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Promoting Better Practice Program

FOLLOW-UP REVIEW REPORT

PORT STEPHENS COUNCIL

NOVEMBER 2011

Division of Local Government
Department of Premier and Cabinet

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CHIEF EXECUTIVE'S COMMENT

The Division of Local Government has been monitoring Council's performance over a period of time. As a result of this monitoring, the Division conducted a follow up PBP review to examine Council's operations. Many of the concerns that have been raised with the Division are highlighted in this report.

The Division's concerns have arisen from continuing complaints it has received that disclose evidence of significant conflict within the governing body of Council. Particularly, I continue to be concerned about the possible misuse of Council's code of conduct processes by councillors in order to make politically motivated attacks on other councillors and with Council's inability to use the code as it is intended, namely to impose appropriate standards of behaviour on all councillors.

Council's response to the draft PBP report is unacceptable. I note that the recommendations requiring councillors, as the governing body, to take action have been ignored. I view this as a serious matter. It is apparent that the elected body has not considered the review and its findings as it has failed to provide an adequate response to the Division. Additionally, this indicates that councillors do not appear to recognise the need to reflect on their conduct and decision-making practices or the need to change.

I am further concerned about the release of the draft confidential PBP report to the media, particularly as concern was expressed about the release of confidential information in the reviewers' report. This action undermines public confidence in the Council and implies an inability to act in accordance with legislative requirements and best practice.

I continue to be deeply concerned that the present operations of the Council do not meet the reasonable expectations the community has regarding councillor behaviour and suggest that Council is not dealing with issues in accordance with its charter. This PBP report has highlighted the continuance of processes and conduct that are below the standard expected.

Every councillor must contribute to the corporate effort to achieve Council's goals and to provide community leadership. Without this, Council staff has no guidance and cannot function effectively in serving the community.

The level of disputation within the elected body is also eroding the public's confidence in the capacity of the Council to serve its residents and ratepayers, and it also undermines the reputation of the local government sector. I am of the firm belief that the implementation of the recommendations in this report will help councillors work together in the interests of the community.

I expect councillors to not only demonstrate a marked improvement in their conduct but also in their understanding and discharge of their role in the decision making process.

I require that Council, within 28 days of tabling this final report, resubmit the action plan specifically identifying what actions will be taken to implement the recommendations relating to the governing body in this term of Council.

EXECUTIVE SUMMARY

This is the second review conducted of Port Stephens Council under the Promoting Better Practice program. A previous review of Council's operations was undertaken in 2005.

This review focused on Council's implementation of the recommendations from the 2005 review, as well as a number of specific areas of Council's operations. These include Council's planning and development processes and decision making; the application of the code of conduct; asset and financial management; the implementation of the integrated planning and reporting framework; and the relationship between councillors, and between councillors and Council staff.

Council was a Group 1 Council for the implementation of the Integrated Planning and Reporting Framework, which required this framework to be implemented by the end of June 2010. While Council was able to meet the timeframe set, it will need to continue to work on aspects of its documents to ensure that its activities are aligned with the strategic direction outlined in the Community Strategic Plan.

While not specifically developing a community engagement strategy as part of the implementation of the Integrated Planning and Reporting framework, Council had previously developed an extensive community engagement policy. Council's community engagement policy provides an effective framework to guide all future community engagement processes. Council is to be commended on its well organised approach to community engagement.

However, the review team is concerned about the councillors' approach to Council's strategic decision making. It was concerning that councillors do not appear to be undertaking their role as members of the governing body as effectively as their representative role.

It is the review team's opinion that much of the governing body's decision making processes lend themselves to piece-meal decisions that in the long term may mean that Council does not achieve its strategic objectives. Council should monitor decision making so that policies can be reviewed and changed should the community's or Council's needs change. This would be the preferable approach, rather than continuing to make ad hoc decisions that are at odds with Council policy direction, which appears to be the current practice.

The review team is also of the view, having been present at the Council for a week and having informal discussions with councillors and staff members, that the Council's operation is being affected by councillor behaviour. Councillors are meant to be leading by example, making decisions in the best interests of the whole community and resolving differences in a professional and mature way. This leadership conduct is not evident. It is expected that councillors will immediately implement a sustained improvement in their performance.

Despite these difficulties at the elected level, Port Stephens Council has many effective governance systems and processes in place. Council has a staff position that is charged with the responsibility of overseeing corporate governance for the organisation.

Council's risk management and internal audit functions have identified the critical aspects of Council's governance framework and have focused these programs' interventions around these areas. However, there are some important aspects of Council governance that will need to be reviewed and improved, particularly the tendering and procurement, meetings and code of conduct areas.

While Port Stephens Council has made significant improvements in the processing of development applications, Council's overall strategic direction in relation to planning decisions needs immediate attention. There have been vast improvements in Council's processing of development applications, which can be attributed to the implementation of some effective strategies. However, the review team is concerned about the councillors' use of the "call-up" process for calling up development applications for their consideration. Council needs to address this issue.

The review team was also concerned that some councillors are dismissive of Council's current planning policy framework. The review team accepts that councillors appear to have polarised points of view in relation to planning and development. The challenge for councillors and staff will be to work together to complete the LEP template and review the necessary components of the Development Control Plan to create a framework that will allow sustainable development which considers the social, environmental and economic impact.

Council's financial position was considered by the review team as at significant high risk due to its low liquidity and recent financial losses. Councils that are considered at a significant high risk are not necessarily in imminent danger of defaulting on their

debt service obligations, nor is their financial viability being called into question. Rather, what is being emphasised is that, if the long-term finances of such councils are to be put onto a sustainable footing, substantial or disruptive revenue (or expenditure) adjustments appear inevitable.

The review team is concerned about Council's reporting on its reserve balances and the reconciliation of its cash position with cash reserves and investments. The proportion of Council's investment in property is considered significant in relation to its other investments. Council needs to consider the issues associated with investing in property and should review its Investment Policy with these in mind.

It is apparent to the review team that the community and consultation area is one where Council undertakes its activities in a responsible and effective manner. It has an effective community engagement strategy and provides support for community involvement in its activities in a number of ways. Council's social and cultural responsibilities are evident in its Community Strategic Plan and Council has a strong presence in its community. Council also supports the community in managing local facilities and provides financial support for local community organisations. Council reports on its activities in this area in its quarterly reports.

Council's position in relation to workforce relations practices is sound. Council has a draft Workforce Strategy to support its strategic plan. There is evidence that Council monitors and reviews its practices on a regular basis.

PART I. BACKGROUND

1 ABOUT THE REVIEW

Review objectives

Promoting Better Practice Reviews have a number of objectives. These 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. Specifically, the Port Stephens Council review has focused on specific areas of Council's operations which are listed under the heading *Port Stephens Council review,* below.

All reviews involve checking compliance with a range of statutory requirements, examining appropriate practices and ensuring that the 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	• 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	• 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	• 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.

Port Stephens Council review

This is the second review conducted of Port Stephens Council under the Promoting Better Practice program. A previous review of Council's operations was undertaken in 2005. The report on the previous review included a total of 41 recommendations.

This review focused on Council's implementation of the recommendations from the 2005 review, as well as a number of specific areas of Council's operations. These include Council's planning and development processes and decision making; the application of the code of conduct; asset and financial management; the implementation of the integrated planning and reporting framework; and the relationship between councillors, and between councillors and Council staff.

Port Stephens Council was asked to complete a comprehensive checklist/questionnaire about key Council practices. The review team comprised the Manager, Investigations and Review Branch, Lyn Brown, Senior Investigations Officer, Darren Sear, and Senior Finance Officer, Chris Duff, 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 from 21 to 24 February 2011. It involved an initial interview with the General Manager, interviews with the majority of councillors, interviews with a cross-section of staff, observation of a Council meeting and a two-way conversation briefing session, a review of Council policies and other documents.

Follow-up review report

The review culminates in a report which is provided to the elected council, the Minister for Local Government and the Chief Executive of the Division of Local Government.

The report covers the key areas of Council's operations and reviews the key operational areas of strategic planning, governance, community and consultation, planning and other regulatory functions, asset and financial management, and workforce relations.

In each of these key areas the report assesses the level of progress toward achieving each recommendation of the 2005 Promoting Better Practice Review. An overall status ranking (as described below) will be provided followed by a commentary of significant observations.

STATUS	DESCRIPTION
Completed	• All aspects of the recommendation are completed and no further work is required.
Completed – of an ongoing nature	• All aspects of the recommendation are completed. However, the recommendation is of an ongoing nature and therefore implementation needs to continue into the future.

In progress	• The recommendation has commenced but needs further work before it is complete.
Not commenced	• No work has commenced on the recommendation.
Partially Completed	• Some aspect(s) of the recommendation completed

In addition to any observations on the implementation of previous recommendations, the follow-up review report provides comment on the areas of focus of the review.

Implementation and monitoring of recommendations of final report

There are some important issues that the Council will need to address for the future. The review has identified a number of improvement opportunities that the Council needs to address. Council has identified its intended actions in implementing some of the recommendations in this report in the action plan contained at the back of the report. It is acknowledged that Council has already commenced the implementation of a number of these recommendations.

Council has been asked to resubmit the action plan within 28 days of tabling the report. Primarily this is because the recommendations relating to the elected councillors appear to have been largely ignored. However, the Division has included additional recommendations on the ward funding that now require actions to be completed. Following this, Council is asked to report to the Division in six months time on its progress towards implementing the recommendations.

2 ABOUT THE COUNCIL AND THE AREA

Location and demographics

The Port Stephens local government area is located approximately 230kms north of Sydney in the Hunter region of New South Wales. The Council area covers approximately 859 sq kms from Karuah in the north to Hexham in the south and Duns Creek in the west to Shoal Bay in the east. The area comprises more than 40 towns, villages and localities. The population of the Port Stephens local government area was 65,600 at the 2006 Census.

Port Stephens has experienced consistently high population growth, which is projected to continue. 22.9% of its population is aged over 60 years, which is also predicted to continue to grow significantly.

Port Stephens (Williamtown) is the location of the Newcastle airport. There is also a strong defence industry base in the area focused on the RAAF base at Williamtown. Due to Port Stephens' close proximity to Newcastle and Sydney, Council estimates that 37% of employed residents commute out of the area for work. (Port Stephens Futures Strategy, 2009.)

Tourism is a major industry for the area, particularly in the Tomaree and Tilligerry Peninsula areas. However, the area enjoys a diversity of economic activity including agribusiness, property development, manufacturing, retail and small business. Notably, the Port Stephens area continues to experience growth in manufacturing despite a slowdown for the Hunter region.

There are a number of natural constraints of land available for development in the Port Stephens area. This includes National Parks, State forests, Crown land and Council reserves, wetlands and the Hunter Water catchment areas that comprise almost 60% of the land area. Of the total area, 31% of land is flood affected and 18.85% of land is preferred and supplementary habitat in the Koala Plan of Management. (Port Stephens Futures Strategy, 2009.)

Local issues

Port Stephens, like many other local government areas in NSW, is facing an ageing of its population. Council will need to plan for the future infrastructure and service needs of this population group. Given that the Peninsula areas have an older age

group, there will be challenges for Council in meeting these communities' needs when major facilities and services are provided some kilometres away.

Large parts of the Port Stephens local government area are flood affected, which provides challenges for urban planning and development. Additionally, the location of the RAAF Base and Newcastle Airport at Williamtown requires attention to the management of aircraft noise.

Current Council

Port Stephens Council has 12 councillors. Council is divided into three wards. Seven of the councillors were re-elected at the 2008 local government elections. Only three of the newly elected councillors had not previously served as councillors. The majority of councillors have a number of years of experience in the role. Council conducted a by-election in 2010 following the resignation of one of the newly elected councillors. The Mayor is elected by the councillors.

Port Stephens will reduce its councillor numbers to nine and popularly elect its Mayor at the 2012 election.

Council staffing

Council's current organisation structure has approximately 471 equivalent full-time positions. Council has five senior staff positions, being the General Manager, Group Manager Commercial Services, Group Manager Sustainable Planning, Group Manager Corporate Services and Group Manager Facilities and Services. Council reviewed its organisation structure in 2008 and undertook an external review of two groups, Facilities and Services and Sustainable Planning, in 2010. Council adopted a revised organisation structure on 1 November 2010.

3 SUMMARY OF KEY FINDINGS

Better practices/Other noteworthy practices		Areas for improvement	
STRATEGIC POSITION			
	Council has a well organised approach to community engagement.		*Council needs to undertake more work on developing its performance indicators in its Delivery Program and Operational Plan.*
			Council should ensure that its Futures Strategy and Community Strategic Plan are consistent/linked.
			Council needs to ensure that its sustainability reviews and organisation restructure align with its strategic plan.
			Councillors are not working together effectively and need to address this as a matter of urgency.
GOVERNANCE			
	Council has undertaken significant work in implementing the recommendations from the 2005 PBP review.		*Council should review its Complaints Handling Policy, particularly in relation to unreasonable complainant conduct, and report to the community on the management and outcome of complaints.*
	Council has developed a user friendly and informative induction tool for councillors.		*Council should review its delegations of authority to ensure that the information is accurate and up to date.*
	Council has comprehensive and coordinated risk management and internal audit activities.		*Council must adopt the form of return for making disclosures of interests that is prescribed by the Regulation and have councillors and designated persons review their returns of*

Better practices/Other noteworthy practices		Areas for improvement	
			interests.
	Council's policy on the payment of expenses and provision of facilities to councillors is rated as good.		*There are serious deficiencies in Council's tendering practices.*
			Council must improve its meetings practices.
			Councillors need to improve their awareness and understanding of their obligations under the code of conduct.
PLANNING AND REGULATORY			
	Council has efficient and effective development assessment processes.		*Council must improve its practices in relation to councillor "call-ups" of development applications.*
			Council needs to ensure there is regular and ongoing review of its planning policies.
ASSET AND FINANCIAL MANAGEMENT			
			Council's financial position is considered to be at high risk due its low liquidity and recent financial losses.
			Reporting on Council's financial reserves needs to improve.
			Council should review and/or develop policies on investments and loans.
			Council should ensure there are business plans for all its business units.

Better practices/Other noteworthy practices		Areas for improvement	
COMMUNITY, COMMUNICATION AND CONSULTATION			
	Council's customer service charter is succinct and easy to read.		
	Council reports to the community on its requests for services.		
WORKFORCE RELATIONS			
	Council has an innovative approach to engaging the 'young retired' to fill workforce gaps.		*Council needs to ensure that its Workforce Strategy links with its Long Term Financial Plan and Asset Management Strategy.*

PART II. PLANNING A SUSTAINABLE FUTURE

This part of the review focused 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 and appropriate delivery programs. Community Strategic Plans are supported by a Resourcing Strategy comprising a Long Term Financial Plan, Asset Management Strategy and Plans and a Workforce Strategy. The framework is set out in the following diagram.



4.1 Port Stephens' Strategic Position

Overview

The Integrated Planning and Reporting framework is being introduced into NSW in a phased approach. The *Local Government Amendment (Planning and Reporting) Act 2009* was assented to on 1 October 2009, making provisions for the phasing in of the framework. It applies to councils that nominated as Group 1 councils from 1 July 2010, Group 2 councils from 1 July 2011, and Group 3 councils from 1 July 2012. Port Stephens Council nominated itself as a Group 1 council.

Council was required to have developed, publicly exhibited and adopted its Community Strategic Plan, Delivery Program, Operational Plan and Resourcing Strategy by 1 July 2010. Council was also required to provide a copy of its Community Strategic Plan to the Division of Local Government within 28 days of the Plan being endorsed. Council met these timeframes.

The Division of Local Government undertook a review of Council's documents and provided feedback to Council on the outcome of this review. As a result of this feedback, Council is undertaking an assessment of its documents with a view to incorporating the feedback provided by the Division. Comment on the strategic planning documents is provided in the section below. Comment on Council's Resourcing Strategy, including its Long Term Financial Plan and Asset Management Strategy, is included in the 'Asset and Financial Management' section of the report. Comment on the Workforce Strategy is included in the 'Workforce Relations' section of the report.

