

challenges improvement innovation good governance

Local Government Reform Program - Promoting Better Practice

REVIEW REPORT

MUSWELLBROOK SHIRE COUNCIL

NOVEMBER 2006

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1. ABOUT THE REVIEW

Review objectives

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

- to generate momentum for a culture of continuous improvement and greater compliance across local government
- to provide an 'early intervention' option for councils experiencing operating problems
- to promote good governance and ethical conduct principles
- to identify and share innovation and good practice in local government
- to enable the department to use review information to feed back into its work in identifying necessary legislative and policy work for the local government sector.

Review process

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

The process involves a Department of Local Government (DLG) reviewer or review team evaluating the effectiveness and efficiency of the council's operations and giving feedback. This involves checking compliance, examining appropriate practices and ensuring that council has frameworks in place to monitor its performance.

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

Muswellbrook Shire Council Review

Muswellbrook Shire Council was asked to complete a strategic management assessment and a checklist of key council practices. The completed self-assessment, completed checklist and a number of council documents were analysed by the reviewer prior to commencing the on-site review process.

Steve Woods, a Senior Risk Management Consultant acting for the Department of Local Government, conducted an on-site review of council from 3 July to 7 July 2006.

The review was based on council's response to the self-assessment of its corporate arrangements and capacity. This assessment asked council to respond to four critical questions of its capacity to improve:

- How has council determined its ambitions and priorities?
- How do these ambitions and priorities drive the council's services and resources?
- How does council use its corporate capacity and systems to drive forward the organisation in an ambitious, challenging yet managed way?
- How does council measure the progress it is making with its agenda to ensure that its priorities are delivered and that service improvement is achieved?

In order to review council it is necessary to examine its performance across a range of functions. A number of modules of a practice checklist have been developed to assist council in assessing its functions and checking its compliance. Council's response to the checklist is used as a guide for the on-site review and tests how council has set about delivering its priorities and measuring its achievements.

The on-site review consisted of discussions with council's senior staff, conducting interviews, and the review of a number of council's policies and other documents. Council was invited to comment on a draft copy of this report, and its response is set out in section 7 of this report.

EXECUTIVE SUMMARY

Muswellbrook Shire Council has clearly set out its vision in eight strategic goals for achievement in the current four-year term. These goals are integrated throughout council's principal activities and the objectives, strategies and performance targets outlined in the management plan. The goals were determined after a community consultation program by senior staff and councillors at a two-day strategic planning workshop at Morpeth in 2004.

The strategic goals are also included in the three statements of principle - *Reconciliation, Mining, and the Wine Industry of the Upper Hunter* - all displayed in council's reception area.

The Making Muswellbrook Shire Committee is also prominent in bringing the business and industry community together in partnership with council to make recommendations regarding tourism and economic development issues using the logo *Muswellbrook: The Ideal Place to Work, Live & Play*.

There is a cooperative working relationship between staff and councillors at Muswellbrook and council also has a mature approach to decision making, which is commendable.

The council promotes important issues and provides access to information so that the community can make informed decisions. The council also provides leadership in planning for the future of the community and represents the needs of the local communities with higher levels of government.

Council has been proactive in developing a policy on risk management of council facilities and a public infrastructure risk management plan. It is using workplace assessments in association with council's insurer, Statewide Mutual, to help manage infrastructure asset, safety and public liability risks.

There may be merit in establishing a risk management committee to extend the public infrastructure risk management plan to cover council-wide all the business

risks in the divisions – financial, operational, customer service oriented, safety, security, environment, commercial, technical, et al.

Council has an outsourced internal audit function. Review of the internal audit plan for 2005-2006 revealed that it had a financial and procedural focus. This matter was discussed with management and this report recommends that the internal audit plan should be more operational risk focused and cover the council-wide risks identified above. The plan should also seek to add value to council. Council should consider sharing resources to form a regional audit committee.

Council's overall financial position is satisfactory. It has been active in investigating options to increase its revenue base from sources other than rates and is currently in negotiations with, for example, Upper Hunter Shire Council to deposit its waste at the Muswellbrook depot.

