by council early in the new year.

Recommendation 7

Council should review the details provided in the gifts and benefits register and ensure that adequate training is provided to enable staff to manage situations where gifts and benefits may be offered.

Council response

A review can be undertaken for Gifts and Benefits and review training requirements in this area.

Councillor/Staff Interaction

One of the areas of concern raised by a number of staff was the issue of how relationships between councillors and Council staff are managed. This is notwithstanding that Council has a policy on ‘Councillors’ Access to Information and Interaction with Staff’ dated October 2007. Unfortunately, it appears that this policy has not been read and/or is being ignored. In addition, the policy contains outdated references to the code of conduct and the Act and should be reviewed and updated accordingly.

Of specific concern to the review team was the number of staff who indicated that councillors are “hands on” when it comes to raising concerns or issues on behalf of constituents, that councillors are delving into operational matters and are criticising staff in public forums. The review team observed this during the Council meeting, particularly during the matters referred to as ‘Visitor Items’ (referred to previously in the report under the heading ‘Meetings’). It was evident that some councillors are using this as an

opportunity to debate the content of staff reports, often in an overbearing manner, and appear to be pressuring staff as to the recommendations they should make. Councillors are reminded that it is a breach of section 352 of the Act to direct or influence staff in the performance of their duties. Staff should feel that they are able to provide free and frank advice based on their professional experience and expertise and in accordance with Council policies.

In reviewing its 'Access to Information and Interaction with Staff' policy, Council should consider providing guidelines to councillors regarding how to raise operational matters with Council staff. For example, the guidelines should detail how constituents' concerns and service requests should be made and what feedback the councillor can expect when the concern/issue has been addressed, including:

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

Another area of concern for the review team is the growing number and nature of code of conduct complaints (referred to further in the report under the heading 'Code of Conduct'). It appears that councillors are using the code of conduct as a means of attacking one another, rather than resolving differences in a mature and professional way.

If poor relationships between councillors and staff, and between councillors, are allowed to continue, this could have a destabilising effect on the Council. It is clear to the review team that staff morale is being adversely affected by councillor behaviour. Councillors should be leading by example, making decisions in the best interests of the whole community and resolving differences in a professional and mature way.

Recommendation 8

Council should consider seeking the Division's assistance in holding a workshop with councillors to discuss their role and responsibilities and meetings practice.

Council response

Division to be requested to meet with Councillors.

Councillor induction and ongoing training

New councillors require induction training to equip them with the skills required to properly carry out their duties and allow them to be effective members of Council's governing body. To assist councillors to achieve these goals, councillor induction training should familiarise councillors with the activities and functions of their council and the legislative framework in which they operate. The program should ensure that councillors are made aware of their general legal responsibilities as elected members.

Council has not developed a structured training and development program. Instead, councillor induction training is carried out on an ad-hoc basis.

An induction program would provide councillors with an opportunity to receive essential information relating to the business of Council in a structured and consistent way. It would also enable councillors to avail themselves of relevant training and development opportunities to assist them in keeping up-to-date with changes in local government and in undertaking their role.

Recommendation 9

Council should develop an induction and professional development program for all councillors.

Council response

The formalisation of Council's current induction program would meet this request and will be completed prior to the September elections in 2012.

Council considers that the Division of Local Government should develop a suitable program for all Councils to follow.

Pecuniary Interest Returns

Under section 449 of the Act councillors and designated persons are required to complete and lodge disclosure of interest returns. It is important that councillors and staff observe these requirements; otherwise, this has the potential to seriously undermine the community's confidence in the integrity of local government and the decision-making processes.

The review team conducted a review of disclosure of interest returns for councillors and a number of returns of Council's senior managers. Of serious concerns to the review team is that a number of returns appear to be in technical breach of the Act and Regulation. Generally, the deficiencies identified related to:

- The form of return used by Council was not consistent with the form of return required by Schedule 3 of the Regulation.
- In some cases, the blank areas of the returns had not had 'nil' entered as required.
- The full details of the employer's address were omitted.
- The nature of interests in real property was not properly disclosed.
- Sources of income were not properly disclosed at section B3 on the form.
- Debts were disclosed at section G on the form, which were not required to be disclosed (mortgages to banks).

The review team raised these concerns with Council's General Manager and Manager Governance while on site. The review team was advised that the resources produced by the Division had been provided to councillors and designated persons to enable them to complete their disclosure returns accurately. Unfortunately, it appears that such resources had not been read and that there was a general lack of understanding of the requirements of the Act and Regulation. The use by Council of incorrect forms had contributed to this confusion.