During the on-site component of the Promoting Better Practice review, the review team took the opportunity to discuss Council's progress in implementing the strategic planning approach with councillors and the General Manager.

4.2 Summary of progress towards achieving recommendations

No.	*Promoting Better Practice Review 2005 recommendations*	*Status*
1	Council should continue to use the Business Excellence Program to review and implement its corporate planning model to better integrate its 30 year plan, management plan and other planning processes and strategies.	In progress IP&R
2	Council's reporting processes should also be clearly set out in the model to better link the measurement of progress against stated objectives and priorities.	In progress IP&R
5	The performance indicators set out in the draft Port Stephens Sustainability Indicators 2003 to measure Council's progress in achieving social, economic and environmental sustainability should be built upon and become part of Council's evolving corporate planning model.	In progress IP&R
6	Council should monitor and manage the pace and volume of organisational change using change management principles to ensure that priority tasks can still be achieved.	Completed; of an ongoing nature

4.3 Assessment of progress and significant observations

Council's progress in implementing the strategic recommendations from the 2005 Promoting Better Practice review have been considered in the context of the implementation of the Integrated Planning and Reporting framework (IP&R).

Areas for improvement

Council developed a long term vision for the Port Stephens area in 2009, which was articulated in its "Futures Strategy" document. Council developed its Port Stephens 2022 Community Strategic Plan in 2010, but advised the Division at that time that it was separate to the Futures Strategy document. The feedback provided to Council following the Division's assessment of its Integrated Planning and Reporting documents focused only on the 2022 Community Strategic Plan and associated documents, not the Futures Strategy.

The feedback identified that Council's Operational Plan and Delivery Program were linked to its Community Strategic Plan in an easy to follow way. The feedback also recommended that Council give further thought to how the Resourcing Strategy relates to and supports the Operational Plan, Delivery Program and Community Strategic Plan.

The original feedback to Council on the Community Strategic Plan raised issues relating to whether or not the Plan met the legislative requirements. After reviewing the Plan adopted by Council in 2010, there were some aspects of the Plan that required further work. This included identifying how the Plan was informed by community aspirations and expectations. There were also no clear links to the Resourcing Strategy. Performance measures contained in the Operational Plan were not specific or measurable.

In contrast, Council's Futures Strategy contains much of this information. It is the review team's understanding that the Futures Strategy was developed to underpin the revision of its Local Environmental Plan. With Council in the process of developing its revised Local Environmental Plan, it is important that it utilises the information and direction proposed in its Futures Strategy and Community Strategic Plan. These documents should be connected and consistent. Since the on-site part of the review, Council has undertaken more work on its Community Strategic Plan and incorporated aspects of Council's Futures Strategy.

The legislative requirements of the IP&R framework include budget review statements and revision of estimates relating to the Operational Plan on a quarterly basis and progress reports on the Delivery Program at least every six months. The review team reviewed the September and December quarterly reports presented to Council on its progress in implementing the actions in its Operational Plan and Delivery Program. Council provides a separate report on its quarterly budget review. The reports are comprehensive and provide data against performance indicators. However, as noted above, these specific performance indicators are not provided in its Operational Plan.

Council developed a community engagement policy in 2007 to guide its consultation with the community. This was reviewed in 2009 and reflects Council's approach to engaging its community as part of the process in developing its Futures Strategy. The policy is supported by a consultation matrix that is consistent with the approach

taken to community engagement by the International Association in Public Participation (IAP2). This provides a number of levels of engagement.

How the policy is implemented is outlined in a Management Directive. In addition, Council has produced a document that assists staff to prepare a community engagement plan when they are preparing to conduct any form of engagement with the community. Council has established a Community Engagement Panel to oversee, support and guide staff. Staff must consult the Panel prior to undertaking any community engagement activities.

The community engagement policy provides an effective framework to guide all future community engagement processes. Council is to be commended on its well organised approach to community engagement.

The community engagement that is outlined in the Futures Strategy shows an extensive and comprehensive process of engagement. This engagement occurred prior to the revision of Council's community engagement policy and it appears that Council's experience with the Futures Strategy engagement may have informed the update of the policy so that it could be applied to the development of the Community Strategic Plan. Council should articulate its community engagement approach in its Community Strategic Plan.

Council advised the reviewers that it is currently undertaking sustainability reviews which will involve further engagement with the community in relation to their expectations on service standards. This includes conversations with the community about what it is prepared to pay for. It is evident that this information will mean that critical decisions will need to be made by the Council. The drivers for a review of Council's sustainability are essentially financial and asset considerations. Council will need to ensure that these considerations are consistent with the strategic objectives outlined in its Community Strategic Plan.

Council has also been undertaking reviews of its organisation structure. An external review of two of its operational groups, Facilities and Services and Sustainable Planning, was undertaken in 2010. Following this review Council adopted a revised organisation structure on 1 November 2010. Council is currently in the process of implementing the organisation restructure. Council should ensure that its structure is aligned to achieving the outcomes in its Community Strategic Plan and Delivery Program, and that this is reflected in its Workforce Strategy.

During the on-site review, the review team offered the opportunity to talk to all the councillors. All but two councillors were available to meet with the reviewers. The review team was generally disappointed with the overall councillor view of their role in relation to Council's strategic direction. While most of the councillors were able to indicate that they had a role in the strategic planning process, many focused on the short term and operational issues facing Council.

Some councillors did not articulate a view on the strategic direction of Council at all. Others expressed frustration at achieving long term goals when there is no agreement among councillors on what these should be. The view was expressed by one councillor that Port Stephens councillors appear to want to approve rather than plan. The review team's observations support this view. A review of Council's minutes shows that on a number of occasions Council made decisions that were at odds with its adopted policies. The most recent being in relation to the Medowie strategy.

The review team believes that most councillors are in touch with their communities and make significant efforts to undertake their representative role effectively. However, there is some concern that the councillors' other very important role, to set the strategic direction and make decisions, is being neglected. Councillors would do well to reflect on their role as members of the governing body and whether they believe they are undertaking this as effectively as their representative role.

If councillors cannot agree on the policy and strategic direction of the Council, then decisions will be ad hoc and in the long term may result in Council not achieving its strategic objectives. Council should monitor decision making so that policies can be reviewed and amended to reflect changes in community or Council needs. This would be the preferable approach rather than continuing to make ad hoc decisions that are at odds with Council policy direction.

There is further discussion on the relationships between councillors in the next section.

Recommendation 1

Council should ensure that the organisation restructure aligns with Council's strategic direction.

Council response

See Action Plan

5 RELATIONSHIPS BETWEEN COUNCILLORS AND STAFF

One of the areas of focus for this review was the issue of how relationships between councillors, and between councillors and Council staff, are managed. The Division had received complaints about the way councillors were making decisions and their behaviour towards each other. In addition, for some time there had been reports of the leaking of confidential information to the public and the media. This forced the General Manager to take the extraordinary measure of controlling councillors' access to confidential information.

As previously outlined, the review team met with the majority of councillors during the on-site review. Issues discussed with councillors included how well councillors thought they were making decisions and how well they get along with each other. It was evident from these interviews that the majority of councillors felt that there are significant polarised views among councillors. From these discussions, it was also evident that while the councillors on the previous Council may have had differing views, there could be disagreement without acrimony. To some extent, the previous PBP review report bears this out. This is not the case now.

It was concerning to the review team that a number of the councillors identified individual personality differences as the main reason for the breakdown in councillor relationships. Additionally, there appears to be two groups of councillors; one that is pro-development and one that is anti-development.

It was also expressed that this is a Council that cannot say 'no'. This is also an observation that the review team made. (See the regulatory section for more information on development matters.) The other aspect of not saying 'no' is that Council makes ad hoc decisions that are inconsistent with its policy framework. This is not effective decision making. If Council's policy is not right, then it should be reviewed and changed rather than councillors continuing to make decisions that are inconsistent with the adopted policy position. By not giving due consideration to Council policy, it signals to the community that "anything goes". This is poor planning and poor decision making and may not be in the best interests of the community overall.

Another indicator of poor relationships between councillors is the growing number of code of conduct complaints. (See governance section for more information on code

of conduct matters.) Two conduct reviewer reports were debated by councillors at Council's meeting on 22 February 2011. The review team attended this meeting. Apart from the concerns outlined in the governance section, the review team is concerned that councillors are using the code of conduct to "get back at each other". Instead of resolving differences in a mature way, councillors appear to be making "tit-for-tat" complaints about each other.

What is incongruous with this is that the majority of councillors who debated the conduct matters before the Council meeting on 22 February 2011 expressed concern about councillors using the code of conduct in this way. Councillors expressed concern about the expense of dealing with these conduct complaints. Most councillors appeared to blame the code of conduct rather than examine the behaviour of councillors in making trivial complaints or conducting themselves in such a way as to breach the standards of conduct that are set down. The amount of disregard expressed toward the code of conduct was disturbing.

A further indicator of dysfunction is the number of rescission motions that are being dealt with at Council meetings. Decision making is finely balanced, often with a six-all vote that requires the Mayor or chairperson to exercise a casting vote. Under these circumstances the "side" that doesn't get its way lodges a rescission motion to have another go at achieving its end. This can hold up matters for some time (see governance section for more information). In one case a decision has not been made at all. Despite some councillors holding the view that councillors make decisions and get things done, this is not a view that is shared by the review team. More recently, at Council's meeting on 22 March 2011, it appears Council was deprived of a quorum so that a decision on a particular matter could not be made. This is not the first time this has occurred.

Another example of disrespect for the Council as an organisation is the leaking of confidential information. The review team has no evidence as to whether it is councillors or staff members who are releasing this information. However, the view was expressed by a number of people that it was felt that some councillors, in particular, had no regard for the confidentiality of information. All councillors and staff are expected to adhere to the requirements of the *Local Government Act 1993* in relation to the management of confidential information (section 664). The review team does not support or condone any actions by councillors or staff to release

confidential information even if they believe it to be in the interests of the public. The release of confidential information could be seen to have a de-stabilising effect on the Council. Councillors and staff who inappropriately release confidential information are not acting in the best interests of the Council or undertaking their role in accordance with section 439 of the Act.

A common theme among a number of councillors was that staff are not consistent in their advice to Council. One observation that was made by a councillor was that staff are having difficulty with the conflicting views of councillors. It is difficult for them to know what advice to provide. Another view was expressed that Council staff are not interpreting the policy developed by councillors as it was intended. This has caused some friction, particularly in the planning and development areas. There appears to be pressure on staff to give Council the recommendations it wants. This is supported by views expressed that some councillors are too close to staff. Councillors are reminded that it is a breach of section 352 of the *Local Government Act 1993* to direct or influence staff in the performance of their duties. Staff should feel enabled to provide "free and frank" advice based on their professional experience and expertise in accordance with Council policies.

Needless to say, the General Manager is having difficulty managing and working in an environment where councillors often complain about each other, hold up decisions when they don't get their way, cannot debate or discuss matters in a civil fashion and cannot decide on the policy and strategic position of the Council.

The review team is of the view, having been present at the Council for a week and having informal discussions with staff members, that staff morale is being adversely affected by councillor behaviour. Councillors are meant to be leading by example, making decisions in the best interests of the whole community and resolving differences in a professional and mature way. This leadership conduct is not evident.

Recommendation 2

Council should engage a person with the relevant qualifications to facilitate a process whereby councillors can reconcile their differences and develop agreement on how they will work together.

Council response

See Action Plan

PART III. DELIVERING AND ACHIEVING

This part of the review focused on examining key structures, systems and processes involved in delivering the stated outcomes of Port Stephen's delivery program and operational 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.

6 GOVERNANCE

6.1 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.

6.1.1 Scope of review

- *Ethics and values*
- *Procurement, disposal & tendering*
- *Code of conduct*
- *Disclosure of pecuniary interests*
- *Risk management, legislative compliance and internal control*
- *Council's decision-making processes, including delegations and conduct of meetings*
- *Support for councillors*
- *Complaints handling*

6.1.2 Overview of Port Stephens Council's governance practices

Overall, Port Stephens Council has many effective governance systems and processes in place. Council has a staff position that is charged with the responsibility of overseeing corporate governance for the organisation.

Council's risk management and internal audit functions have identified the critical aspects of Council's governance framework and have focused these programs' interventions around these areas. However, there are some important aspects of Council governance that will need to be reviewed and improved, particularly the tendering and procurement, meetings and code of conduct areas.

6.1.3 Summary of progress towards achieving recommendations

No.	*Promoting Better Practice Review 2005 recommendations*	*Status*
4	Council's induction training program for councillors should be expanded to include material about: • Customer service and complaints handling • The legal and political context of local government (including a familiarisation with the relationships between the three tiers of government) • The ethical responsibilities of an elected member • Teamwork skills (including conflict resolution) • The relationship between financial processes and other planning processes.	Completed
9	Council should provide information to councillors and designated staff on the completion of disclosure of pecuniary interest returns to ensure they are completed accurately and in a timely way.	In progress
10	Council should develop a statement of business ethics to communicate both internally and externally the ethical standards that council abides by and expects others to abide by in doing business with council.	Completed

No.	Promoting Better Practice Review 2005 recommendations	Status
11	Council should conduct routine fraud risk assessments as part of its risk management responsibilities.	Commenced but ongoing
12	Council should conduct routine risk assessments of council's procurement and disposal activities.	Commenced but ongoing
14	Council should develop an internal reporting procedure to assist staff wishing to make disclosures under the *Protected Disclosures Act 1994.*	Completed
15	Council should continue to review its IT strategic plan. The plan should include means of assessing value for money measures relating to council's investment in IT.	Completed
17	Council should review its code of conduct in line with recent amendments to the Local Government Act, which provide for a mandatory Model Code of Conduct for Local Councils in NSW. Council should also establish a conduct committee, appoint at least one independent person to the committee, and develop procedures to guide the operations of the committee.	Completed
18	Council's Governance Panel should be extended to oversee other internal audit functions.	Completed
19	Council should ensure that complaints and customer requests are separately identified so that trends can be identified and monitored.	Completed

6.1.4 Assessment of progress and significant observations

Council had undertaken significant work to implement the governance recommendations made in the 2005 PBP review report. There are some noteworthy practices as a result of this implementation which are briefly outlined under the heading below. Some observations about areas for improvement have also been made under the relevant heading below.

Council has developed a Statement of Business Ethics policy that was adopted on 14 December 2010. While the Statement makes strong links between Council's code of conduct and the Statement, Council should also consider incorporating aspects of the ICAC publication "Developing a statement of business ethics" to include information specifically for the private sector about why it should comply with the Statement. In addition, the Statement would be enhanced by providing some general statements about what the private sector can expect from Council staff and what the Council expects of its private sector partners. Elements of the Statement of Business Ethics are evident in Council's tendering documentation. However, the task for Council now is to make sure that the Statement is made available to private contractors and the community and incorporated into relevant Council operations.

Council adopted its internal reporting policy on 14 December 2010. Council has developed a process chart that maps the process to be followed when dealing with complaints made under Council's internal reporting policy. This map should assist staff on how to report matters and also provides guidance to those staff with the responsibility of managing complaints under the policy.

Noteworthy practices

Councillor learning and development program (including induction)

Council provided the review team with a CD of its councillor learning and development program. This is an excellent induction tool for councillors. It provides brief information about the Port Stephens area, as well as information about Council and its operations. The information about Council is extensive, giving basic information that councillors would need to orient themselves to how Council is positioned and how it operates. The CD also contains a comprehensive 'Councillors Induction Handbook'. It is evident that Council was mindful of the recommendation made in the 2005 PBP report, as the information outlined in the recommendation is evident in the Handbook and on the CD.