Council has a program of quarterly financial reviews that are presented to the budget review committee and then to council. These reports analyse variances in income and expenditure, movements in restricted assets and the performance of the two category 1 businesses, the water and sewerage funds.

The water supply business has had a surplus result before and after capital amounts in each of the last three years. In 2004-2005 it returned a surplus from ordinary activities of \$2.2M, a return on capital of 9.5%, with no subsidy from council.

The sewerage business has also had a surplus before and after capital items in each of the last three years. In 2004-2005 it returned a surplus from ordinary activities of \$0.8M, a return on capital of 1.8%, with a subsidy of \$0.3M from council.

Council has a solid policy framework across its human resources area, including a HR policy and procedure manual, staff handbook, recruitment and selection procedures, an induction manual, and workplace bullying procedures. It also has a critical incidents procedure, an occupational health and safety (OH&S) committee, and a secondary employment policy.

Council currently does not have a formal human resource strategy for all activities. In its 2006-2009 Management Plan, council acknowledges that it does not have a formal staff performance management system, staff development and succession plan or an OH&S system. Council plans to develop these during the currency of the current plan.

Succession planning, in particular, is of high importance as Muswellbrook, like many other councils, is exposed to a number of workforce planning issues, such as:

- shortages of specialised skills in certain areas, such as engineers and planners
- an ageing workforce
- a change in workload for certain sections as council's and government priorities change
- increases in career opportunities outside the area.

These matters were discussed with senior management. Council has indicated that, in addition to the eight management trainees who have been employed across council, it is reviewing options for introducing deputy director positions.

Muswellbrook Shire Council has a strong community service focus. The council understands its community and has comprehensive community services and activities to meet diverse community needs.

In summary, the council has strong and clear leadership that is well positioned to strategically address the future needs for the Muswellbrook Shire Council area.

3. RECOMMENDATIONS

Governance

1. Council should include its business ethics statement on its website as a tool for raising private sector awareness of public sector values.
2. Council should include the requirements of the *Protected Disclosures Act 1994* and internal reporting procedures in staff and councillor on-going training programs.
3. Council should ensure that its Annual Report 2005-2006 meets the legislative requirements set out in clauses 217 of the Local Government (General) Regulation 2005 regarding reporting of remuneration of senior staff.
4. Council should consider forming a risk management committee to extend its public risk management plan council-wide to cover all key business risks in its divisions – financial, information technology, operational, customer service oriented, safety, security, environment, commercial, technical, et al.
5. Council should ensure that its internal audit plan is more focused on operational risk and covers the council-wide risks identified above.
6. Council should explore sharing internal audit resources with other regional councils (eg. establish a regional audit committee).
7. Council should formalise its plan to manage the impact of a disaster/critical incident on its operations and test it as soon as practicable.
8. Council should develop a fraud policy and carry out a fraud and corruption risk assessment.
9. Council should develop a system for ensuring on-going legislative compliance.

10. Council should ensure that all section 355 committees have constitutions or charters outlining membership, functions and authority.
11. The review of council's privacy management plan should be assigned a high priority and all outcomes included in training plans for councillors and staff.
12. Council should assign a high priority to developing a complaints handling policy based on the *Ombudsman's Toolkit and Complaint Handling Manual* and then training staff in its use.

Regulatory Affairs

13. Council's LEP and DCPs should be reviewed, updated and reinstated on the website, as soon as practicable.
14. Council should investigate the establishment of an independent hearing and assessment panel (IHAP) to consider significant and contentious development applications and applications for modification of development consents, including all applications affecting council land or where council is the applicant or proponent.
15. Council should look to strategies for increasing its percentage of development application determinations made under delegated authority (currently 88% of DAs).
16. Council's companion animals committee should prepare a companion animals management plan, including a community education program.
17. Council should develop an enforcement and prosecutions policy and a local orders policy under section 159 of the Local Government Act, or a separate system for reporting and investigating reports of non-compliance or unauthorised development, as soon as practicable.

18. Subject to council carrying out graffiti removal work on private land, it should establish a register of graffiti removal pursuant to section 67C of the *Local Government Act 1993* in due course.
19. Council should include reference to consultation with environmental groups in it's State of the Environment report, and ensure that it is fully integrated with council's management planning process and that the results of strategies and actions are included in the annual report.