Council was advised to amend its form immediately and use the Word© version of the form that is provided on the Division's website. The review team also suggested that Council provide further training to assist in the completion of the returns and that the returns be reviewed by the Manager Governance to ensure accurate information is recorded.

To assist Council in this regard, the Division will require the returns for all councillors that are completed for the return period of 1 July 2010 to 30 June 2011 to be submitted to the Division for review.

Recommendation 10

That Council submit the councillor return of interest forms for the 2010/2011 period to the Division following their completion.

Council response

Council submitted the completed return of interest form to the Division for the period 2009/2010. Council staff to check and forward completed returns for the period 2010/2011 to the DLG.

Reviewers' comment

Council has advised that it has adopted the disclosure of interests form of return under the Local Government (General) Regulation 2005. As a result the recommendation relating to Council adopting the prescribed form of return has been removed.

Council response

Council believes that private addresses of staff should not be required on the returns for security of staff and that legislation should be amended accordingly.

Reviewers' comment

The Regulation provides that an interest in real property is a matter that must be included by a councillor or designated person in their disclosure of interest form. If Council has concerns regarding the security of persons required to complete the returns, it should consider availing itself of section 739 of the Act which provides in part:

“Protection of privacy

- (1) *A person may request that any material that is available ... for public inspection by or under this Act be prepared or amended so as to omit or remove any matter that would disclose or disclose the person's place of*

living if the person considers that the disclosure would place or places the personal safety of the person or of members of the person's family at risk.

- (3) *The request is to be made to the general manager...*
- (4) *The request is to be in the form prescribed by the regulations, to give particulars of the relevant risk and to be verified by statutory declaration by the person making the request or by some other person.*
- (5) *The person to whom the request is made may grant the request if satisfied that disclosing or continuing to disclose the matter would place or places the personal safety of the person or of members of the person's family at risk."*

Code of Conduct

Council's code of conduct, when adhered to and applied correctly, provides guidance on the standards of behaviour expected of Council officials, encourages ethical and transparent decision making and protects the probity of Council's decisions.

A review of Council's code of conduct found it to be consistent with the *Model Code of Conduct for Local Councils in NSW* (the Model Code).

However, as stated earlier in the report, the improper use by councillors of Council's code of conduct for making complaints about other councillors is having an adverse impact on Council. The relationship between councillors is poor and it appears that code of conduct complaints are being made as a means of scoring political points. This is further aggravated by what appears to be a lack of understanding, at both the Council and administrative level, of the correct processes in managing complaints under Council's code of conduct. This was evidenced during Council's recent consideration of a conduct reviewer's report alleging breaches of Council's code of conduct by a councillor.

Following the Division's review of the matter, it became apparent that some members of Council were of the view that Council's role is to 'review the reviewer'. In particular, that when a report from the conduct review committee (the committee) or sole reviewer is brought to Council for consideration, the principles of procedural fairness dictate that the

Council must satisfy itself that all information has been included, that the findings are based on the evidence and that the reviewer has been impartial. This is not correct.

Unlike a criminal investigation, the process that should be applied to code of conduct matters is that of a fact finding inquiry. Fact finding inquiries are concerned with the collection and analysis of information in order to determine the truth or falsity of an allegation with a view to reaching an administrative decision. In undertaking such inquiries, procedural fairness considerations require that any allegations be put to the subject of the complaint and that the subject of the complaint be provided with an opportunity to respond to the subject of the allegations. This should occur as early as possible.

In terms of the respective roles of various parties in managing code of conduct complaints, the following should be noted:

- The Mayor or the General Manager is responsible for assessing complaints alleging breaches of the code of conduct by the General Manager or the Mayor, respectively, and determining whether a complaint should be referred to the committee or sole reviewer. Following a determination that a complaint should be reviewed by the committee or sole reviewer, the Mayor or the General Manager then chooses, from the persons appointed by Council, a reviewer with expertise in relation to the nature of the conduct complained of. This will depend on the nature, complexity and seriousness of the allegations. Complex matters may require involvement of all members of the committee, whereas relatively straightforward matters may be referred to a sole reviewer. If a conduct reviewer cannot participate in a matter because of a conflict of interests, or issues of a reasonable apprehension of bias, then the Mayor or General Manager must select another person to be a member of the committee or to act as a sole reviewer from those appointed by Council.
- The committee/sole reviewer is responsible for conducting enquiries or causing enquiries to be conducted and make findings on whether the conduct referred to comprises a breach of the code of conduct. In conducting such enquiries, the committee/sole reviewer should ensure that procedural fairness, referred to above and outlined in Council's code of conduct, is afforded to the person the

subject of the complaint. Any findings made by the committee/sole reviewer ,together with any recommendations, should be reported to Council. The report from the committee/sole reviewer should provide sufficient information for Council to make a determination as to whether there has been a breach of the code of conduct.