The topic areas in the Council information section include: leadership, strategy and planning; financial sustainability; customers and stakeholder relations; our people (the organisation and its performance); business excellence; and success and sustainability (assessing risk and performance). The program is supported by a range of core Council documents that are linked to the various learning screens.

This is an excellent induction tool and Council is to be commended on producing such a user friendly and informative tool for councillors.

Council could improve the induction tool and the Councillor Induction Handbook by providing further information to councillors on their obligations under the *Local Government Act 1993* in relation to the disclosure of pecuniary interests. There is a brief reference to this in the Handbook. However, the form that is identified to be attached to the Handbook does not appear to be included. Given this is an area where councillors are still struggling to comply with their obligations, further assistance should be provided at induction and on an on-going basis. (See comments below in the disclosure of interests returns section.)

Internal audit and risk management

Council established an Audit Committee in February 2010. The establishment of this Committee and its Charter is consistent with the Division's Internal Audit Guidelines. An independent member chairs the Committee. Council's Committee has a role in providing advice to Council on its internal and external audit practices.

Council's Audit Committee Charter gives the Committee a responsibility to oversee Council's approach to risk management and includes this as a key activity to be undertaken by the Committee. It is also evident from the Internal Audit Plan to year ended 30 June 2011 that risk management has been the focus for the development of this plan.

Council's risk management regime includes a risk management policy which is included in a corporate risk management framework. Each Council Group has developed a risk register as required by Council's risk management policy. Council's policy recognises a system and process that are consistent with the Australian Standard on Risk Management (ISO 31000:2009 Risk Management).

Council uses an external provider to undertake its internal audit functions. The Internal Audit and Strategic Plan developed by Council's internal auditor is comprehensive. It outlines the audit plan cycle and scope of audits, which shows a connection between the development of the plan and Council's risk management processes. A three year internal audit plan cycle is included. Given the comments made below in this report about the need to review some aspects of Council's delegation authorities, Council's internal auditors may wish to consider whether a

review of Council's delegations is a matter that should be considered in its current three year cycle.

The plan also identifies that the internal auditors will be conducting fraud management and monitoring training for relevant staff at Port Stephens Council in 2011. There are various audit areas proposed in the three year internal audit plan that will be able to test how well Port Stephens Council is managing fraud risk.

It is noted that the internal audit plan includes a review of Council's complaint handling procedures. This should assist Council in relation to the suggestions made below in this report in relation to reporting on the management and outcome of complaints.

Additionally, Council's internal auditors may wish to consider the comments made in this report about the results of a review of a sample of Council's tender documents and processes. Again, it is noted that purchasing and procurement is an aspect of Council's operations that has been identified in Council's internal audit plan. Another area of concern to the review team that is identified in the internal audit plan is Council's investment decisions.

Councillor expenses and facilities policy

Councils are required to adopt a policy in accordance with section 252 of the *Local Government Act 1993* that outlines the expenses and facilities that are to be provided to their Mayor and councillors.

Port Stephens Council's policy is rated as a good policy. There are many elements of the policy that are good practice. The policy is particularly well structured, clearly written and demonstrates good document control processes. The policy has clear monetary limits or standards. Not many policies reviewed by the Division of Local Government to date provide limits as well as this policy does. The policy has good expenses claim forms that include the expense limits. The policy development, review and reporting processes are good practice, particularly the annual reporting which includes a summary of the purpose of the provision of expenses and facilities to councillors as well as a detailed breakdown of all expenses and facilities provided. This provides a high level of transparency and accountability to the community.

While the policy has good legal expenses detailed, there is an error in the first line in 2.15.1(b). It currently states "Legal proceedings being taken **by or** against a Councillor…". The words '**by or**' need to be removed from the policy, as the Division's Guidelines state that legal expenses are only ever to be paid where proceedings are taken against a councillor and then only in relation to the performance of their public duties. The remainder of the legal expenses section is consistent with the Division's Guidelines.

The policy could be improved by providing a clear and appropriate general approval process. There are clear approval processes for travel and legal expenses However, it appears that the General Manager or delegated officer has the discretion to approve most other expenses. This is contrary to the Division's Guidelines, which require a two-person or council approval process. The recent report on the ICAC Investigation of Burwood Council has also highlighted the need for this process to be consistent with the Division's Guidelines.

Lastly, the policy lacks a statement clearly disallowing general expense allowances under the policy or a statement that gifts and benefits provided by councillors to visitors or guests should be of token benefit. Information on these matters is provided in the Division's Guidelines.

Recommendation 3

Council should review its Payment of Expenses and Provision of Facilities to Councillors Policy to ensure the Policy is consistent with the Division's Guidelines.

Areas for improvement

Complaints handling

Council adopted a revised complaints handling policy on 14 December 2010. The 2005 PBP review report commented on the need for Council's complaint handling system to set performance targets in relation to turnaround times, reporting on recommendations for change as a result of the complaints and making the system readily available to members of the public. Some of these are still issues that Council needs to continue to address. While it is noted that Council has made reference to the Customer Service Charter as the relevant turnaround times for tier one

complaints, there are no further turnaround times identified if the complaint becomes a tier two complaint.

Additionally, the complaint policy under tier two at point six refers to "a complainant categorised as difficult". The information refers to the Guidelines developed by the NSW Ombudsman on 'Managing Unreasonable Complainant Conduct'. Consistent with those Guidelines, Council should review the language used in its policy to refer to the conduct of a complainant being unreasonable, not the complainant. Additionally, Council should consider developing a complaints procedure for managing such conduct. If it is relying on the NSW Ombudsman's Guidelines then it should explicitly state this in the policy.

Council advised that it is capturing complaint data and separating this from customer service requests. Council could improve its policy by expressly including 'requests for service' in the list of matters that are exempt from the policy (page two of the policy). It is noted that Council's quarterly reports provide a summary of customer service requests received by category and the status of action on these matters (see discussion on Council's Customer Service Charter in the Community and Consultation section of this report).

Council should consider providing a similar report on its complaint statistics in its quarterly reports. Council's General Manager receives a report on complaints and trends which is discussed at executive meetings. The reporting in the quarterly report would be a simple extension of this reporting for the community's interest. As identified above, complaint data should be interrogated to identify whether changes are required to Council's systems and the areas of change, as a result of complaints, should be reported on.

Council advised that staff attended complaint handling training that was conducted by the NSW Ombudsman. It is intended that training will now be conducted within Council for all staff. Council should be careful to note that when it is providing training in relation to complaints that are difficult to manage, that it talks about the conduct of complainants being unreasonable and not the complainant per se.

Recommendation 4

Council should review its Complaints Handling Policy to:

a. *provide timeframes for handling of complaints*

b. *ensure that the language used is consistent with the NSW Ombudsman's Guidelines on 'Managing Unreasonable Complainant Conduct', and*

c. *develop a procedure for managing unreasonable complainant conduct*.

Recommendation 5

Council should consider providing regular reports to the community on its complaints statistics.

Delegations

Council provided a sample of its delegations instruments. There are some good aspects to Council's delegations instruments. Generally, they outline the relevant delegation and the Act reference under which the delegated authority is exercised. The delegation instrument is signed by both the person delegating the authority and the person receiving the authority. The delegation is clearly made to a position, and the link to the person who holds that position is made by the signed acknowledgement clause in the instrument. The delegations appeared to be current. Where a Council resolution was made authorising the delegation this was referenced in the instrument.

There are some minor matters that Council should attend to in some of its delegations. For example, there is a reference made in the General Manager's delegations to the Local Government (Rates and Charges) Regulation, which was replaced by the Local Government (General) Regulation 2005.

The delegation to the Mayor includes a delegation that enables the Mayor, with the concurrence of the General Manager, to declare a person a "vexatious complainant" in accordance with Council's Complaints Policy. However, there is no reference in Council's policy to such a term. Nor is there a process outlined in that policy that would be followed to make such a declaration. It may be that Council follows the NSW Ombudsman's Guidelines on managing unreasonable complainant conduct. However, this is not explicitly stated in the policy. Further, it is questionable that the

Mayor has a role in making such declarations. The management of complaints is an operational issue that comes under the direction of Council's General Manager.

The instrument of delegation to Council's Executive Officer contains a delegation to authorise reimbursement of expenses to councillors. However, the specific delegation includes wording 'to determine maximum level of reimbursement of expenses to councillors'. This is inconsistent with Council's policy position. Council's 'Payment of Expenses and Provision of Facilities to Councillors Policy' provides maximum levels of reimbursement that are available to councillors for all categories of expenses and facilities. Therefore, the Executive Officer has no discretion to determine matters beyond the maximum levels set by Council's policy. The wording of this delegation should be reviewed.

Last, the instrument of delegation to Newcastle Airport Limited was reviewed. The delegation of authority is inconsistent. On the first page of the instrument it identifies that the delegation of authority is conditional upon Newcastle City Council making a delegation of authority that is in terms identical with the delegation made by Port Stephens Council. However, on page two of the instrument, it is stated that *"…its continuance in full force and effect is not subject to identical delegation by Newcastle City Council"*. Council should review this delegation of authority to ensure that it has been made correctly.

This review has not examined the exercise of Council's delegations. This is a matter that should be considered for inclusion in Council's internal audit program.

In view of the irregularities identified in the sample of delegation instruments reviewed, it is suggested that Council undertake a review of its delegations to ensure that the information contained in them is up to date.

Recommendation 6

Council should review its delegations to ensure they are up to date, appropriate and accurate.

Recommendation 7

Council should include an audit of the exercise of delegations in its internal audit program.

Disclosure of interests returns

This was identified as an area requiring improvement in the 2005 PBP report and it is disappointing that this is an area where councillors, in particular, again need to make improvement.

The *Local Government Act 1993* sets out the parameters that must be adhered to when councillors and staff have a conflict between their public duty and private interests that constitute pecuniary interests. The Act requires that councillors and designated persons complete and lodge disclosure of (pecuniary) interest returns.

The Local Government Pecuniary Interest and Disciplinary Tribunal has pointed out the need for councillors (and designated persons) to give due care and attention to the accuracy, detail and content of the disclosures required in returns. It is important that councillors and staff observe these requirements, as to not do so has the potential to seriously undermine the community's confidence in the integrity of local government and the decision-making processes.

Of serious concern to the review team is that a number of the returns appear to be in technical breach of the *Local Government Act 1993* and the Local Government (General) Regulation 2005. The Division has provided considerable resources on its website to assist councillors and designated persons to complete the disclosure returns accurately. The returns that were reviewed by the team show a lack of understanding of the requirements of the Act and Regulation.

Generally, the deficiencies found in the 2009/2010 returns related to:

- The form of return used by Council was not consistent with the form of return required by Schedule 3 of the Local Government (General) Regulation 2005.
- The form of return being incorrect appears to have created confusion for councillors in terms of the dates of the returns. The use of incorrect dates may also have come about because many councillors appear to have completed their returns before the end of the return period.
- The nature of interests in real property was not properly disclosed.
- It was not apparent that sources of income were properly disclosed at section B3 of the form.

- Many councillors disclosed travel contributions that were not required to be disclosed (clause 185 of the Regulation provides exemptions relating to travel that is not required to be disclosed).
- Some forms were not lodged on time, as required by section 449 of the Act.

It appeared to the review team that councillors had not read extracts of the Act, Regulation or materials provided by the Division on its website when completing their returns. Additionally, the use by Council of incorrect forms had contributed to this confusion. This is a matter that is viewed seriously by the review team.

The deficiencies in the returns were of such significance that the Chief Executive wrote to the Council and required all councillors to complete further returns for the period 1 July 2009 to 30 June 2010. These were to be provided to the review team for further checking before completing the preparation of the draft report. The Chief Executive provided a detailed summary of the deficiencies found in the returns to enable councillors to correct these errors.

Council provided the review team with the further returns for the period 1 July 2009 to 30 June 2010, as requested. The review team has also examined these returns. Despite giving the councillors specific information about deficiencies in the previous returns, some councillors still did not complete the returns accurately. For example, councillors were advised, as above, that certain contributions to travel did not have to be disclosed. Despite this at least two councillors described travel provided by Port Stephens Council. Three councillors, although identifying an interest in real property as “investments”, did not disclose that they received any rental income from those properties at B3 on the form.

The Chief Executive requested Council to amend its form immediately and advised Council to use the Word© version of the form that is provided on the Division’s website. The updated returns provided to the Division included the previously omitted information relating to note 6 and the optional text. However, in examining the amended returns, there were other errors found in the format of the forms. This included a mistake at B2 relating to trusts, several mistakes in section E text and a mistake in the text in H2. It was evident that Council had not used the form that is available on the Division’s website. However, Council has added an “office use only” section on the form to record when the forms are received and by whom. Council

must fix the errors on its form of return and use the correct form as prescribed by Schedule 3 of the Local Government (General) Regulation 2005.

Because of the continuing concern about the completion of these returns, the review team will require the returns for all councillors that are completed for the next return period of 1 July 2010 to 30 June 2011 to be submitted to the Division for review.

Recommendation 8

Council should adopt the disclosure of interests form of return required under the Local Government (General) Regulation 2005.

Recommendation 9

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

Tendering and procurement

Under the *Local Government Act 1993*, councils are required to go to public tender where contracts are expected to be over $150,000 in value. Council has developed a procurement manual that incorporates the requirements for tendering. The review team examined version four of this manual dated July 2007. In addition, the review team undertook an examination of a sample of three tendering files.

The manual is considered to be good practice. It is comprehensive and easy to use. It provides clear and specific guidance to staff undertaking procurement and tendering processes. Good practice elements include clear goals for procurement and tendering outcomes being value for money, capability and efficiency. Performance criteria and contract risk assessment and treatment plans are included in the manual. There is a section on the processes for the disposal of assets.

The manual outlines which process to use in accordance with the value of the procurement. The manual provides that where a proposed contract value is expected to be over $135,000 or the contract period is equal to or greater than two years in duration, then the outcome of the tender process should be reported to the elected Council for a decision. This is an excellent cautious approach to tendering that will ensure that Council complies with the requirements of section 55.

However, Council should review the manual to ensure that it is up to date. It was noted that there are still references to a Tendering Regulation that was replaced by the Local Government (General) Regulation 2005. Council should also have regard to the Tendering Guidelines for NSW Local Government issued by the Division of Local Government in October 2009.

Council uses standard forms and templates for tender and contract documentation that have been developed by the Hunter Regional Organisation of Councils (HROC). While it is commendable that there is a standardised approach to tendering documentation, Council's application of this approach has some deficiencies. Particularly, the lack of tender assessment criteria and weighting information in request for tender documents.

Additionally, while Council's manual is good practice, it is evident that the application of the tender section of the manual is not being followed by staff undertaking tendering processes. The review team is aware that it has examined only a small sample of Council's tendering files. However, the outcome of this examination was disappointing. At least two of the three files had serious deficiencies.

Council has a range of forms to document its tendering processes. None of the files examined contained all the necessary paperwork. The files were disorganised. Council should consider moving to an electronic document management system for its procurement, tendering and contract management activities. Council is a member of the LGMA and could avail itself of the LGMA toolkit on tendering.

Generally, the review team found that:

- Not all tenders were included on the files.
- Some tenders were not signed and date stamped when opened.
- There was no record of requests for the tender documents on one of the files.
- There was no record of the staff involved in preparing and issuing the tender documents. There was only one file with a tender control form attached to the file.
- Not all written records of communications between tenderers and Council staff were on file.
- In two cases it was unclear what tender assessment criteria was being applied. Council used the HROC standard invitation to tenderers that contains a "value for

money" assessment criteria section. From reading the tender documents, it appears that the only criteria used was "conformity to the documentation" and "value for money". However, there was no information provided as to how value for money was to be calculated. This is at odds with Council's manual that outlines two approaches to assessment, being a weighted scoring method and a cost only method. It is not evident that tenderers were advised which method Council intended to apply to the assessment of their tenders.