Asset and Financial Management

20. Council should ensure that its information technology strategy is updated to include current projects being undertaken, training needs of staff, et al.
21. Council should consider reviewing the economic life of all infrastructure assets approaching 50% WDV%, eg. sewerage network, in due course.

Community and Consultation

22. Council should focus more on reporting on what social plan actions have been achieved and the performance indicators being used in its management plan and annual report.

Workforce Relations

23. Council should formally complete its human resource strategy, staff performance management system, staff development and succession plan and OH&S system, as soon as practicable.
24. Council should adopt a specific formal policy covering internal appeals for unsuccessful applicants.

25. Council should ensure that all staff at the waste depot receive specific detailed training on asbestos identification for all types of waste loads as soon as possible.

26. As the consultative committee's aim should be to provide for two-way communication between management and staff, the councillor currently on the committee should be excluded and the constitution re-written in accordance with clause 27 of the Local Government (State) Award 2004.

4. CONTEXT

Muswellbrook Shire is located in the Upper Hunter Region and consists of the two larger towns of Muswellbrook and Denman, as well as a number of outlying rural communities including Sandy Hollow, Wybong, Baerami, Martindale, McCullys Gap, Widden and Muscle Creek.

Muswellbrook was initially established as a cattle, horse and sheep farming centre. It had grown from the establishment of a route that followed the present Putty Road from Windsor in 1820 to open up the known parts of the Hunter Valley to settlers. The Main Northern Railway was completed in 1869 and the town experienced significant expansion as the settlement became a railhead.

Coal mining began in the 1890's, although truly large-scale coal mining did not get underway until more recently. There are now eight mines operating in the area, seven of them open-cut, with another six proposed.

After World War I, the larger properties were broken up into smaller farms with dairying supplanting wool and wheat. This trend continued until late 1979.

Denman township grew as a service centre for a thriving dairy industry and later hay production. During the past ten years the dairy and hay industries have taken a back seat to adjacent coal mining and vineyards.

Local government was established in the area with the incorporation of Muswellbrook (originally called "Musclebrook" until officially changed in 1949) as a municipality in 1870. The present Shire of Muswellbrook came into operation on 1 July 1979, following an amalgamation of the Shire of Denman and the Municipality of Muswellbrook.

The shire has an area of 3,402 square kilometres, 43% of which is national parks, and a population of 15,300. The area incorporates a major central business district (CBD), business districts, industrial areas, rural holdings and diverse residential areas.

Industry in Muswellbrook includes agriculture, viticulture, equine industry, power generation (Liddell and Bayswater power stations) and coal mining. With the exception of agriculture, all of these industries are experiencing growth.

The population is highly mobile with nearly half of all residents having moved in the last five years. Muswellbrook has slightly higher levels of unemployment than the State average with the highest levels in the youth age group.

Commercial activity is highly visible with current activities including the construction of a conference centre at Black Hill, redevelopment of the South Muswellbrook shopping centre and many new businesses either starting up or relocating to Muswellbrook.

5. COUNCIL'S AMBITIONS, PRIORITIES AND FUTURE FOCUS

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

What is working well

Muswellbrook Shire Council has clearly set out its vision in eight strategic goals for achievement in the current four-year term. These goals are as follows:

a) Local Government Reform

- To continue to explore opportunities to examine the most efficient model of local government for the Upper Hunter.

b) Sustainability

- To cooperatively manage growth, development and construction that recognizes environmental standards, particularly clean air and waterways and promotes energy and water efficiency
- To encourage commercial and business stakeholders to develop opportunities for local and regional enterprises.

c) Infrastructure

- To build and maintain community infrastructure and cost effective and sustainable transport systems to serve community needs and support economic development.

d) Community development

- To facilitate the delivery of community services that support the health and social needs of the community with emphasis on planning for an ageing population and youth facilities.

- To assist agencies to promote a safer community through improved links with the community and to encourage community pride.

e) Reconciliation

- To implement and build on the statement of principles agreed in the document of reconciliation.

f) Planning

- To provide a comprehensive planning framework to protect the environment, satisfy legislative requirements and meet community needs.

g) Cultural

- To foster a community culture to develop appreciation for arts and crafts
- To continue to explore opportunities to enable a cultural centre to be established in the Shire.

h) Commercial Development

- To encourage and develop residential subdivisions and local business development.