- Council's role is limited to appointing independent and qualified persons to act as conduct reviewers, determining the term of appointment of conduct reviewers, considering any findings and recommendations made by the committee/sole reviewer and imposing any sanctions outlined in the code of conduct. There are two things to note here. Firstly, that in making decisions to appoint conduct reviewers, Council should consider whether or not potential conduct reviewers are familiar with the requirements of procedural fairness. Council should also consider providing conduct reviewers with appropriate training to support their position. Secondly, that in considering any findings and recommendations made by the committee/sole reviewer, Council should ensure that it does not reinvestigate the matter or make an assessment of the evidence gathered in the course of the committee or sole reviewer's inquiries. If Council has concerns about a conduct reviewer's report, Council should notify the conduct reviewer accordingly and consider seeking a supplementary report to enable further consideration and/or clarification of the matter.

One of the indicators of a successful council is how effectively relationships are managed, while at the same time remaining focussed on the task at hand and continuing to make fair, ethical and transparent decisions. This becomes difficult in an environment where councillors often complain about each other, hold up decisions and are unable or unwilling to discuss matters in a constructive and civil manner. The review team and the Division is concerned that this is having an adverse affect on staff morale and is eroding the community's confidence in Council's ability to demonstrate effective leadership, good governance, high standards of ethical behaviour and accountability to the community.

Recommendation 11

Council should engage a person with the relevant qualifications to facilitate a process whereby councillors can reconcile their differences and develop agreement on how to work together in a more effective and constructive way.

Council response

An independent mediator is to be engaged through community justice or similar. Council.

Internal controls (risk management, fraud control, internal audit)

Internal control processes such as internal audit, fraud control, risk management and legislative compliance provide for systematic assessment of the adequacy and weaknesses of Council processes and systems.

Council has a risk management plan, but does not have a fraud control policy or strategy. Council has not undertaken a systematic fraud risk assessment. It is important that fraud risks are identified and managed effectively and that processes are put in place to ensure that staff are kept up to date on emerging risk areas. Council should address this issue as a matter of priority.

Council does not currently have a system or process in place to ensure its legislative and regulatory obligations are met. Council has advised that it is currently developing a legislative compliance register utilising the QSE IMS software system to ensure that its legislative obligations are met.

Council has contracted an external provider to undertake its internal audit function for a three year period from 2009/10 to 2011/12. In April 2011, Council also appointed an internal auditor to work on a part-time basis. At the time of the review, the role of the internal auditor was still being developed and the exact nature of functions to be performed was unclear.

The Division's *Internal Audit Guidelines* issued in September 2010 under section 23A of the Act state that the structure and membership of an audit committee in the NSW local government environment will depend on the size of the council. Membership should have a majority of independent members and one or two councillors (excluding the

Mayor), with between three and five members. Good practice in governance is that council staff should not be members of the committee. Further, the internal auditor and Chief Financial Officer should be invited to attend all meetings. The external auditor should also be invited to attend as an independent advisor.

While Council has established an Audit Committee, it appears that the Committee has not met since September 2010. The Committee is made up of four councillors, three independent members and three staff members. A councillor chairs the committee. This is inconsistent with the Division's *Internal Audit Guidelines*.

Recommendation 12

That Council develop a Fraud Control policy.

Council response

A draft Fraud Control policy has been developed in conjunction with KPMG and needs to be reviewed prior to sending to Council for consideration with the view to putting the policy on public exhibition seeking comment.

Recommendation 13

That, as a matter of priority, Council conduct a fraud risk assessment.

Council response

Council as part of its review with KPMG was to conduct a fraud risk assessment in 2011.

Recommendation 14

As a matter of priority, Council should develop a compliance register to ensure all legislative and regulatory obligations are met and that relevant staff are kept informed of legislation and regulatory amendments.

Council response

A draft procedure has been developed and is currently being reviewed prior to implementing into council practices.

Recommendation 15

Council should review the membership of its Audit Committee having regard to the Division's Guidelines, which it must take into account when exercising its internal audit function.

Council response

The membership of the committee was reviewed in September 2011 and the Mayor was excluded from that committee in conjunction with the guidelines on this matter. Further review will be carried out following receipt of the Better Practice Review.