- Two files did not contain any information as to the composition of the tender panel.
- Two files did not contain the documented tender assessment matrix that should have been completed by every member of the assessment panel.
- None of the files contained any evidence that all tenderers were advised of the outcome of the process.
- There were no copies on the files of the notice displayed at Council advising of the outcome of the tender process.
- Only one file contained a signed letter of agreement and contract documents.

In addition, the reports to Council on the outcome of the tender assessment are considered poor. It is the review team's view that councillors were not given sufficient information to enable them to make an informed decision for at least two of the tenders that were reviewed.

The tender file and documentation that was considered to be better than the others was one where the standard tender templates and documentation were not used. The request for tender for this matter provided clear information to prospective tenderers on the assessment process to be undertaken and weightings to be applied to relevant criteria. The tender assessment panel member assessment matrix documents were included on the file. The information on the assessment, including the ratings against the criteria and weightings applied, was provided to the councillors to assist them with their decision.

The report to Council on one of the other tenders identified a range of evaluation criteria and weightings that were used for assessing the tenders. However, a review of the request for tender documents indicates that prospective tenderers were not

advised of the criteria to be used or any weightings that were to be applied. Additionally, none of this information was contained on the file.

The most concerning tender process was one where Council declined to accept any tenders, in accordance with clause 178 of the Local Government (General) Regulation 2005, and resolved to enter into negotiations in relation to the particular subject matter of the tender. However, clause 178 contemplates that negotiations will be in relation to the subject matter of the tender and not in relation to any new matter. It is evident that Council staff entered into negotiations with a person where they had substantially changed the matter that had previously been the subject of the original request for tender.

Additionally, Council's resolution in relation to this matter did not comply with clause 178(4) of the Regulation. Where a council resolves to enter into negotiations, it is required to state in its resolution the reasons for declining to invite fresh tenders or applications and the reasons for determining to enter into negotiations with the relevant person or persons. While some reasoning is provided in the report to Council, this was not included in the resolution.

It is arguable that Council should have re-written its request for tender specifications and called for fresh tenders. It is also evident from the report to Council that staff had commenced the process of negotiating with tenderers before the report was prepared for Council. There is no record of these negotiations on the tender file. The fact that Council ultimately entered into a contract with a person who was not a tenderer for the original request for tender process raises concerns about the probity of this process.

All of these tenders were for a substantial amount of money. It is not clear that in all cases Council has applied the processes identified in its procurement manual so that the outcome achieved is value for money with suppliers who are capable and efficient. Council's policy is sound, but its practices are not. It is suggested that an audit of Council's procurement and tendering practices should be a high priority.

Of additional concern to the review team is the fact that Council deals with all of its tender reports in closed session. Section 10A of the *Local Government Act 1993* provides the only reasons where Council can close its meeting to the public. In many cases Council relies on the provision in the Act relating to commercial information of a confidential nature. It is the review team's view that Council has dealt with a

significant number of tenders in closed session where the commercial position of the tenderer would not be prejudiced. The reports to Council should provide an analysis of the selection criteria used to assess the tenders and this should be available for the public to scrutinise. The fundamental principles of openness and transparency that are embodied in the Act should be considered when determining whether a matter should be dealt with in closed session. Council should review the Division's Tendering Guidelines for assistance in this area.

Council has advised the review team that a person has been employed to undertake the role of procurement co-ordinator. This position should be able to focus on the organisational requirements to ensure that staff undertaking procurement and tendering practices do so in accordance with Council's policy.

Recommendation 10

Council should provide training for staff on tendering processes, assessment and reporting.

Recommendation 11

Council should undertake an internal audit of its tendering practices as a priority.

Recommendation 12

Council should ensure that all its request for tender documents indicate the criteria to be used to make an assessment of the tender and any weightings to be applied.

Recommendation 13

Council should ensure that all reports on tenders provide detail on the assessment criteria used to make a determination on the tender, including any weightings, report against these criteria and the processes underlying any recommendation.

Recommendation 14

Council should implement an electronic document management system for its procurement, tendering and contract management activities.

Meetings

Port Stephens Council has adopted a code of meeting practice to guide the conduct of its meetings. Under section 360 of the *Local Government Act 1993*, councils can

adopt a code of meeting practice that incorporates the provisions in the Local Government (General) Regulation 2005 and supplements those provisions with ones that are not inconsistent with them.

A review was conducted of Council's code of meeting practice. It is evident that Council keeps its code under regular review. However, despite the regular review, the code still contains references to outdated versions of Regulations and the Division's (formerly Department of Local Government) guidelines. Council should also remove the references to section 12 of the Act that has been repealed and replace these with any relevant references to the *Government Information (Public Access) Act 2009*.

Some general observations about the code of meeting practice and areas for improvement are as follows:

- Clause 7.1 provides that a councillor placing a notice of motion on the agenda has the right to speak to the notice of motion if an objection is raised by another councillor at the meeting. Council appears to have implemented this by only allowing a councillor to speak to a notice of motion if there is an objection and has not required a motion to be moved and seconded otherwise. A review of the minutes of Council's meetings indicates that where there is no objection, then the notice of motion is simply adopted without a motion to that affect. Section 371 of the Act provides that a decision of Council is one where there is a majority of votes at a meeting. Additionally, the Regulation requires that Council record in its minutes the details of *motions moved* at a Council meeting and the names of the *mover and seconder* of the motions. These provisions imply that a motion is required, with a mover and seconder, to be put to a vote for a decision to be made. Council should review its practice in this area.
- The code contains a section on disclosure of pecuniary and non-pecuniary interests. The review team is concerned that by writing about both pecuniary and non-pecuniary under the same headings, it causes confusion as to the relevant obligations. The Act regulates pecuniary interest obligations, the Model Code of Conduct for Local Councils in NSW regulates non-pecuniary interest obligations. The way this section is written is not accurate. For example, clause 11.12 outlines interests that *'…do not need to be disclosed for the purposes of this Code …*'. This is section 448 of the Act and relates to pecuniary interests only. This is not

clear from the text. Another example is clause 11.10 that replicates section 457 of the Act. The text in this clause implies that it will not be a breach of the code of meeting practice if the circumstances outlined prevail. This is incorrect. This is a provision of the Act that relates to breaches of the pecuniary interest provisions of the Act, not the code of meeting practice. Council should review this section of its code of meeting practice to remove any confusion between pecuniary and non-pecuniary interest obligations and the status of the code of meeting practice.

- There is a meeting procedures summary sheet as an attachment to the code of meeting practice. This is provided in the front of some of the Council's business papers and appears to be intended to provide general meeting procedure information for councillors and community members. This is commendable. However, Council needs to ensure that the information contained in this sheet is accurate. There are some errors that need to be corrected. First, the declarations of interests section on page 1 provides incorrect information about what councillors are required to do to manage non-pecuniary conflict of interests. Second, information on page 2 relating to closed sessions states that the chairperson *'must'* invite the gallery to make representations if they believe the meeting shouldn't be closed. The Act provides that a Council *'may'* invite such submissions. This section also seems to confuse closed session and committee of the whole. It implies that all closed sessions are held in committee of the whole rather than as a closed part of the Council meeting. Council has provisions relating to the closing of its meetings in its code. The summary sheet is inconsistent with these provisions. The making of declaration of interests on page 3 should also be amended to ensure that the correct information is provided about managing non-pecuniary conflict of interests.
- The agenda and business papers section provides that a councillor can call up a development application to Council by completing an application and providing reasons why the development application is being called up. The review team was advised that few councillors completed the form. The forms that were examined by the review team did not contain any information as to the reasons for the call up application. Council should ensure that this provision is complied with. A copy of the completed call up application should be provided with the development application report in the Council business paper. Alternatively, Council could review this provision to see if it is being used effectively. The review

team noted that there are a large number of development application call ups. See the planning and other regulatory functions section for more discussion on this topic.

Council holds two ordinary Council meetings each month on the 2nd and 4th Tuesdays. In addition, all councillors meet as a 'general' committee twice a month. Up until November 2010, this was before each ordinary Council meeting. The committee meeting is now held on the 1st and 3rd Tuesdays of each month. Council held 21 ordinary meetings in 2010. Council also held four extraordinary meetings in 2010. Further, Council's committee did not meet on one occasion due to lack of a quorum; it had to adjourn an ordinary meeting due to a loss of quorum; and one extraordinary meeting did not proceed due to lack of a quorum.

Council holds councillor briefing sessions, called 'two way conversations', on a regular basis. These are generally on the day of the Council meetings. These sessions are chaired by a senior staff member.

The review team attended a 'two way conversations' briefing and observed a Council meeting while undertaking the review.

The review team make the following observations about Council's meeting practices:

- It is questionable as to whether Council has adopted effective and efficient meeting practices. Essentially, councillors gather each week to discuss Council business. On one week, it is as a Council committee to make recommendations to itself which are considered in the following week. The role of the Council committee is to make recommendations to Council on matters relating to the strategic direction of Council, policy matters, day to day management of Council's services, activities and operations (as provided on Council's website). The first observation to make is that neither Council nor its committees should be undertaking day to day management of Council's operations. This is the role of Council's General Manager and this role should be removed from the Council committee's function. Second, it appears that councillors as a group in effect consider the same matters twice and it is questionable as to whether this is efficient decision making. Council should review the meeting practices of other councils to introduce efficiencies into the way it makes its decisions. Some suggested examples are Shoalhaven City Council, Kiama Shire Council and Bega Valley Shire Council. Council could use the technique of moving itself into

committee of the whole and conduct its committee and Council meeting processes at the one time.

- Given that Council meets so frequently, it is concerning that Council has the need for any extraordinary meetings. An examination of the minutes of the three extraordinary meetings that proceeded in 2010 indicates that the matters that appeared to be of such urgency as to require an extraordinary meeting all related to development matters. One extraordinary meeting was to consider a rescission motion related to a development application that was considered at a previous extraordinary meeting. The extraordinary meeting where a quorum was not present was also to consider a planning matter. It appears that some councillors call extraordinary meetings when they don't get their way on a matter. This is an inappropriate use of the extraordinary meeting provisions of the Act.
- A review of Council's minutes of meetings held in 2010 highlights that councillors may be using rescission motions to attempt to thwart the implementation of decisions they do not agree with. Council considered eight rescission motions in 2010. The number of rescission motions, extraordinary meetings and loss of quorum all point to a level of dysfunction in the elected body. These practices have continued into 2011, with rescission motions being considered at meetings in February, March and April. Two extraordinary meetings have already been held in 2011. In addition, Council's meeting held on 22 March 2011 had to be adjourned due to the loss of a quorum.
- A review of Council's minutes also indicates a lack of understanding of meeting procedures by some councillors. A number of councillors have indicated in the minutes that they are abstaining from voting. Clause 251 of the Regulation provides that where a councillor is present at a meeting and fails to vote, then the councillor is considered to have voted against the motion. A councillor cannot abstain from voting. Council's code of meeting practice provides this information, as does the Regulation. Councillors would do well to familiarise themselves with these documents.
- A council can close so much of its meeting as to consider items of a confidential nature in accordance with the provisions of sections 10A to 10D of the Act. There were only three occasions out of the 21 meetings held by Council in 2010 where it did not consider any items in a closed session. This is concerning. The

fundamental principles in the Act for the conduct of council meetings are ones of openness and transparency in decision making. The only reasons a council can close a part of the meeting is to consider matters that fall within the areas outlined in section 10A(2) of the Act. The review team is particularly concerned that Council deals with every tender in closed session. The review team commented further on this in the tendering and procurement section above. Council needs to review its practices in this area. Council should be working to build community confidence in its decision making. Considering a large number of matters in closed session does not contribute to this.

- A review of Council's 2010 minutes tends to show that the entitlement of Mayoral minutes may have been misused in some cases. Clause 243 of the Regulation provides that a Mayor is entitled to put a minute to a meeting on any matter or topic that is within the jurisdiction of the council of which the council has official knowledge. This implies that Mayoral minutes are to be used for matters of civic significance to the council. This power to use Mayoral minutes recognises the special role of the Mayor. A Mayoral minute overrides all business on the agenda for the meeting, and the Mayor may move that the minute be adopted without the motion being seconded. Mayoral minutes should not be used to introduce, without notice, matters that are routine, not urgent, or need research or a lot of consideration by the councillors before coming to a decision. These types of matters would be better placed on the agenda with the usual period of notice being given to the councillors. It was noted that a number of Mayoral minutes were to consider development applications and the sale of Council property. It is the review team's view that this is an inappropriate use of the Mayoral minute entitlement.

Overall, the review team is concerned that councillors are using meetings to attack each other and misusing the procedures when they don't have the numbers. Council is clearly divided on important development matters. This tends to be evenly balanced and often requires the Mayor to cast a second vote so that a decision is made. When one side, or the other, does not win the vote, then the rescission motion process is used or the meeting is deprived of a quorum. This should not be allowed to continue. The review team has previously commented on the relationship between councillors (see earlier section in this report). Councillors would do well to examine their role and responsibilities and improve their meetings practices.

Recommendation 15

Council should review its code of meeting practice to:

a. *ensure it is consistent with the requirements of the Act and Regulation*
b. *clarify pecuniary and non-pecuniary conflict of interests information*
c. *ensure that the summary sheet provides accurate information.*

Recommendation 16

Council should examine the meeting practices of other councils with a view to reviewing the efficiency and effectiveness of its own practices.

Recommendation 17

Councillors should undertake further training on meeting procedures and the conduct required for effective meetings.

Code of conduct

Council's 'code of conduct' was last amended and adopted on 25 November 2008, in accordance with section 440(7) of the Act. 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).

A noteworthy practice that was identified during the on-site component related to Council's procedure for assessing code of conduct complaints. The General Manager has formed an advisory panel which consists of himself, the Executive Officer and Council's solicitor. The General Manager, when making his assessment of a code of conduct complaint in accordance with clause 13.1 of the Model Code, is then able to clarify with the panel any questions that he may have in regard to the correct processes under Council's code of conduct. The panel also affords the General Manager a degree of confidence that the assessment made is available to him and that it is in accordance with its code of conduct or the appropriate industrial relations legislation/instrument when it relates to Council staff. Notes are taken of the meetings and the General Manager's final assessment is documented. These notes are electronically filed, along with the complaint and any other related correspondence. It was noted that there could be improvements to this system by implementing a

naming protocol for the files to assist with the recovery of documents from the records system.

There are, however, some significant areas for improvement. As stated earlier in the report under the heading 'Relationship's between Councillors and Staff', the relationship between councillors is poor. This is further aggravated by the improper use of Council's code of conduct. This improper use includes what has been described as tit-for-tat complaints. It appears that councillors are making vexatious complaints with a view to political point scoring without having regard to the impact on Council. 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. Council staff recently attempted to highlight to the councillors the impact of their complaints by including the cost of the code of conduct investigations as part of the report to Council for its consideration.

Instead of councillors realising that it was their behaviour which resulted in the increased cost to the Council, the councillors took it upon themselves to further undermine the code of conduct by criticising the General Manager for referring the complaints to a conduct reviewer. The General Manager has put into place a process by which the assessment of each complaint is well considered. However, options that would normally be available to the General Manager, such as clause 12.9(b) "resolve the complaint by use of alternative and appropriate strategies such as, but not limited to, mediation, informal discussion or negotiation ..." have effectively been removed due to this unwarranted criticism. Given the councillors' complete disregard for the code of conduct, the General Manager cannot be confident that the councillors would take part in these alternate dispute resolution strategies were they recommended.

During the meeting on 22 February 2011, officers from the Division witnessed first hand the disregard some of the councillors had toward Council's code of conduct. This was extremely concerning. This disregard can only be attributed to either a lack of understanding of the code of conduct or a conscious decision not to comply with it.