The goals are integrated throughout council's principal activities and the objectives, strategies and performance targets outlined in the management plan (at least one goal is reflected in each of the principal activities) and were determined after a community consultation program by senior staff and councillors at a strategic planning two-day workshop at Morpeth in 2004 (council conducts a strategic planning workshop each year in April and a financial strategic workshop in November).

The strategic goals are also included in the three statement of principle documents - reconciliation, mining, and the wine industry of the Upper Hunter - all displayed in council's reception area.

The Making Muswellbrook Shire Committee is also prominent in bringing the

business and industry community together in partnership with council to make recommendations regarding tourism and economic development issues. The committee has produced a draft document titled *Making Muswellbrook Shire Strategic Plan 2005-2008* using the logo *Muswellbrook: The Ideal Place to Work, Live & Play*.

Council's strategic goals are also advanced in the statements of principles at various local forums and strategic alliances. These forums include Hunter Councils Inc, the Upper Hunter Weeds Authority, Upper Hunter Tourism, the Records Repository, the Upper Hunter Conservatorium, the Coal Mine General Managers Forum and the Upper Hunter Learning Co-operative.

Council also utilises strategic alliances with the Rural Fire Service Zone and through Hunter New England Health.

Some 400 residents are involved in forums and committees (there are nine community consultative committees) and have direct input into the strategic direction of council.

Council's directors meet monthly with the general manager to discuss progress against the management plan and review the allocation of resources. The capital expenditure program is used to align all the infrastructure activities with finances.

All proposed actions submitted for consideration by council must address financial, policy and management plan implications.

Council sees itself fulfilling a number of roles in achieving the community's aspirations. These include being a direct service provider, a regulator, developer, partner, facilitator and advocate.

Council has set directions with the ultimate aim of promoting social, economic and environmental issues to support growth of the Shire. These directions were developed in consultation with the stakeholders. One key direction has been determined in the cumulative impact of coal mining and related issues. One of the

outcomes of this direction is that council has been successful in eliminating coal transport by road.

Muswellbrook Shire Council has embarked on, or is about to commence, a number of major projects after identifying key infrastructure needs. These projects include:

- A new water augmentation scheme in Denman and significant improvements at Sandy Hollow
- Sewerage works in Muswellbrook to extend the system and improve existing infrastructure
- Community Centre and Visitor Information facility in Denman, including a new library
- Establishment of a new garbage collection service within the Shire
- Extensions to Muswellbrook Library
- Creation of a Visitor Information Centre and Rail Coal Heritage Museum at Muswellbrook Railway Precinct, and
- Proposed improvements to Bridge and Brook Streets, pre and post town (SH9) bypass.

While council's efforts in this area are laudable, the council should examine establishing a longer time frame for its strategic vision when it is next reviewed. Generally, a strategic plan should have a horizon beyond the standard electoral cycle (4 years) if it is to maximize the chances of the council effectively planning for major medium- to long-term challenges.

Future challenges and focus

Ageing population

Responding to, and planning for, major changes and service demands that will flow from Australia's ageing population will be a major challenge for all levels of government.

Jackson's report on ageing populations¹ suggests that between 2004 and 2022 Muswellbrook's population will decline in size by 6.5 per cent. Its youth and working age populations are also projected to decline in size, while its elderly population will grow substantially.

Muswellbrook's 65+ population is projected to grow by 61.1 percent by 2022, and for the population aged 85+ years the increase will be approximately 87 per cent.

Approximately 10.1% of the Muswellbrook population is currently aged 65+ years and this is projected to grow to 17.4 per cent by 2022. At an average increase of 0.41 percentage points per year, this increase to the aged population is considerably higher than that projected for total NSW (0.33). Muswellbrook's 85+ population is projected to almost double in proportion from 1.1 to 2.1 per cent of the population in the same period.

Muswellbrook currently has a labour market entry/exit ratio of 1.4:1 meaning that it has around 14 people at labour market entry age (15-24 years) to every 10 approaching retirement age (55-64 years). Crossover (to more exits than entrants) is expected to occur around 2018.