6 PLANNING AND OTHER REGULATORY FUNCTIONS

6.1 OVERVIEW

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.

6.1.1 *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 plans*
- *Companion animals*
- *Environmental management*
- *Compliance and enforcement practices*
- *Swimming pools*

6.1.2 *Overview of land use planning, development assessment and regulatory practices*

Council operates a free pre-lodgement service (with the exception of some larger developments) to assist with the provision of all relevant information for applicants and to identify and resolve issues of non-compliance with Council's development controls at an early stage.

Council regularly reviews and evaluates its assessment processes in order to improve the time taken to process development proposals.

In terms of turnaround times for development applications (DAs), the Department of Planning and Infrastructure's Local Development Performance Monitoring: 2009-10 report states that the 'DLG Group Averages' mean gross time for determining DAs was 61 days and the 'DLG Group Averages' mean gross time for processing section 96 applications was 44 days. This compares favourably to Council's mean gross time for determining DAs of 61 days and for processing section 96 applications of 33 days.

Council currently has some information to assist applicants, residents and other interested parties with the development assessment process. However, Council acknowledged that there is a need to develop more detailed information for applicants in the form of publications, fact sheets and checklists regarding how to proceed with development proposals.

Council advised that it does not have a computerised system for managing and tracking development applications. Council is currently considering purchasing an on-line tracking system and will then consider implementing a system to permit the electronic lodgement of DAs.

6.1.3 Significant Observations

Areas for improvement

Development assessment

The Department of Planning and Infrastructure's Local Development Performance Monitoring: 2009-10 report indicates that 93.7% of DAs are dealt with by staff under delegated authority.

The Department's 2009-10 report states that out of 827 DAs determined by Council, there were 18 reviews pursuant to section 82A of the *Environmental Planning and Assessment Act 1979*, 7 Class 1 merits review appeals and 1 Class 4 or 5 proceedings in the Land and Environment Court.

During the review team's visit, it was evident that there were conflicts between the professional view of the planning staff and the views of Council's elected officials. This

was particularly evident during the Council meeting where councillors appeared to be questioning the professional view of staff in terms of the recommendations made.

The review team also noted that there is no Council policy governing the criteria to be used to assist staff to determine the types of development to refer to Council for determination. Instead, the review team was advised that following receipt of a list of DAs prepared by staff, councillors are able to choose, in an ad-hoc and inconsistent manner, which DAs are to be referred for Council's consideration. Further, in circumstances where Council goes against the recommendations of planning staff, it does not provide reasons for doing so. While councillors are not bound by the recommendations of staff, this could ultimately lead to delays in the determination of DAs and matters being referred to the Land and Environment Court for determination.

Council should consider developing a 'call-up' form for councillors to complete. The form should state why the development application is being called up and should be filed in the relevant development application file. In circumstances where Council goes against the recommendations of the planning staff, it should provide reasons for its decision.

Recommendation 16

Council should develop a policy relating to the call up of development applications.

Recommendation 17

Council should include provisions in the policy requiring councillors to provide reasons for their decision where they go against the recommendations of the planning staff.

Council response

While staff have delegated authority to determine most Development Applications, Council has adopted a schedule of development types that it wishes to have reported to Council for determination. This part of the system works well as all stakeholders (Councillors, applicants, staff and community) are aware from the day of lodgement that the application will be determined by the full Council. There are other applications that individual Councillors request be reported to Council even though that application is within the delegated authority of the staff. Councillors do this primarily by 'calling in' the application at a Council meeting, although the request could be at any time throughout

the assessment process. This can cause confusion and uncertainty for staff, applicants and community as the request is never supported with a particular reason. It is often stated that the reason is community interest, but there are no parameters to indicate what level of community interest necessitates Councillor involvement. A policy should be developed, with such policy outlining a number of circumstances that would support the 'calling in' of a Development Application. A Councillor would simply need to indicate that the particular DA has triggered one or more of the circumstances in the Policy and therefore it is being 'called in'.

In relation to Councillors going against the recommendations of staff, the above mentioned policy could cover this or it could be required by the Code of Meeting Practice that Councillors must provide a reason to support changes to staff recommendations. This is related to transparency of decision making, which is considered to be a sign of good governance.

Note: Council believes that it has the right to determine any Development Applications by the full council and it should be able to "call in" any Development Applications that it wishes to determine. Also Councillors believe that it is their democratic right to be able to do so and that where appropriate Council can disagree with recommendations submitted by staff. Councillors therefore disagree with the recommendation of the DLG.