The Division provided Councillor Information Sessions in 2008/09 and 2010/11, which included a component on the code of conduct and conflict of interests. A review of records held by the Division show that 10 councillors from Port Stephens

attended the 2008/09 sessions and three councillors attended the 2010/11 sessions. The Division is also aware that on 20 April 2010 the General Manager arranged for additional councillor training specifically addressing both the code of conduct and conflict of interests. All councillors have an obligation to the community to fully understand their obligations under the *Local Government Act 1993*.

The conscious disregard of Council's code of conduct has a number of impacts. It reduces the standard of behaviour of councillors, it affects staff morale and it reduces the community's confidence in Council's ability to make effective decisions. There also appears to be an attitude among councillors that if they are found to have breached Council's code of conduct that Council will just note the report and take no further action. Councillors should be aware that under section 440F(1)(b) of the *Local Government Act 1993*, the definition of 'misbehaviour' includes a breach of the code of conduct. In circumstances where acts of misbehaviour are proven, the sanctions available include a period of suspension for up to one month when determined by the Chief Executive, Local Government and suspension for up to six months when determined by the Local Government Pecuniary Interest and Disciplinary Tribunal. A lack of awareness of, or a lack of willingness to comply with, the standards of conduct is a serious matter.

Recommendation 18

Council should organise a further councillor information session with specific reference to the code of conduct and the management of conflict of interests.

Recommendation 19

Council should report quarterly to the Division of Local Government, until August 2012, on the status of code of conduct complaints relating to Port Stephens councillors.

Recommendation 20

Council should be provided with a report regarding code of conduct complaints relating to councillors on a quarterly basis, rather than annually, for the next twelve months after the release of this report.

Council response

See Action Plan

Reviewer comment

The review team has noted that Council has introduced an electronic document management system for its tendering practices (recommendation 14). Council should monitor the use of the system and report on its effectiveness when it reports to the Division on its progress in implementing the recommendations from the review.

The review team has also noted that Council has indicated that it has adopted the form of return for disclosures by councillors and designated persons that is available on the Division's website.

7 PLANNING AND OTHER REGULATORY FUNCTIONS

7.1 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.

7.1.1 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*
- *Environmental management*
- *Compliance and enforcement practices*

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

While Port Stephens Council has made significant improvements in the processing of development applications, Council's overall strategic direction in relation to planning decisions needs immediate attention.

Council reports that by 2030 the population in the Port Stephens local government area will be in excess of 100,000 people. A well considered policy framework, developed in consultation with the community, is required to ensure that the needs of this growing community are met, rather than the current 'here and now' approach.

It was observed that Council has completed most of the recommendations in relation to this section from the previous Promoting Better Practice review.

7.1.3 Summary of progress towards achieving recommendations

No.	*Promoting Better Practice Review 2005 recommendations*	*Status*
20	Council should continue to develop and implement strategies to reduce development application processing time.	Completed but ongoing
21	Council should consider putting a strategic planner on the development assessment panel.	Completed
22	Council should provide elected representatives with detailed reports on at least a quarterly basis showing a breakdown of legal expenses including the cost of using external consultants in defending cases.	Completed
23	Council should conduct further public education programs/campaigns regarding what is required for new development to comply with BASIX.	Completed
24	Council should use its draft social plan and the results of community surveys to determine current community needs and develop options to expend unspent section 94 funds in ways that are consistent with the identified needs of the community and requirements of the section 94 plan.	Completed but ongoing
25	Council should review its 1998 Port Stephens Companion Animals Management Plan to ensure that the plan is working and responds to any changes in the local environment over the last seven years.	Completed
26	Council should develop a swimming pool awareness program in accordance with the *Swimming Pools Act 1992* and Department of Local Government Circulars 04/13, 04/12 and 03/34.	Completed

7.1.4 Assessment of progress and significant observations

There have been vast improvements in Council's processing of development applications, which can be attributed to the implementation of some effective strategies.

Information obtained from the Department of Planning and Infrastructure's "Local Development Performance Monitoring Report 2009-2010" illustrate these improvements. During this period it was reported that Council assessed 936 development applications, totalling $161.5 million in value. The percentage of these applications that were dealt with under delegation by Council staff was 99.4%.

In 2008-2009 the gross mean time for the processing of development applications was 72 days. This has improved dramatically, with the current gross mean time for the processing of development application now being 54 days. This is significantly lower that the state average of 67 days.

These improvements are even more impressive given the volume of work. Port Stephens Council has 6 equivalent full-time positions (EFT) who process development applications. The Department of Planning and Infrastructure reported that the number of development applications processed per EFT position was 156. This was the fifth highest in the state. Again this was significantly better than the state average of 63 applications per EFT position.

Noteworthy practices

Development Assessment Process

It was evident to the review team that there has been an on-going program of reform with a view to improving the development application process at Council. This commenced with the creation of a 'Development Application Guide', which is available on Council's website. Further advancements were made possible with a Federal Government grant aimed at red-tape reduction. Some of these improvements included improvements in information on Council's website, the introduction of electronic forms and the introduction of an electronic development application (DA) tracker system. These projects and their progress are recorded and updated in a Council document titled the 'Business Process Improvement Roadmap'.

More recently Council has introduced a number of interactive development application forms. This is seen as a step toward electronic lodgement of development applications, which may further reduce processing times. Electronic lodgement would also promote the introduction of electronic document management of development application files. The review team inspected a number of development application files and found them to be in good order. Although there were some items missing,

the benefits from the introduction of the ICAC 'Development Assessment Internal Audit' tool were clear. This is an ongoing process and Council has identified that there is further scope for improvement in this area.

Council has also established a pre-lodgement advice service, which includes a 'Development Application Panel' for larger developments. This provides applicants with an avenue to obtain specific advice in relation to their applications, improving the overall quality. It was also identified that Council customer service staff play an important role in supplying accurate pre lodgement advice. In response, the Sustainable Planning Department has created an internal manual and provided staff with practice notes with a view to improving their knowledge and understanding of this process.

This whole of process reform, while ongoing, has already produced improvements as can be seen in the Department of Planning and Infrastructure's report referred to above and the review team encourages Council to continue this reform.

Recommendation 21

Council should implement an electronic document management system for its development application activities.

Recommendation 22

Council should consider implementing a system for the electronic lodgement of development applications.

Areas for improvement

Development assessment by Council

During the review of Council's planning functions it was noticeable that there was a conflict between the professional view of the planning staff and the views of Council's elected officials. During interviews with the councillors there was a commonly held belief that the planning staff were out of touch, that they went too much by the book and that they hindered development opportunities in the area. Given that in the Department of Planning and Infrastructure's "Local Development Performance Monitoring Report 2009-2010" it recorded that only 5 out of 936 development applications were refused, this attitude was surprising.

It was observed by the review team that councillors had a very short term view in relation to development applications and that there was a 'can do' attitude, despite any planning impediments. The review team also noticed that there has been an increase in the number of development applications that are being called up to Council for determination by the councillors. The review team has a number of serious concerns about the manner in which the development applications being called up to Council were dealt with.

First, there is no Council policy with regard to what development matters are called up and determined by councillors. It was established that there is a 'call-up' form, however, there was evidence that these forms were not being filled out correctly. There was information missing, namely why the development application is being called up, and the forms are not being filed in the development application files. It was clear that many of the development applications that were being called up to Council were ones that were being considered for refusal by planning staff. This may account for the low number of applications that were refused.

Second, the determinations reached by the councillors in relation to development applications can only be described as being ad hoc and inconsistent with Council's own policies. Councillors are provided with a report prepared by Council staff which outlines any concerns held and ultimately provides recommendations as to what action should be taken by the councillors. It was observed that councillors frequently went against the recommendation provided by the planning staff. Councillors are not bound by the recommendations of the staff. However, many of the reasons provided for refusal were significant. Development applications have been approved that, according to the staff assessment in the reports, did not comply with the State Flood Plan Manual, Council's Local Environmental Plan (2000), Council's Development Control Plan and the Department of Defence's aircraft noise forecasts contained in the ANEF 2025 map and related Australian Standards. This approach is consistent with a 'here and now' attitude of Council, one that does not have any regard for future planning considerations.

Finally, Council obtained its own legal advice in relation to some of these planning decisions. This was reported to Council and it recommended that when Council goes against the recommendations of the planning staff, that it should provide reasons why the application was approved. Council is failing to provide reasons why it is

approving applications where staff have recommended refusal, something that may result in costly litigation.

Recommendation 23

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

Recommendation 24

Councillors must complete the call up form for development applications and provide all the required information until the policy relating to this is adopted.

Land use Planning

While there has been a considerable amount of work undertaken on the processing of development applications, there has been a lack of focus on Council's planning policies. As mentioned previously, councillors appear to be dismissive of Council's current planning policies. They have little regard for the Local Environmental Plan (2000) and Council's Development Control Plan (DCP) when approving development applications. This piecemeal approach to planning results in poor decisions that may not be in the best interests of the community.

The review team formed the view that councillors had blamed the planning staff for implementing these planning policies which did not reflect their views. However, it was evident that many of the councillors did not appear to understand that it was their role to review these policies and set the strategic direction, rather than choosing to approve development applications despite the policies and thereby continually undermining Council's planning framework.

The review team accepts that councillors appear to have polarised points of view in relation to planning and development. The challenge for councillors and staff is to work together to complete the LEP template and review the necessary components of the Development Control Plan to create a framework that will allow sustainable development which considers the social, environmental and economic impact.

Recommendation 25

Council should develop a program for the regular and ongoing review of its planning and development policies.

Council response

1. It is fully acknowledged that Council's Planning Framework is not compatible in many instances with the political want of the majority of Councillors on development and environmental matters;
2. I wish to emphasise very strongly that any attempted influence by Councillors – real or perceived – on professional staff is not allowed in any case to influence the independence and strength of the professional advice and recommendations that is presented to the Mayor and Councillors. There are frequent conversations between myself, my two section managers and the professional staff regarding this matter and I believe there is a clear and consistent understanding about this and the essential requirements of integrity in how the professionals in my Group operate. The Group Manager Sustainable Planning and I place major emphasis on this;
3. The comments regarding the efficiency of the development assessment processes and performance are noted and appreciated;
4. For a number of years, there has been a well structured and well established work program for strategic planning policy preparation. This was substantially enhanced following the restructure of the Sustainable Planning Group that was established in November 2010 and on appointment of the new Manager, Environmental and Development Planning in December 2010. It is acknowledged that there is significant frustration with the delays in implementing this planning policy framework agenda, but this has to be considered against the overall budget operating deficits of the Corporate Organisation;
5. The organisational restructure of the Sustainable Planning Group has improved the alignment of the structure of the Group with Council's strategic directions and has achieved an improvement in the integration of functions, tasks and responsibilities within the two sections of the Group;
6. It is acknowledged that working relationships between the Councillors and professional planning staff are difficult and particularly involving the working relationships between the Councillors, the Group Manager and his two Section Managers. There may be a range of conflicting views, but the Group Manager Sustainable Planning and I do not in anyway accept the comment in the report from one source to the effect that "some Councillors are too close to staff". Again, myself, Group Manager Sustainable Planning and the two Section Managers in that Group are well aware of the appropriate protocols and probity issues involved in this and I would say that there are significant difficulties and "non-closeness" in the working relationships between certain Councillors, myself, the Group Manager, and the two Section Managers in the Sustainable Planning Group;
7. I am certainly well aware of the need to review the electronic mechanisms for lodgement of development applications and the management of records associated with development assessment. This however, has subject of delay and is impeded by the conflicting priorities and the limited human and financial resources that can be brought to the task;
8. There has been a policy in relation to the call up of development applications and this was resolved upon by Council within the Code of Meeting Practice as only requiring the call up capability requiring the trigger of a call up by one Councillor of a particular development application. Reasons for that call up are now required to be stated by the Councillor on the appropriate form. However, it is intended to re-visit this policy in relation to call up of development applications again and make further recommendations to Council.

Reviewer comment

Council's comments are noted. The review team's comments were not intended to imply that Council staff were acting inappropriately. The review team formed the view that Port Stephens Council planning staff act professionally in undertaking their duties and when providing advice to the elected Council.

8 ASSET AND FINANCIAL MANAGEMENT

8.1 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. The council is also the custodian and trustee of public assets and must effectively account for and manage these assets.

8.1.1 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*
- *Management of community land*

8.1.2 Summary of progress towards achieving recommendations

No.	*Promoting Better Practice Review 2005 recommendations*	*Status*
3	As a matter of priority, Council should prepare a long-term financial plan and asset management plan. These should be part of Council's evolving corporate planning model.	In progress
13	Council should develop a comprehensive disposal policy for its assets.	Completed
16	Council should incorporate, or link, the management of its information and communications technology assets with its asset management plan.	Completed – of an ongoing nature
27	Council should complete the development of its long-term financial plan in conjunction with its strategic planning processes, taking into account the following considerations: a. alternative sources of revenue	In progress

No.	Promoting Better Practice Review 2005 recommendations	Status
	b. long term rates strategy (rating structure, special variations, etc) c. long term borrowing needs and debt service ratio d. investment strategies e. the alignment of its long-term financial plan with other strategic directions such as 2030, asset management, social and strategic plans f. long-term plans for capital works, land acquisition and anticipated demand for community facilities g. reserves and section 94 contributions h. asset management plans i. ward funds	
28	Council needs to review its rating structure as part of its long-term financial planning process.	Completed
29	Council should link its current review of section 94 contributions plans to its capital works program and long term financial and asset management plans.	Completed – of an ongoing nature
30	Council should continue to develop a comprehensive asset management plan which includes the rationalisation of assets and a maintenance program.	In progress
31	Council is encouraged to continue in its process of linking: • inventory collection – frequency, condition assessments • service levels – internal and external, maintenance plans • risk assessment – public liability and risk • asset life – future demand analysis, deterioration and depreciation	In progress

No.	Promoting Better Practice Review 2005 recommendations	Status
	• sustainability gap.	
32	Council should review the current ward funding policy and is encouraged to either remove or significantly limit the allocation of funds.	Partially Completed

8.1.3 Overview of asset and financial management practices.

As at 30 June 2010, Council's financial position was considered by the review team as at a significant high risk due to its low liquidity and recent financial losses. Councils that are considered at a significant high risk are not necessarily in imminent danger of defaulting on their debt service obligations, nor is their financial viability being called into question. Rather, what is being emphasised is that, unless the long-term finances of such councils are put onto a sustainable footing, substantial or disruptive revenue (or expenditure) adjustments appear inevitable.

Council is required to complete a single set of financial statements, referred to as the consolidated financial statements. The requirement to consolidate Council's financial statements appears to have complicated and confused councillors' and the community's understanding of the financial position of Council. The preparation of consolidated financial statements involves combining the financial statements of individual entities so that they show the financial position and performance of the group of entities, presented as if they were a single economic entity. Council has four business entities – namely Civil Works, Property Development, Holiday Parks and the Newcastle Airport. Council is required, after adjustments, to include 50% of Newcastle Airport Limited (Airport) assets, liabilities, income and expenses in its consolidated financial statements.

Council achieved an operating surplus from continuing operations of $2 million for the year ended 30 June 2010. However, this result was only achieved by the inclusion of a $2.275 million profit made by the Newcastle Airport. Council actually reported an operating deficit, before capital grants of $5.258 million for the year ended 30 June 2010.

The following table shows Council's financial results for the past five financial years.