Reflecting these trends, Muswellbrook's total working age population (15-64 years) is projected to fall from its current 65.9 per cent of the population, to around 62.7 per cent by 2022 and to decline in size by approximately 11.1 per cent.

This will have an impact on the demand on services, facilities and infrastructure and all aspects of council's operations.

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

¹ Jackson, Dr Natalie 2004, 'Population Ageing in New South Wales and its Local Government areas'. University of Tasmania

- providing information on what is happening with the general population trends and access to population projection information for each local government area
- providing information on the existing and likely diversity amongst older people
- providing evidence on what population ageing means for all roles that councils perform and
- encouraging councils to examine their numbers and proportion of older people and their rate of population ageing, in conjunction with the evidence on impacts, and to identify what roles they may need to change.

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

Muswellbrook Shire Council appears to be working on the challenges of ageing. Its social plan includes a number of valuable strategies relating to older people, including mature age employment, recreational activities, accessibility of services and facilities, transport and retirement accommodation. It is evident that council has integrated strategies across all its functional areas to address this challenge.

Progress in relation to these priorities is reported on a monthly/quarterly basis via the management plan reports as well as annually in the council's annual report.

6. DELIVERING AND ACHIEVING

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

Overview

There is a cooperative working relationship between staff and councillors at Muswellbrook. Council also has a mature approach to decision making, which is commendable.

Council promotes important issues and provides access to information so that the community can make informed decisions. It also provides leadership in planning for the future of the community and represents the needs of the local communities with higher levels of government.

6.1 Governance

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

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

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

- Monitoring and review.

What is working well

Ethics and values

Council has adopted a statement of councillor values and organisation values and drafted a statement of council business ethics. The first two statements were determined at the strategic planning workshop in 2004, along with council's mission statement, and are included on council's website. The draft council business ethics statement was to be reviewed by council in August/September 2006. It would be good business practice to also include this document on the website as a tool for raising private sector awareness of public sector values. **(Recommendation 1)**

Council's code of conduct was also reviewed at the strategic planning workshop and several enhancements were made including the insertion of an extended section on child protection in the workplace. Council adopted its code of conduct in June 2005. Its code incorporates the *Model Code of Conduct for Local Councils in NSW*.

In excess of 80 staff and councillors have attended awareness sessions. All new staff are required to attend such sessions. Work has also commenced on a modified awareness session for staff not working in clerical and technical areas, such as outdoor staff.

Protected disclosures

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

Council has a "Protected Disclosures Act – Internal Reporting Policy" to assist staff in making any disclosures of alleged corrupt conduct, maladministration or serious and substantial waste of public money under the *Protected Disclosures Act 1994*. This policy was last reviewed in October 2004 and is due to be reviewed again in October 2006.

Section 11 of council's code of conduct also refers to the Act in reporting of breaches, complaint handling and sanctions.

Council includes the requirements of the *Protected Disclosures Act 1994* and internal reporting procedures in its induction training of new staff and councillors but it has no on-going training on these matters. It would be good practice to include it in on-going training programs for staff and councillors. **(Recommendation 2)**

Pecuniary interest

The Local Government Act 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. For example, the Act requires that councillors and designated staff complete and lodge disclosure of pecuniary interest returns.

The council maintains a register of disclosure of interests returns by councillors and designated persons, as prescribed by section 449 of the Act. A review of returns revealed one councillor had not completed his for the last financial year. This will be dealt with separately by the Department of Local Government.

Other than this, the general standard of returns was quite good. Issues that require attention, however, include:

- Ensuring returns are not completed and lodged until 1 July in each year (returns completed and lodged before this time technically do not constitute valid returns for that year).
- Ensuring persons with investment properties include rental income in their declaration of sources of income.
- Ensuring full details of sources of share income are included.

Council should make relevant information on pecuniary interest matters available to councillors and designated officers, including the recently issued Pecuniary Interest Guideline and departmental circular 04/16 on completing returns.

Council has adopted a comprehensive code of meeting practice that identifies what pecuniary and non-pecuniary interests need to be disclosed and actions for failure to disclose these in meetings. Pecuniary and non-pecuniary conflicts of interest are also defined in section 7 of the code of conduct.