Reviewer comment

The review team has noted councillors' comment in relation to their role with development applications. It is acknowledged that councillors do have a role as decision makers, taking into account the technical advice provided by staff. The review team is not suggesting that councillors must adopt the recommendations submitted by staff. The review team strongly recommends, however, that a more formal approach to councillors' decision making in relation to these application is adopted. This will ensure that Council makes the best use of its time by effectively using its delegation and only dealing with matters that warrant councillors' decision making.

Swimming Pools

Councils have a range of obligatory functions under many Acts. One of these Acts is the *Swimming Pools Act 1992*, which confers on councils the responsibility to take such

steps as are appropriate to ensure that they are notified of the existence of all swimming pools that are within their area to which the Act applies. The Act also requires councils to promote awareness within their area of the requirements of the Act in relation to swimming pools.

Council does not maintain a register of all swimming pools within its area, nor does it have a formal compliance program. Further, Council's approach to managing swimming pools can be described as reactive, in that pool inspections are only undertaken where there is a pool on a site being inspected for other purposes. In terms of promoting awareness of the *Swimming Pools Act 1992*, Council advised that it has run media campaigns, consisting of Council publications, including fact sheets and articles in local newspapers. Council also advised that it is in the process of developing a database of all swimming pools in its area.

Recommendation 18

Council should develop a register of all domestic swimming pools in its Council area.

Recommendation 19

*Council should develop and implement a formal compliance program to ensure that swimming pools in its area comply with the *Swimming Pools Act 1992*.*

Council response

Staff of the Environmental Assessment Branch are well advanced in the development of a register and compliance program. Additional staff resources have been employed for a 12 month period to finalise this. Councillors have been updated on the recent Discussion paper distributed by the DLG. Compliance is currently driven primarily through customer action requests received although we have commence a process of risk assessment through a review of existing records and aerial photos and inspections. A targeted mail out to pool owners will be used to seek initial cooperation in having necessary upgrades carried out to improve the rate of total compliance. Following this an enforcement program can be initiated.

7 ASSET AND FINANCIAL MANAGEMENT

7.1 OVERVIEW

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. Council is also the custodian and trustee of public assets and must effectively account for and manage those assets.

7.1.1 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*
- *Council's implementation of the Integrated Planning and Reporting Framework*

7.1.2 Overview of asset and financial management practices.

The Division reviews the financial statements of all councils and county councils in New South Wales on an annual basis. The review of Wingecarribee Shire Council's finances was based on its 2010/11 financial reports.

As at 30 June 2011, Council's short term financial position was considered low risk by the Division, but long-term as vulnerable, due to Council's large exposure to Collateralised Debt Obligations (CDOs) defaults and its continued budgeted operating deficits before capital grants and contributions. At worst, Council could lose up to \$14 million on its CDO investments. Council's financial viability is not being called into question, rather, what is being emphasised is its long-term finances being put onto a sustainable footing through either an increase in revenue or a reduction in expenditure.

In assessing the financial strength of a council, it is necessary to examine financial data extracted from the council's financial reports that will provide information concerning the performance of the council throughout the year and its financial position at year-end.

These performance indicators include operating surpluses or deficits, the level of working funds, funds held as reserves, the debt servicing cost of the council and the level of debt due to the council.

Wingecarribee Shire Council achieved an operating result (surplus) from continuing operations of \$8.589 million for the year ending 30 June 2011 (\$5.152 million in 2009/10). However, Council reported an operating deficit before capital grants and contributions of \$2.916 million in 2010/11 (\$5.315 million in 2009/10). Council has reported operating deficits before capital grants and contributions in the last four financial years totalling \$19.518M. However, it is acknowledged that the write-down of investments (CDOs) of approximately \$6M has contributed significantly to these losses.

It is also noted that Council's Long-Term Financial Plan reports that it is expecting to record operating deficits before capital grants and contributions for the next 10 years (totalling \$74.547M). Council cannot continue to record such deficits and remain financially sustainable.

Performance indicators

Council's performance indicators have shown an improvement over the last five financial years, with the exception of its Infrastructure Renewal Ratio.

The Unrestricted Current Ratio (UCR) excludes all current assets and liabilities that are restricted to specific purposes. The UCR of 2.55 (1.54 in 2009/10) indicates that the general purpose function of Council has \$2.55 available to meet every dollar of current liability. The benchmark is considered to be 1.5 or greater.