	30 June 2006	30 June 2007	30 June 2008	30 June 2009	30 Jun 2010	CAGR %
Rates & Annual Charges	31,878	34,411	36,469	38,347	40,344	6.06%
User Charges & Fees	19,460	24,792	23,918	24,661	30,099	11.52%
Interest and Investment revenue	2,405	2,504	2,861	0	2,316	-0.94%
Other Revenues	5,495	4,557	4,452	7,321	5,791	1.32%
Grants & Contributions for Op. purposes	9,056	9,747	10,944	10,371	9,744	1.85%
Grants & Contributions for Cap Purposes	13,750	7,417	7,085	6,616	7,262	-14.75%
Net gain from the Asset Disposal	802	1,811	1,436	0	0	-100%
Share of Interests in Joint Ventures, etc.	0	0	0	0	0	
Total income from continuing operations	**82,846**	**85,239**	**87,165**	**87,316**	**95,556**	**3.63%**

	30 June 2006	30 June 2007	30 June 2008	30 June 2009	30 Jun 2010	CAGR %
Employee Costs & on-costs	24,783	25,056	27,167	31,313	34,376	8.52%
Borrowing Costs	1,613	1,954	2,059	2,210	2,717	13.92%
Materials & Contracts	29,875	29,117	31,703	30,107	27,636	-1.93%
Depreciations & Amortisation	12,349	13,261	13,449	18,302	18,656	10.87%
Impairment	0	0	0	0	0	0.00%
Interest and Investment Losses	0	0	0	1,709	0	0.00%
Other Expenses	6,494	6,569	7,387	7,808	9,981	11.34%
Net loss from disposal of assets	0	0	0	138	186	0.00%
Share of interests in joint ventures & associates	0	0	0	0	0	0.00%
Total expenses from continuing operations	**75,114**	**75,957**	**81,765**	**91,587**	**93,552**	**5.64%**
Net operating result for the year	**7,732**	**9,282**	**5,400**	**-4,271**	**2,004**	

The Compound Average Growth Rate (CAGR) is a measure of growth over a given period. The CAGR highlights that Council's total expenses from continuing operations has outgrown total income from continuing income over the last five financial years.

The following table lists Council's Key Performance Indicators for the past five years.

Council's financial indicators have suggested an improvement in its financial position. However, the review team has concerns in the reporting of Council's reserves, which may affect the Unrestricted Current Ratio results. The review team has also noted that Council's Debt Service Ratio has been gradually increasing over the past five years.

	2006	2007	2008	2009	2010
Unrestricted Current Ratio (Quick Ratio)	0.65	1.89	1.90	1.08	1.16
Debt Service Ratio	5%	6%	6%	8%	9%
Rates & Annual Charges Coverage Ratio	38%	40%	42%	44%	42%
Rates & Annual Charges Outstanding %	5%	5%	5%	5%	5%

The Unrestricted Current Ratio (UCR) excludes all current assets and liabilities that are restricted to specific purposes. An UCR of 1.16 (2009/10) indicates that the general purpose function of Council has $1.16 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.

The Rates and Annual Charges Coverage Ratio compares Council's total income to that of its rate revenue. Council's ratio of 42% (2009/10) shows that Council 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 cash balance decreased by $6 million during the 2010 financial year. Council reported that its internally restricted funds balance also decreased from $11 million to $7 million during the year. Council reported no unrestricted funds.

Financial sustainability is an assessment of a council's future financial performance and a review cannot be based solely on historical results because it does not take into account the possible actions that may be undertaken by the council. A council's

financial sustainability should not be viewed in isolation but in the context of its service provision. Councils have relatively secure sources of income and therefore are unlikely to become insolvent. However, poor financial management may result in the provision of services being severely disrupted or discontinued. In this light, the focus for a council, in respect to its financial sustainability, needs to be on its long term financial plan (LTFP), which is part of its resourcing strategy. Council's resourcing strategy should be intrinsically linked to future service provision within its Operational Plan and Delivery Program.

Council's LTFP was critically reviewed as part of the implementation of the Integrated Planning and Reporting Framework (IP&R) and Special Rate Variation application for 2010/11. The review found that Council's resourcing strategy was brief and did not link the LTFP to the Community Strategic Plan, while the Asset Management Strategy did not link with the Community Strategic Plan, Delivery Program or Operational Plan. The review found that the LTFP needed more detail in determining assumptions and linkages with other plans, particularly Council's Asset Management Strategy and Plans.

Council has completed a draft budget for 2011/12 using a new software program which has improved its budgeting process. Council has not updated its LTFP.

Recommendation 26

Council should update its Long Term Financial Plan and review this on an annual basis.

Recommendation 27

Council should ensure that linkages exist between the Asset Management Strategy and the Long Term Financial Plan for a minimum timeframe of 10 years.

8.1.4 Assessment of progress and significant observations

Areas for improvement

Council's Reserves

The reporting by Council of its reserves against its cash and investment balances is of concern. According to Council's financial statements for the year ended 30 June

2010, Council recorded total external restricted funds of $14.804 million, internal restricted funds of $6.533 million and no unrestricted funds, totalling $21.337 million.

It is concerning to the review team that Council's reporting of reserve balances in its quarterly review to Councillors (as at 30 June 2010) does not reconcile with the funds available as reported in its annual financial statements at 30 June 2010. The information provided to Council on 24 August 2010 reported that the total of externally restricted funds and internally restricted funds was $27.284 million (as shown). Council's total cash and investments totalled $21.337 million at 30 June 2010.

COUNCIL COMMITTEE – 24 AUGUST 2010

ATTACHMENT 2

ESTIMATED STATEMENT OF RESTRICTED FUNDS MOVEMENTS TO 30/06/2010
2010 June Quarterly Budget Review

RESTRICTED FUNDS	Balance as at 30/06/2009	Recurrent Budget	Capital Budget	Balance Sheet Movements	Estimated as at 30/06/2010
SECTION 94	$14,540,114	$144,854	($4,736,155)		$9,948,813
DOMESTIC WASTE MANAGEMENT	$2,023,955	$1,131,856	($1,555,000)	($432,480)	$1,168,331
Sub Total. Externally Restricted	**$16,564,069**	**$1,276,710**	**($6,291,155)**	**($432,480)**	**$11,117,144**
BUSINESS DEVELOPMENT RESTRICTED FUND	($605,937)	($44,108)	($6,886,462)	$5,132,727	($2,403,780)
INVESTMENT PROPERTIES DEPRECIATION FUND (INVESTMENT PROPERTIES SINKING FUND)	$1,589,855	$1,052,265	($17,150)		$2,624,970
ASSET REHABILITATION RESERVE	$247,779	$500,000	($654,490)		$93,289
FLEET MANAGEMENT (PLANT)	$3,852,363	$2,047,002	($2,824,541)	$369,481	$3,444,305
OTHER WASTE SERVICES	$3,304,180	$0	$0		$3,304,180
QUARRY DEVELOPMENT	$741,576	$12,533	$0		$754,109
BUSINESS OPERATIONS RESTRICTED FUND	($2,521,719)	$1,643,039	($3,992,180)	($163,956)	($5,034,816)
EMPLOYEE LEAVE ENTITLEMENTS	$6,246,556	$0	$0		$6,246,556
BEACH VEHICLE PERMITS	($53,569)	$0	$0		($53,569)
DRAINAGE	$495,415	$821,000	($660,000)	($96,234)	$560,181
INTERNAL LOAN	($394,533)	$250,000	$0		($144,533)
TRANSPORT LEVY	$40,460	$387,500	($447,000)		($19,040)
ENVIRONMENTAL LEVY	$376,929	($7,500)	($60,000)		$309,429
ADMINISTRATION BUILDING SINKING FUND	$815,325	$266,608	($245,238)		$836,695
DEPOT SINKING FUND	$1,066,838	$335,899	($439,285)		$963,452
RTA BYPASS ROADS M'TCE RESTRICTED FUND	$1,857,359	$17,643	($120,000)		$1,755,002
RESTRICTED CASH ESTIMATED BALANCE	$3,738,267	($1,659,143)	($2,470,489)	$2,866,627	$2,475,262
COUNCILLOR WARD FUNDS	$177,516	$0	($195,340)		($17,824)
INFORMATION TECHNOLOGY STRATEGY	$351,117	($60,000)	($95,132)		$195,985
PROVISION FOR LOCAL GOVT ELECTION	$0	$100,000	$0		$100,000
PARKING METER RESERVE	$758,366	$199,753	($780,824)		$177,295
Sub Total. Internally Restricted	**$22,084,143**	**$5,862,491**	**($19,888,131)**	**$8,108,645**	**$16,167,148**
RESTRICTED FUNDS TOTAL	**$38,648,212**	**$7,139,201**	**($26,179,286)**	**$7,676,165**	**$27,284,292**

* Balance Sheet Movements are the repayments of the Principals on Loans and the funds from Loans received and the proceeds for land and fleet sales

Quarterly Budget Review Statement:

The 'Quarterly Budget Review Statement for Local Government' requires councils, from 1 July 2011, to provide on a quarterly basis a Cash and Investments Budget Review statement. The statement will show the original budgeted cash and investment position, the revised position and the projected year end position. It will also show the anticipated year end available cash position.

Council may include more specific detail, such as transfers in reserves, in order to provide additional information for councillors. Importantly for Port Stephens Council, it will require the inclusion of a statement regarding its cash position and reconciliation with cash reserves and investments.

Recommendation 28

Council should complete and provide to councillors a quarterly statement that specifies its cash position and reconciliation with cash reserves and investments.

Recommendation 29

The total and restricted amount of assets (the use of which is restricted by regulation or other externally imposed requirements) must be disclosed on a quarterly basis together with details of the nature, extent and movement of the external restrictions.

Newcastle Airport Limited

The Airport operates according to a Declaration of Trust between Newcastle City Council and Port Stephens Council and a constitution. The Airport's constitution states that the income and property of the Airport must be applied solely towards the promotion of the objects of the Airport. In this light, for the purposes of decision making and transparency, it is important that Council's operations are clearly distinguished from the operations of the Airport when reporting on Council's financial performance and financial position.

While Council must still continue to meet its financial reporting obligations under section 413 of the Act, it is suggested that Council provide greater disclosure in terms of financial reporting to councillors and the community by separating the operations of Council from the Airport. This could be achieved by creating two separate columns

in its quarterly budget review reports and providing two sets of financials, one which includes, and another that excludes, the Airport.

Also, the review team understands that Newcastle City and Port Stephens Councils are in the process of reviewing the Airport's Declaration of Trust and constitution, including allowing the Airport to seek alternative sources of funding. In undertaking this process, both Councils should be mindful of Part 6 of the Act in respect to Public-Private Partnerships.

In reviewing the Airport's constitution, it was also noted that Newcastle City and Port Stephens Councils were referred to in the context of Corporations Law. According to section 220(2) of the Local Government Act, a council is not a body corporate (including a corporation).

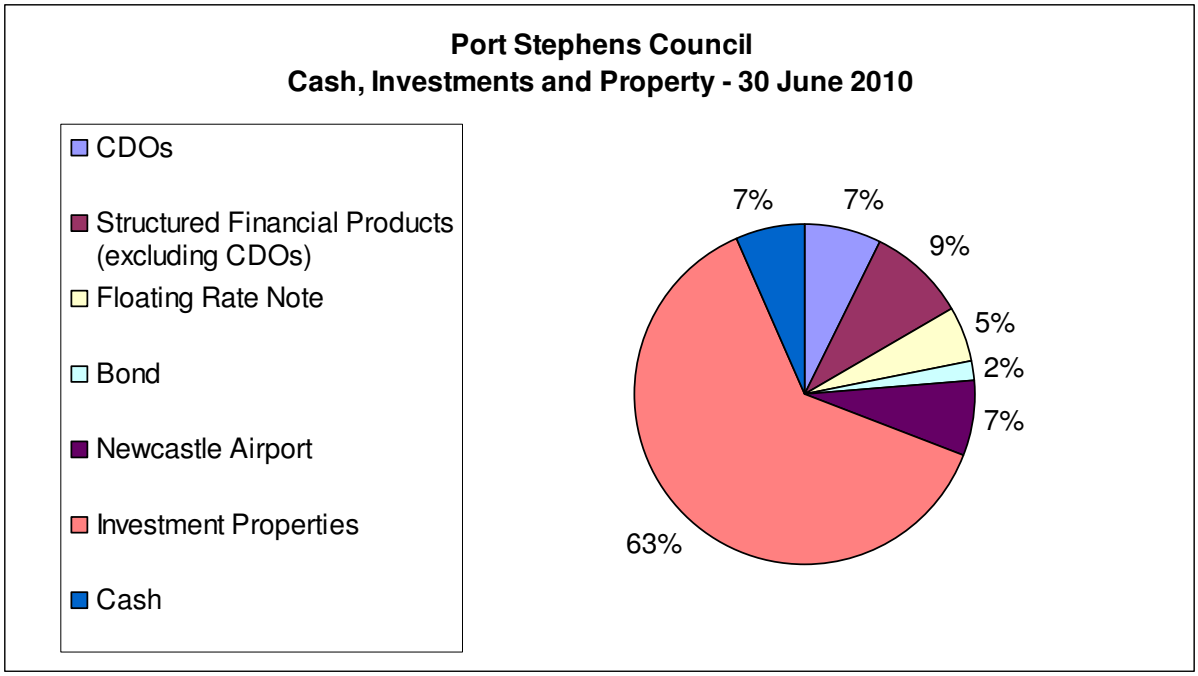
Recommendation 30

Council should provide separate financial reporting on the Newcastle Airport.

Property and investments

At 30 June 2010, Council's cash and investments totalled $17.223 million. The total of $21.4 million of cash and investments in the financial statements at 30 June 2010 includes the cash and investments from Newcastle Airport Limited. Including real estate held for resale and investment properties, Council's investments as at 30 June 2010 were made up of the following:

DESCRIPTION	AMOUNT $
Collateralised Debt Obligations (CDOs)	4,139,888
Structured Financial Products (excluding CDOs)	5,342,068
Floating Rate Notes	2,894,055
Bonds	1,000,000
Newcastle Airport	4,114,000
Investment Properties	35,317,000
Cash	3,847,429
TOTAL	**$ 56,654,440**



It is not clear how Council previously determined its asset allocation across the various investment options. Different allocations have different return parameters and levels of risk. Risk is defined for investment purposes as a situation where the return on investment is uncertain.

Property investments are considered a moderately volatile investment. Council has $35 million invested in property as at 30 June 2010. While Council's investment in property in itself may not be considered significant, the proportion invested in property relative to the size of Council's other investments is. The issues associated with investing in property include significant capital outlays, difficulties in diversifying, ongoing costs including rates and maintenance, reduced liquidity and exit costs.

According to section 8 of the Local Government Act, the Council's charter states that, among other things, a council must have regard to the long-term cumulative effects of its decisions. Councils are the custodians and trustees of public assets and are required to effectively account for and manage the assets for which they are responsible. In this light, Council's property investments need to be undertaken in a prudent and cautious manner, particularly given Council's unfunded reserve balances.

Council has developed a Property Investment and Development Policy that complements the current Cash Investment Policy. The completion of an overarching investment policy and strategy that incorporates property investments should better

assist Council in its investment decision making. In addition, Council should amend its investment policy to establish and determine the capital, liquidity, duration and diversification of the investment portfolio and define Council's risk profile.

Recommendation 31

Council should, as a priority, review its Investment Policy.

Borrowings

As at 30 June 2010, Council held $51 million in borrowings. The review team noted that Council held outstanding loans for the purchase of investment properties and expanding its commercial enterprises.

The *IPWEA Australian Infrastructure Financial Management Guidelines - Version 1, 2009* calculates the Net Financial Liabilities Ratio (NFLR) as total liabilities less financial assets as a percentage of total operating income. The indicative target is between zero and 100%. Port Stephens Council's NFLR is 51%.

Council has outlined below its long term borrowing strategy in its integrated strategic plans.

That Council considers the option of loan funding as a viable and equitable mechanism of:

Funding new/significantly upgraded major assets that provide a broad community benefit; or

Funding capital projects that provide an anticipated future revenue stream sufficient to fund the debt redemption payments.

Subject to:

- ***Council remaining within the upper limits of its debt Key Performance indicators;***
- ***Council remaining on target to achieve future operating result targets;***
- ***That prior to undertaking any future borrowings, Council models the implications of the proposed loan program on Council's long term financial position and determine the funding mechanism to meet annual debt servicing and redemption requirements.***

While Council's integrated strategic plans outline its borrowing strategy, the strategy does not provide clarification on:

- whether borrowing for investment properties and commercial enterprises are included in its borrowing strategy
- whether Council considers the business case for a proposal before undertaking borrowings (refer to the Division's 'Capital Expenditure Guidelines'). The Guidelines aim to ensure that a council's evaluation of the proposed capital expenditure is consistent and rigorous, the merits of projects can be compared and resource allocation can be made on an informed basis.
- the upper limits of its debt Key Performance Indicators.

Council may also wish to clarify in its policy on borrowing/use of loans the number of quotes obtained by staff, staff delegated to discuss proposed borrowings with financial institutions, the staff responsible for preparing the information for councillors for their consideration and the interest rate risk (or any other risks) of entering into a loan arrangement.

Recommendation 32

Council should develop a stand-alone policy on borrowing/use of loans.

Business Activities

For Council to effectively plan and monitor its business activities, it is important that it invests time and effort in systems to promote good risk management and control. Council should develop a checklist for each business activity, including:

- performance indicators
- investment hurdles and cost/benefit analysis
- regular risk management reviews, and
- probity checks to ensure appropriate balance between Council's role as business owner/operator and any regulatory or other roles.

The review team examined a number of Council businesses and it was apparent that Council has some level of business planning in place for its various businesses. However, the review team noted Council had a number of business plans in draft

format and that its Corporate Clean business plan had not been updated for a number of years. Council should also consider whether other Council services may be regarded as business activities.

Council has commenced a staged service delivery review, which allows Council to review its current business activities. This review is not expected to be completed until June 2012.

Recommendation 33

Council should update and, where appropriate, develop business plans for all of its business activities.

Ward funds

During the previous PBP review conducted in 2005, the Division identified a concern regarding Council's practice of allocating ward funding. This was specifically in relation to Council's practice of allocating the profits from the sale of Council's property investments. The current practice is that 30% of the profits are allocated to the ward funds for allocation and the remaining 70% to be re-invested into property investments.

In 2005 the Division commented, *"With the forecasted sales of property increasing significantly in the coming years, Council should review the current ward funding arrangement..,"*

Although Council has reviewed its ward funding policy and procedures, it has not limited the amount of funds available, therefore it has only partially implemented the Division's previous comments and subsequent recommendation that *"Council should review the current ward funding policy and is encouraged to either remove or significantly limit the allocation of funds"*.

Although the ward funding structure appears to break up the factions within Council, allowing councillors an opportunity to work effectively together, the process is not integrated with the strategic priorities of Council.

An example of this is the recent sale of Council owned land at Heatherbrae for a reported profit of $5.6 million. Under the existing structure approximately $1.5 million will be equally divided between the three wards, while the remaining $4.1 million was

re-invested in property. The Division has already raised concerns with regard to Council's investment strategy in this report and therefore it is not necessary to address this further.

In relation to the ward funding, the review team was able to identify that the process employed by Council staff when assisting councillors in determining the allocation of the funds was in line with the process used in the Integrated Planning models. However, it is not integrated with Council's own strategic priorities. Councillors are advised of Council's works programs, they are informed that maintenance of existing assets is preferred over the creation of new assets and the recommendations are submitted for public exhibition prior to a decision being made. The final decision, however, rests with the councillors. This is an unnecessary duplication of the Integrated Planning and Reporting process already being undertaken by Council.

The ward funding model restricts the use of the income received by Council and Council runs the risk that large ward funds could result in the redirection of Council's focus away from its strategic priorities. There is a strong argument that given Council's current financial position, the $7.5 million dollars received from the Heatherbrae sale may have been better utilised. This will come under further scrutiny with recent reports that Council is in the process of selling land at Salamander Bay for $22 million.

Recommendation 34

Council should either remove or significantly limit the allocation of ward funds.

Recommendation 35

Council should review its ward funding policy so that it is integrated into its strategic planning.

Council response

Recommendation 27:

At the date of the Better Practice Review visit the Integrated Planning & Reporting Process was not complete and the Division reviewed the existing Integrated Plans

which contained shortfalls. A project was initiated in September 2010 to rectify the identified areas of concern. As a result a fully compliant set of Integrated Plans with an accompanying Resource Strategy were adopted on 28 June 2011. Part 1 Section 3 of the Strategic Asset Management Plan (page 10) and Part 2 Section 6.1 details the linkages to the Community Strategic Plan 2011-2021 and the Deliver Program 2011-2015.

The 10 year Strategic Asset Management Plan (SAMP) identified inter alia proposed capital expenditure for the period 2011-2021 on an annual basis (SAMP Attachment 1 pp279-310) and these data were integrated into the Long Term Financial Plan (LTFP) for the same period. In addition, the SAMP identified the sustainability gap in asset management terms (SAMP page 12, Part 1 Section 6) and the LTFP used these data to model the scenarios required by the legislation. (SAMP page 12 Part 1 Section 9; SAMP Part 2 Section 6 page 277f; Annual Report 2009-2010 page 190f; LTFP Section 3.2 page 13; Section 4 page15). Capital Funding is related to the SAMP via the scenarios as follows:

Base Scenario: LTFP Section 4.2.4 page 20;

Improved Scenario: LTFP Section 4.3 page 25ff;

Strategic Scenario: LTFP Section 4.4 page 32ff;

Sustainable Scenario: LTFP Section 4.5 page 39ff.

Recommendation 34 and 35 (Ward Funding)

The allocation of income from property dealings is dealt with by a Special Resolution of Council as detailed in the above Policy Statement with Distribution determined by the Property Investment & Development Policy.

The Council is still resistant to major changes to it's Distribution Policy with the current 70/30 split between reinvestment and works being re-endorsed a number of times. Council have agreed to using its Forward Works Program as the basis for further expenditure allocated in line with a focus on maintaining existing infrastructure over new assets.

This focus is not always possible in a Local Government area that has had and continues to experience high growth. Council is also required to match Section 94 contributions and to match minor grant works eg footpath/cycleways etc. Given this context, the Forward Works Program is being used to inform Councillors' decision making.

Quarterly project reviews are undertaken with Ward Councillors to maintain this focus and biannual public consultation is conducted on the forward works program. The matrix used to determine prioritising of these asset classes has been continuously improved and Council is also developing an objective assessment between asset classes.

The Council only has access to "significant ward funds" after sale of land which does not regularly occur, due to market conditions. The most recent sale occurred in 2010/11 where Council has allocated in excess of 70% of projects towards asset rehabilitation.

Following a review of Council's financial position and supported by the Promoting Better Practice Review, Council is currently reassessing its Investment Policies. Discussions have occurred on future distribution of income given Council's portfolio mix. Staff will be recommending changes to the Property Investment & Development Policy.

Reviewer comment

Council's comments are noted.

In the initial draft report, the area of ward funds was not specifically addressed. Given the recommendation from the previous review in 2005, and following a large Council land sale, the Division reviewed the issue of ward funds further and sought the General Manager's comment prior to including comment in the final report. Council's comments in relation to this area have been noted and relevant changes made.

9 COMMUNITY AND CONSULTATION

9.1 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.

9.1.1 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*
- *Annual reporting*
- *Customer service standards*

9.1.2 Overview of community and consultation practices

The review team did not undertake a comprehensive review of Council's practices in this area. The review focused on the implementation of the previous 2005 PBP review recommendations.

However, it is apparent to the review team that this is an area where Council undertakes its activities in a responsible and effective manner. It has an effective community engagement strategy and provides support for community involvement in its activities in a number of ways. Council's social and cultural responsibilities are evident in its Community Strategic Plan and Council has a strong presence in its community. Council also supports the community in managing local facilities and provides financial support for local community organisations. Council reports on its activities in this area in its quarterly reports.

9.1.3 Summary of progress towards achieving recommendations

No.	*Promoting Better Practice Review 2005 recommendations*	*Status*
7	Council should review its Access and Equity Activity Statement contained in its draft Council Plan 2005-2008 to comply with the Social and Community Planning Guidelines (section C2) and Manual (section C1). This statement should also be linked to council's budget and reporting cycle.	Taken over by IP&R
33	Council should (building upon its Social Plan, Seniors Living DCP and draft Seniors Living Policy) consider ways to raise the awareness across council about Port Stephens' ageing population and other social justice groups covered in its social plan.	Taken over by IP&R
34	Building upon strategies in its Social Plan, Senior Living DCP and draft Seniors Living Policy, council should prepare a five-year plan, which meets current and future needs for older people.	Taken over by IP&R
35	Council should determine priority Access and Equity activities on an annual basis to be incorporated in council's management plan and budget, the business plans of each section and the work plans of individual officers.	Completed but ongoing
36	Progress on the aged services and facilities plan and the social plan should be reported to council on a quarterly basis via performance appraisal and management plan reports as well as annually in council's annual report.	Completed but ongoing
37	Council's volunteer policy and guidelines for its section 355(c) and precinct committees should be aligned with the review and adoption of its new code of conduct.	Completed
38	Council should proceed with an audit and review of community facilities and section 355 committees with a view to identifying appropriate opportunities for co-location and/or rationalisation.	In progress

9.1.4 Assessment of progress and significant observations

Council still has a large number of section 355(c) committees (approximately 53). However, Council has dedicated staff positions who support these committees. Additionally, Council has a number of documents that support the committees' operations. This includes a standard constitution, extensive information booklet on the role and operation of committees and numerous other checklists and tools that assist in their functioning. Committees are required to regularly report to Council and the information booklet makes it clear that these committees are managing Council's funds. It is evident that Council has robust systems for supporting and monitoring the activities of these committees.

The 2005 report was concerned about the number of committees. This is still of concern. However, it is apparent that Council has implemented systems for ensuring the committees are complying with the responsibilities delegated to them. Council should continue to closely monitor the committees' operations. It is not evident that Council implemented the previous recommendation to explore the rationalisation of these committees. However, the current sustainability review may address this issue.

Social and community planning activities are now part of the Integrated Planning and Reporting framework. Aspects of social and community planning are evident in these documents. Additionally, aged services and needs are evident in Council's planning. However, there is no evidence in recent quarterly reports on its progress in implementing its aged services and facilities planning. In fact, there is little reference to activities for older people in the quarterly reports.

Noteworthy practices

Customer Service Charter

Council has developed a succinct and easy to read Customer Service Charter. It provides standards for how Council staff will behave, how they will communicate with customers and how they will deliver on the standards outlined in the Charter. In the review team's view, what makes this document noteworthy is the additional information that outlines how Council expects its customers to behave towards its staff.

Council monitors the implementation of its customer service requests and reports on the outcome of this in its quarterly report. Council could consider providing additional information on how it is meeting the timeframes outlined in the Customer Service Charter as part of this reporting. Council could also incorporate information on its handling of complaints as part of this reporting (see Governance section for discussion on complaints handling).

Council response

See Action Plan

10 WORKFORCE RELATIONS

10.1 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.

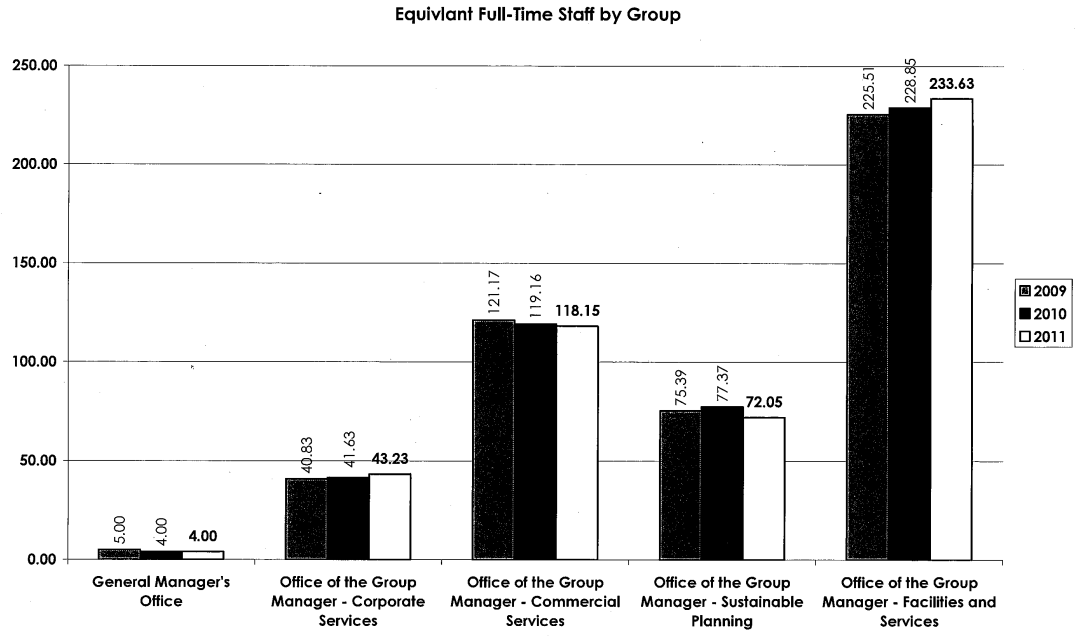
10.1.1 Scope of review

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

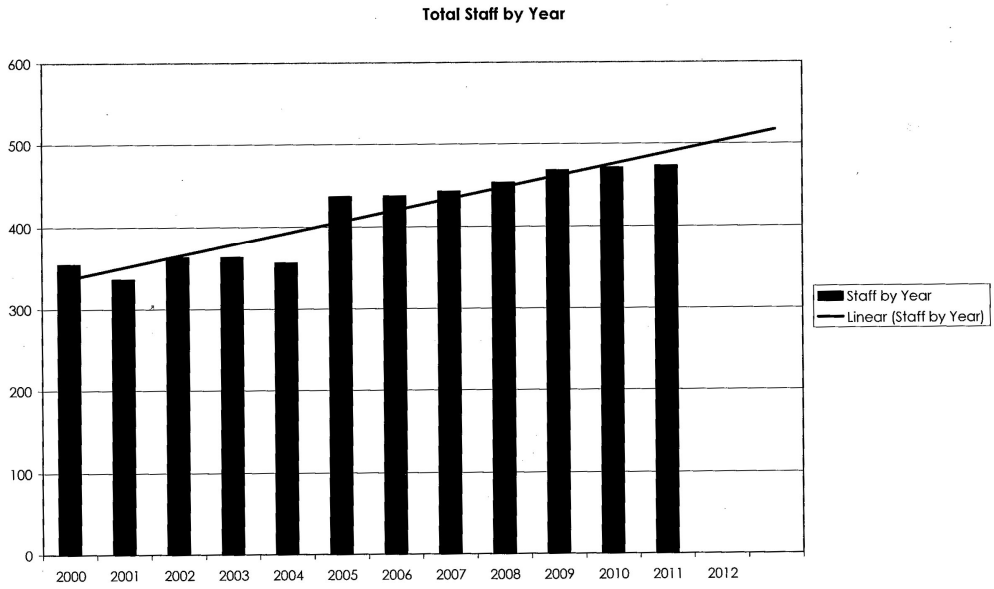
- *Human resources strategy and workforce planning*
- *Employee attitude surveys*
- *Equal employment opportunity*
- *Occupational health and safety*
- *Secondary employment*

10.1.2 Overview of the organisation

As at January 2011, Port Stephens Council's organisation structure included 471.06 equivalent full-time (EFT) positions across four Groups and the General Manager's Office.



The organisation structure was reviewed in 2008 and in 2010 a review of the Facilities and Services Group and the Sustainable Planning Group was conducted by an external consultant. Council's EFT numbers have not increased in recent years, as shown by the following graph.



Port Stephens has a reasonably balanced gender profile across the organisation, with 51.55% of its employees being women. However, as at 31 December 2010, positions with Council's Senior Leadership Team, which comprised the General Manager, 4 Group Managers and 12 Section Managers, were occupied by 15 males and 2 females.