The Debt Service Ratio (DSR) highlights a council's capacity to borrow if needed. The indicator assesses the degree to which revenues are committed to the repayment of debt. A DSR of less than 10% is considered good. Council's DSR of 7.85% (5.20% in 2009/10) is within the benchmark.

The Rates and Annual Charges Coverage Ratio compares Council's total income to that of its rate revenue. Council's ratio of 48.06% (average of 42.34% for Group 4 Councils) shows that Council has a good mix of revenue streams and is not reliant on its rate revenue.

Rates and Annual Charges Outstanding Ratio (RACO) reflects the amount of rates unpaid as at the end of a period (usually 30 June each year) compared to the total charged for the year. The benchmark for city/coastal councils is 5% or less, and 10% or less for a rural council. Council's RACO of 1.96% (2.77% in 2009/10) shows that it is very effective in managing its rates debt.

The Infrastructure Renewal Ratio measures the renewal of infrastructure assets against the level of infrastructure asset deterioration (depreciation and impairment). The benchmark is 100%. Council had an average of 25.82% over the last five financial years, which means that it is not replacing its assets as they are being consumed. Council cannot continue on this path, and will eventually have to address the situation.

7.1.3 Significant Observations

Areas for improvement

Council's financial position

Council's consolidated financial statements are made up of its General Fund, Water Supply Business Activity and a Sewerage Business Activity. The following table gives a break-up of the financial result of each fund for the last five financial years.

Fund	2006/07 \$'000	2007/08 \$'000	2008/09 \$'000	2009/10 \$'000	2010/11 \$'000
General Fund	(110)	(2,994)	(6,185)	(3,813)	162
Water Supply Activity	2,555	(1,106)	(893)	(578)	(2,001)
Sewer Fund Activity	301	142	(251)	(924)	(1,077)
Total Surplus/(Deficit)	2,746	(3,958)	(7,329)	(5,315)	(2,916)

As the above table shows, both the Water Supply Activity and the Sewer Fund Activity have been unprofitable for the last few financial years.

The *Best-Practice Management of Water Supply and Sewerage Guidelines* requires transparent tariff structures and price levels that recover efficient costs or service provision, including an appropriate return on infrastructure capital. Council's Water Supply Business Activity has recorded operating deficits before capital grants over the last four financial years and the Sewerage Fund Activity has recorded deficits over the

last three financial years. It is acknowledged that Council has been required to undertake significant works over the last few years by the then Environment Protection Authority, but if Council is to record consolidated surpluses, then the pricing of these two activities will need to be reviewed.

Section 582 of the Act requires councils to have a pensioner rates and charges reduction policy. Council has procedures based on a resolution by Council, but no formal policy.

Recommendation 20

Council should look at various measures to either increase its revenue or decrease its expenditure in order to allow it to become revenue neutral.

Council response

Council will consider this matter when reviewing its Ten Year Financial Plan. The process is undertaken annually in accordance with its budgetary process.

Recommendation 21

Council should be replacing its infrastructure assets as they are being consumed.

Council response

Council will continue to set priorities in its Management Plan in conjunction with its Ten Year Financial Plan attempting to increase the amount of funding its renewal and rehabilitation of its existing assets.

Recommendation 22

Council should review its pricing policy for its Water Supply and Sewerage Activities to allow it to recover its costs in line with the Best-Practice Management of Water Supply and Sewerage Guidelines.

Council response

Financial Model and pricing reviewed every three (3) years and update yearly. Being reviewed with Councillors 21/3/12 for the 2012/13 Management Plan.

Reviewers' comment

Council adopted a revised Hardship Policy and Pensioner Rebate Policy on 8 November 2011. As a result the recommendation relating to formalising such a policy has been removed.

Integrated Planning and Reporting

The Integrated Planning and Reporting framework opens the way for councils and their communities to have important discussions about funding priorities, service levels and preserving local identity and to plan in partnership for a more sustainable future.

This requires a council to review its revenue and expenditure to meet these objectives. In some instances, a council may need to request a special rate variation, or reduce current or planned services.

The focus for Council in respect of its financial sustainability needs to be on its Resourcing Strategy and in particular its Long-Term Financial Plan (LTFP). Council's resourcing strategy should be intrinsically linked to future service provision within its Operational Plan and Delivery Program.

The LTFP should be at least revenue neutral, and have taken into consideration adequate asset maintenance spending and asset replacement costs. It is noted that Council is budgeting for operating deficiencies before capital grants for each of the next 10 financial years (totalling \$74.547M).