Council has indicated that over 49% of its workforce will retire in the next decade. The Port Stephens Council Enterprise Agreement 2008 was made to reduce some of the pressures on Council of an ageing workforce and other pressures by providing flexible workplace arrangements.

Regular monthly reports on employment and staff issues are circulated to Council's Senior Leadership Team. In addition, presentations are also provided to the Senior Leadership Team on contentious employment and staff matters.

10.1.3 Summary of progress towards achieving recommendations

No.	*Promoting Better Practice Review 2005 recommendations*	*Status*
8	Council should use its next Employee Attitude Survey to monitor staff attitudes in relation to staff participation in management planning and communication. If the dissatisfaction level remains significant, council should review and modify its current staff participation and communication processes.	Completed but ongoing
39	Council should investigate its level of expenditure on overtime and, if necessary, develop strategies to reduce the amount.	Completed
40	Council should update its EEO management plan and better integrate it with council's management plan. Data collection to support the measurement of performance indicators in the revised plan should also be commenced.	Completed
41	Council should develop a workforce strategy to address its future employment needs, particularly in relation to the age of its workforce and current and anticipated skills shortage.	Completed but ongoing

10.1.4 Assessment of progress and significant observations

Port Stephens Council undertakes exit interviews and surveys for staff leaving the organisation. It was noted that the most common reason cited for employees leaving the organisation in the financial year ending 31 December 2010 was for personal reasons (including retirement) (28.9%), followed by work stress (9.8%) and job satisfaction (8.5%). The results of the exit interview and surveys also showed an increase in work stress as a reason for employees leaving Council, increasing from 5.4% in 2009 to 9.8% in 2011. Council is aware of this result and has indicated that it is undertaking steps to address this problem.

Council also reviews the level of engagement of its staff. Council's Employee Engagement Survey Results for 2010 showed that its engagement score of 41% is below the benchmark of 65%. Council has identified the groups of concern and is working on engagement strategies with these staff.

Council has also prepared a Health and Safety Roadmap – OH&S Operational Plan 2010-11 to improve employee safety across the organisation. This process should enable Council to reduce workers compensation costs, which have steadily increased over the past five years.

Better practices

Grey Nomad Campaign

In 2009 Port Stephens Council was awarded the Commonwealth Department of Health and Ageing Diversity@Work Award for Employment and Inclusion of Mature Age Workers for its Grey Nomad Campaign. Council introduced a recruitment program specifically aimed at retirees. The specific targeting of the 'young retired' market through Council's Grey Nomad Campaign helped it to fill gaps in its workforce in positions where skills were at a shortage.

The campaign ran over three weeks and consisted of a series of postcard letter box drops and press advertisements. Senior managers also held informal meetings with respondents. This recruitment has resulted in Council building on its database of available part-time and contract workers.

Areas for improvement

Workforce Strategy

Council has drafted a Workforce Strategy to support its strategic plan. Council's Workforce Strategy outlines its current workforce, the environment in which it operates and some various strategies and considerations in improving the performance of Council's workforce. The Workforce Strategy also makes reference to other plans and policies such as the Workplace Equity and Diversity Plan.

However, it is not clear if the Workforce Strategy has been developed or been closely linked with the development and review of the Long Term Financial Plan and Asset Management Strategy.

Recommendation 36

Council should work on closely linking its Workforce Strategy with the development and review of the Long Term Financial Plan and Asset Management Strategy.

Council response

Recommendation 36:

On 28 June 2011 Council adopted a new Workforce Strategy 2011-2015 (WS) which links to the Community Strategic Plan 2011-2021: WS pp3-5. WS p3 states that the current workforce level meets the needs of the existing service levels for the CSP and this assumption underpins the LTFP (Section 3.1 page 12).

The LTFP recognises that the Sustainability Review to be concluded in December 2012 will include adjustments to service levels and that may include staffing levels. LTFP Section 2.4 page 10; WS Section 4.7 page 39.

The Workforce Strategy links to the SAMP through Council's Services, Facilities and Activities 2011-2012 (WS Appendix B page49) – it has been recognised in all three elements of the Resource Strategy that the outcomes of the Sustainability Review will impact levels of service, asset management and financial aspects of Council's operations, and the plans will be reviewed annually as the Sustainability Review progresses and adjusted accordingly.

Reviewer comment

Council's response is noted. The review team notes the work that has been undertaken to ensure that the relevant Plans and Strategies are linked and that this work will continue.

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 *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.*	**Moderate** *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.*	**Minor** *Minimal risk to the operations of council, little disruption to council's operations and will not limit council's ability to meet its goals.*
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:**
• **High** • **Medium** • **Low**	• Reputation • Compliance with statutory requirements • Fraud/corruption • Financial • Legal liability • OH&S

PART IV. 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 reviewers 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 ensure that the organisation restructure aligns with Council's strategic direction.*	*H*	Council's structure aligns with the Integrated Strategic Plan. This will adjust overtime in response to the Council's ongoing continuous improvement program and the current service delivery review.	Ongoing	General Manager	The Sustainable Planning Group was restructured (effective 8 Nov 2010) and this aligns with the Integrated Strategic Plan and integrates with the policy preparation and implementation in one section and assessment and compliance in another section.

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
2 *Council should engage a person with the relevant qualifications to facilitate a process whereby councillors can reconcile their differences and develop agreement on how they will work together.*	*H*	***Some Councillors are of the belief that individual differences are part of the political process and do not see the need to engage a facilitator. That the matter be conducted in the next term of Council.***	2012-13	Mayor, Councillors and General Manager.	
3 *Council should review its Payment of Expenses and Provision of Facilities to Councillors Policy to ensure the Policy is consistent with the Division's Guidelines*.	*M*	The annual review of this policy is currently underway with consultation with the Councillors. The review will be conducted within the legislative timeframe.	30/11/2011	Executive Officer	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
4 *Council should review its Complaints Handling Policy to:* • *provide timeframes for handling of complaints,* • *ensure that the language used is consistent with the NSW Ombudsman's Guidelines on 'Managing Unreasonable Complainant Conduct', and* • *develop a procedure for managing unreasonable complainant conduct*.	*M*	In reviewing the policy in 2010 a deployment flowchart was produced for use by staff responsible for this function. The flowchart provides timeframes to respond to complaints and a procedure for managing unreasonable complainant conduct as referred to in 4a and 4c. Council will conduct a review of the policy with respect to 4b. Also the deployment flowchart will be added to the policy as supporting information for the community.	30/11/2011	Executive Officer	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
5 *Council should consider providing regular reports to the community on its complaints statistics.*	*M*	Council will review the reporting of complaints with a view to including statistics in the quarter report which is available to the community.	February 2012	Corporate Services Group Manager	
6 *Council should review its delegations to ensure they are up to date, appropriate and accurate.*	*M*	Prior to the DLG's review Council had commenced a comprehensive review of all delegations. This review is ongoing. As part of the review Council will address the issues raised in the report in respect to particular delegations.	Ongoing 30/09/2011	Executive Officer	
7 *Council should include an audit of the exercise of delegations in its internal audit program.*	*H*	This will be included in the 2012/13 Audit program.	2012/13	Corporate Services Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
8 *Council should adopt the disclosure of interests form of return required under the Local Government (General) Regulation 2005.*	*H*	Council has updated the disclosure of interest form required under the Local Government (General) Regulation 2005, which was downloaded from the DLG's website.	29/07/2011	Executive Officer	Completed.
9 *Council should submit the councillor return of interest forms for the 2010/2011 period to the Division following their completion.*	*H*	Council will submit the completed councillor returns for the period 2010/11 as requested in Item 9. This will be completed once the returns have been lodged. The legislative deadline is 30 September 2011.	30/10/2011	Executive Officer	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
10 *Council should provide training for staff on tendering processes, assessment and reporting.*	*H*	Council's new Procurement & Contracts Coordinator has commenced one-on-one training with all staff initiating tenders at Council	Completed but Ongoing	Commercial Services Group Manager	
11 *Council should undertake an internal audit of its tendering practices as a priority.*	*H*	Council's internal auditors conducted an initial review of the purchasing and procurement system in July 2011, with a detailed audit scheduled for completion in January/February 2012	28/02/2012	Audit Committee	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
12 *Council should ensure that all its requests for tender documents indicate the criteria to be used to make an assessment of the tender and any weightings to be applied.*	*H*	Council is currently reviewing its Procurement Policy and Processes to ensure this requirement is clearly documented. It is also a focus of the training program identified in Recommendation 10	30/06/2012	Commercial Services Group Manager	
13 *Council should ensure that all reports on tenders provide detail on the assessment criteria used to make a determination on the tender, including any weightings, report against these criteria and the processes underlying any recommendation.*	*H*	This is already identified in Council's current Procurement Policy and Process however this will be reviewed to determine whether improvements can be made and is a focus of the training program identified in Recommendation 10	30/06/2012	Commercial Services Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
14 *Council should implement an electronic document management system for its procurement, tendering and contract management activities.*	*M*	This recommendation has already been implemented	Completed but Ongoing	Commercial Services Group Manager	Completed
15 *Council should review its code of meeting practice to:* **a.** *ensure it is consistent with the requirements of the Act and Regulation,* **b.** *clarify pecuniary and non-pecuniary conflict of interests information,* **c.** *ensure that the summary sheet provides accurate information.*	*M*	Council will undertake a review of the code of meeting practice to address the issues raised and also include a general review as well following consideration of the Council meeting cycles in September 2011.	30/10/2011	Executive Officer	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
16 *Council should examine the meeting practices of other councils with a view to reviewing the efficiency and effectiveness of its own practices.*	*H*	Council will review its meeting practices in September 2011 when conducting a review of its meeting cycles which is conducted annually. Review of other Councils' meeting practices. Council's website has been updated to reflect the role of the Council Committee as outlined in the report. Council has addressed the matter raised concerning the use of Mayoral Minutes. Mayoral Minutes are now lodged with Council in line with DLG Practice Note No. 16.	30/09/2011 30/03/2012 3/8/2011 Late 2010	Executive Officer	Completed. Completed.

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
17 *Councillors should undertake further training on meeting procedures and the conduct required for effective meetings.*	*H*	***Some Councillors have completed training in relation to recommendation 17 and do not believe there is a need for further training.*** ***That this training be provided for the next term of Council.***	2012-13	Mayor & Councillors	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
18 *Council should organise a further councillor information session with specific reference to the code of conduct and the management of conflict of interests.*	*H*	***Training was conducted in 2008 and 2010 and some Councillors believe there is no need for further training.*** ***That further training be provided for the next term of Council.***	2012-13	Mayor & Councillors	
19 *Council should report quarterly to the Division of Local Government, until August 2012, on the status of code of conduct complaints relating to Port Stephens councillors.*	*H*	Council will provide the DLG with reports on a quarterly basis in relation Councillors.	Nov 2011 Feb 2012 May 2012 Aug 2012	Executive Officer	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
20 *Council should be provided with a report regarding code of conduct complaints relating to councillors on a quarterly basis rather than annually for the next twelve months after the release of this report.*	*H*	Council will be provided with quarterly reports relating to Councillor code of conduct complaints following the release of this report. At the conclusion of the investigation.	To be confirmed following release of report.	Executive Officer	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
21 *Council should implement an electronic document management system for its development application activities.*	*M*	This has been substantially reviewed but has been constrained by limited resources to implement. Recommendations in the Internal Auditors Report and the review of the NSW Legislation reinforces the need to revisit this and lead to a submission for higher priority in the Organisation.	TBA	Sustainable Planning Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
22 *Council should consider implementing a system for the electronic lodgement of development applications.*	*M*	The electronic lodgement of development applications is an integral part of the electronic document management system for development applications as explained above.	TBA	Sustainable Planning Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
23 *Council should develop a policy relating to the call up of development applications*.	*H*	A policy review for the 'calling up' of development applications is underway. The previous recommendation to Council was for two Councillors to have to sign off the call up of a DA with explicit reasons. Council resolved, as part of Code of Meeting Practice, to only require one Councillor to trigger a 'call up'.	TBA	Sustainable Planning Group Manager	
24 *Councillors must complete the call up form for development applications and provide all the required information until the policy relating to this is adopted.*	*H*	This is now implemented – albeit Councillors probably need to enhance the stated reasons for calling up a DA.	Completed and ongoing until policy is adopted.	Sustainable Planning Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
25 *Council should develop a program for the regular and ongoing review of its planning and development policies.*	*H*	There has been a clear program for the work programming and ongoing review of planning and development policies for well over 2 years. This has been enhanced with the appointment of the new Manager in November 2010.	Ongoing	Sustainable Planning Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
26 *Council should update its Long Term Financial Plan and review this on an annual basis.*	*H*	Council's Long Term Financial Plan (LTFP) was in the midst of review during the Promoting Better Practice visit and has subsequently been publicly exhibited and adopted by Council. The LTFP will also be reviewed on an annual basis in accordance with Council's Integrated Planning & Reporting process	Completed but Ongoing	Commercial Services Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
27 *Council should ensure that linkages exist between the Asset Management Strategy and the Long Term Financial Plan for a minimum timeframe of 10 years.*	*H*	Council's recently exhibited and adopted Asset Management Strategy and Long Term Financial Plan have strong linkages which will be reviewed and updated on an annual basis in accordance with Council's Integrated Planning & Reporting process	Completed but Ongoing	Executive Leadership Team	
28 *Council should complete and provide to councillors a quarterly statement that specifies its cash position and reconciliation with cash reserves and investments.*	*H*	Council will commence quarterly reporting in accordance with the new Quarterly Budget Review Statement Guidelines from the 1st quarter of the 2011/12 financial year.	30/11/2011	Commercial Services Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
29 *The total and restricted amount of assets (the use of which is restricted by regulation or other externally imposed requirements) must be disclosed on a quarterly basis together with details of the nature, extent and movement of the external restrictions.*	*H*	Council has historically reported information regarding restricted assets as part of the quarterly budget review. This information will now be reported in accordance with the new Quarterly Budget Review Statement Guidelines from the 1st quarter of the 2011/12 financial year.	30/11/2011	Commercial Services Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
30 *Council should provide separate financial reporting on the Newcastle Airport.*	*H*	Council currently provides separate reporting on the Newcastle Airport in accordance with Australian Accounting Standards and the Local Government Code of Accounting Practice and Financial Reporting via Note 19 of the Financial Statements as well as Council's Special Purpose Financial Reports. Consideration of financial reporting of Newcastle Airport for Port Stephens and Newcastle City Councils is a component of the current review of Newcastle Airport's corporate structure	30/06/2012	Group Manager Commercial Services	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
31 *Council should, as a priority, review its Investment Policy.*	*H*	Council agrees that whilst a Property Investment & Development Policy and a Cash Investment Policy have been in place for many years there would be value in an overarching Investment Policy that incorporated all asset classes	30/06/2012	Group Manager Commercial Services	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
32 *Council should develop a stand alone policy on borrowing/use of loans.*	*H*	Council agrees that whilst its long term borrowing strategy is included in the Long Term Financial Plan there would be benefits of having a stand-alone policy on borrowing/use of loans. Development of this policy had already been identified in the Financial Services work program for the 2011/12 financial year	30/06/2012	Commercial Services Group Manager	

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
33 *Council should update, and where appropriate develop, business plans for all of its business activities.*	*M*	The update and, where appropriate, development of business plans for Council's business activities is a component of the current Sustainability Review	31/12/2012	Group Manager Commercial Services / Group Manager Facilities & Services	
34 *Council should either remove or significantly limit the allocation of ward funds.*	*H*				
35 *Council should review its ward funding policy so that it is integrated into its strategic planning.*	*H*				

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
36 *Council should work on closely linking its Workforce Strategy with the development and review of the Long Term Financial Plan and Asset Management Strategy.*	*H*	Council's recently exhibited and adopted Workforce Strategy, Asset Management Strategy and Long Term Financial Plan have strong linkages which will be reviewed and updated on an annual basis in accordance with Council's Integrated Planning & Reporting process	Completed but Ongoing	Executive Leadership Team	