Council's Resourcing Strategy was critically reviewed by the Division as part of the Promoting Better Practice Review. The review found that Council's LTFP and its Workforce Management Plan were easy to read and informative. However, Council has yet to complete its asset management plans, which means that its LTFP cannot accurately reflect Council's intended financial position over the next 10 financial years. Council has various excellent individual Management Plans available to it, but not in the required format for Integrated Planning and Reporting purposes.

Recommendation 23

Council should review its LTFP to at least report an operating surplus before capital grants.

Council response

Council will review its Long Term Financial Plan forecasts for the 2012/13 – 2021/22 period as part of its Budgeting and Integrated Planning and Reporting cycle.

Recommendation 24

Council should complete its Asset Management Plans in line with the Integrated Planning and Reporting Guidelines, and if necessary, update its LTFP.

Council response

In the case of water and sewerage, Council has developed Asset Management Plans (AMPs) and Long Term Financial Plans (LTFP) to an advanced level. Roads, drainage parks and properties AMPs need further development. Council has appointed dedicated staff currently working on advancing levels of AMPs and LTFPs in these areas in the current and next financial years.

Plans of management

The Act stipulates how Council is to govern the use and management of community land. Section 36 of the Act requires Council to have plans of management for all land that is categorised as 'community'. The plans of management should be prepared by Council in consultation with its local community.

Council advised that it is in the process of developing plans of management for its community land and that some have been completed. However, it is anticipated that completion of all the plans will take about 5 years.

Council should ensure that plans of management are prepared for all of its community land. Council should also ensure that once the plans are developed, there is a process in place for the ongoing review and update of its plans of management.

Recommendation 25

Council should ensure that it has plans of management for all of its community land.

Recommendation 26

Council should ensure that there is a process in place for the ongoing review and update of its plans of management.

Council response

Council has a program in place to ensure that Plans of Management are completed. It has employed a person to undertake Plans of Management.

8 COMMUNITY AND CONSULTATION

8.1 OVERVIEW

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.

8.1.1 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*

8.1.2 Overview of community and consultation practices

Wingecarribee Shire Council has a well developed approach to community consultation. Council successfully manages a range of local services to support the needs of its community.

Council keeps the community informed of its activities and services by way of newsletters, weekly newspaper items, television and radio announcements, direct mail outs, Council Advisory Committees and Working Groups.

Noteworthy practices

Community participation and consultation

Community engagement is an important element of Council's operations and planning processes. Effective community engagement can mean greater community support for the planned directions and resultant outcomes.

A Community Engagement Strategy was developed and implemented during the Community Strategic Plan development process, however, this document has not yet been adopted by Council. It links directly to Council's Community Engagement Policy and guides Council's interaction with the community. The Strategy includes a community engagement checklist, which is targeted and provides guidance to staff regarding the types of engagement which are appropriate in each circumstance. The Strategy also outlines the various roles and responsibilities of councillors and Council staff and includes a matrix outlining:

- who Council will engage with;
- when consultation should occur;
- the techniques used to consult with the community.

To further support Council's commitment to consult with its community as to the level of services the community requires, Council has employed a Community Engagement Coordinator. Council has also supported a number of staff in attending the International Association in Public Participation (IAP2) training.

Areas for improvement

Communications policy

Council has an extensive program of communication with its community stakeholders, but it does not have a formal Communications policy to provide guidance to councillors and staff in relation to their communication responsibilities. Council advised that the recently appointed Community Engagement Coordinator will further develop the information obtained during development of Council's Community Engagement Strategy to assist with implementation of a Communications policy. In developing such a document, Council should ensure that it provides practical assistance to councillors and

staff to facilitate effective communication in accordance with Council's adopted procedures.

Given that Council has taken steps towards the development of a Communications policy, no recommendation will be made in this regard.

Customer Service Practices

Customer service standards or guarantees of service set a level of expectation within the community, as well as providing guidelines for staff performance.

Council recently established a 'one stop shop' for its customers. The customer service staff are in the process of being fully trained so that they are able to answer enquiries in relation to a range of Council's activities. It is understood that more staff training is planned to further develop this area.

While Council advised that it has a customer service charter, it only sets out the standards that customers can expect in relation to response to correspondence. Further, Council advised that it does not currently collect and review information on its performance against those standards. It is important that customer service standards are developed for all key Council services. Once these standards are developed, they should be monitored and reported on to ensure accountability to the community and provide feedback to Council.

Recommendation 27

Council should develop a set of customer service standards to monitor and report on its level of service across all Council services and establish benchmarks against which its performance can be measured.

Council response

Council is developing a set of customer service standards to monitor and report its level of service across all customer service channels. Council is working with peer neighbouring Councils and the National Local Government Customer Service Network to develop reporting benchmarks to measure Customer Service levels.

Recommendation 28

In developing its customer service standards, Council may wish to consider seeking input from the community through a public exhibition or community survey process.

Council response

Council is, and will continue to, seek input from the community by way of public exhibition or community survey in the setting of service levels and the review of the delivery of those service levels against our benchmarks.

9 WORKFORCE RELATIONS

9.1 OVERVIEW

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.

9.1.1 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*

9.1.2 Overview of the organisation

Council undertook a restructure in 2010 to improve efficiencies and customer service delivery. Council is organised into three directorates: Corporate Services; Environment and Planning; and Infrastructure Services. The General Manager and the Directors of each directorate form the Executive management team.

At the time of the review, Council employed 336 full-time equivalent staff comprising:

- 43% women;
- 1% Aboriginal and Torres Strait Islander;
- 1% people with physical disabilities.

Council makes use of traineeships and apprenticeships. Council currently has 22 trainees and apprentices in various areas of Council. This is funded through State and Federal Government monies.

Council is 1 of 3 major employers in the area and is located in an area where it finds itself competing with employers in the Sydney market. As a result, Council has experienced difficulties in attracting and retaining staff. In addition, since December 2009, there has been a staff turnover rate of 13%, compared to around 5% previously. In order to improve its opportunities in this area, Council has undertaken a review of its salary system, which will be put to the organisation for consultation.

9.1.3 Significant Observations

Noteworthy practices

Occupational health and safety

Council is one of only a handful of councils which is involved in a WorkCover Alliance, which involves WorkCover NSW attending Council to carry out tailored training sessions and programs to assist staff in understanding their workplace safety obligations. Council has also developed a Strategic Safety Plan that includes a set of policies and procedures relating to safety issues. Council also undertakes a half-day tailored induction training session for staff dealing with public liability and safety issues.

Areas for improvement

Secondary employment

Section 353 of the Act and the Model Code of Conduct both provide obligations on Council staff in relation to engaging in secondary employment.

The Act and the Model Code place an obligation on members of Council staff who are considering outside employment or contract work that relates to the business of Council, or that might conflict with their Council duties, to notify and seek the approval of the General Manager in writing. The Model Code imposes additional obligations on Council staff to consider before engaging in any outside employment or business.

Council does not have a policy on secondary employment and, apart from the issue being covered during staff inductions, there are no formal procedures or guidelines to assist staff to understand their obligations in this regard.

Council should have processes in place to manage the risks associated with secondary employment of Council staff. Council should implement strategies to resolve any

conflicts that arise between outside employment or business and the performance of Council duties.

Recommendation 29

That Council develop a Secondary Employment policy.

Recommendation 30

That Council develop an application form (requiring renewal every year) and develop guidelines to assist staff to understand their obligations in relation to secondary employment.

Injury management

According to WorkCover NSW, injury management is about ensuring the prompt, safe and durable return-to-work of an injured worker. A return to work program consists of the formal policy and procedures that an organisation must have in place to help injured workers with their recovery and return to the workplace. Failure to establish a return-to-work program is an offence under the *Workplace Injury Management and Workers Compensation Act 1998*.

Council does not have an Injury Management and Return to Work policy. Council advised that in the last year, there were 158 workplace incidents (representing a decrease over the previous year), which equated to 4,529 hours of lost productivity. Further, 44 workers' compensation claims were lodged in the last year (representing an increase over the previous year). Council has recognised the need to identify improvements that could act to minimise future workplace incidents. In this regard, Council has instituted staff training programs, regular 'tool box' talks where safety issues are discussed, and workplace inspections aimed at increasing awareness regarding the prevention of injuries in the workplace.

Recommendation 31

Council should develop and implement, as a matter of priority, an Injury Management and Return to Work policy.

Council response

A draft OHS&S policy has been developed and currently under review prior to consultation and adoption by Council.

Position Descriptions

Council advised that there are a number of positions without current job descriptions and that job descriptions are only reviewed when a person leaves a position or where there are significant changes to the position. Council advised that it commenced a review process in 2009, but the project was put on hold pending the finalisation of the organisational restructure in 2010.

Recommendation 32

Council should develop a formal policy and practice for the review of job descriptions.

Council response

A review was conducted in 2010 and Council is planning to undertake a further review in this area in 2012 to improve and streamline job descriptions.

PART IV. 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: (based on application of risk analysis)	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