The council has embraced a responsible attitude to disclosure of interests, with a conflict of interest statement and declaration of interest form included in the business papers for all council meetings. It is also proposed to hold a briefing session for councillors and senior staff to review the recently released meeting practice note from the Department.

Bribes, Gifts and Benefits

In addition to a section on personal benefit in the code of conduct, council has a policy on gifts and benefits, first adopted in June 2002, which has been extended to cover bribes with procedures in place to report the matter to ICAC and the police immediately, where applicable.

Management plan

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

Sections 403 and 404 of the *Local Government Act 1993* and the Local Government (General) Regulation 2005 require certain particulars to be included in council's draft management plan. The draft management plan is to be exhibited in accordance with section 405 of the Act.

Council's current management plan was examined and found to be generally in accordance with relevant provisions of the Local Government Act and Regulation.

Council's Annual Report 2004-2005 is well presented and easy to read. It meets the legislative requirement, except for clause 217 of the Regulation on reporting of remuneration of senior staff. The annual report was also late arriving at the Department (6 January 2006, whereas the previous years it was submitted on time). Council should attend to these matters for 2005-2006. **(Recommendation 3)**

Risk management and internal control

A risk management plan provides council with a framework to proactively identify and manage generic and specific risks, both insurable and non-insurable.

Council has been proactive in developing a policy on risk management of council facilities and a public infrastructure risk management plan. It is using Statewide Mutual's workplace auditor assessments to help manage infrastructure assets, safety and public liability risks.

There may be merit in establishing a risk management committee to extend the public infrastructure risk management plan council-wide to cover all the business risks – financial, information technology, operational, customer service oriented, safety, security, environment, commercial, technical, et al.

Divisions should have ownership of their individual risk plans, which should all be a subset of the overall council-wide risk management plan. **(Recommendation 4)**

Council has an outsourced internal audit function. Review of the internal audit plan for 2005-2006 revealed that it had a financial and procedural focus. This matter was discussed with management. The internal audit plan should be more focused on operational risk and cover the council-wide risks identified above, thereby seeking to add value to council.

It was also noted that council does not have an IT audit capability to review progress of the information technology strategy, IT project management, IT environment controls, et al.

If the internal audit function was enhanced as recommended, council may have the opportunity in the future to share resources with other regional councils. One example of sharing resources that could enhance governance may be to establish a regional audit committee. **(Recommendations 5 & 6)**

Council has procedures for dealing with a critical incident but it does not have a plan to manage the impact of a disaster/critical incident on its operations, including

maintaining business continuity. Discussions with management indicated that this was in progress. Council should act promptly to develop such a plan and test it.

(Recommendation 7)

Procurement and disposal

Council has a procurement manual, and policies and procedures on ordering, tendering, purchasing and disposal of assets, a buy locally policy, and has reviewed its procurement and disposal practices in the past two years.

Challenges to improve

Fraud Control

Fraud is a specific risk facing all councils across their operations. Council does not have a fraud policy and has not carried out a fraud risk assessment, which it should address. ***(Recommendation 8)***

Legislative Compliance

Council has prepared a draft document based on the Department's strategic tasks list and is reviewing software available but currently does not have a system for ensuring on-going legislative compliance. Council should act promptly to develop such a system, including ensuring that staff are responsible for routinely identifying new legislative compliance, and ensuring that periodically, council reviews its level of compliance with key legislative requirements. ***(Recommendation 9)***

Section 355 Committees

Section 355 committees are an important way in which council exercises its functions. Council has a number of section 355 committees. At least four do not have constitutions or charters outlining membership, functions and authority. Three of these committees have been in existence for over 20 years. Senior management has acknowledged that constitutions and charters should be developed from standard templates detailing membership, functions, delegations and the need to comply with the code of conduct. ***(Recommendation 10)***

Privacy

Council's privacy management plan was adopted in July 2000 and was due to be reviewed in 2002. The review was not completed but a workgroup has been formed to achieve the desired outcomes. A review of recent minutes from the workgroup indicated that most areas for update are in progress. It would be good business practice to assign a high priority to these actions and include them in training plans for councillors and staff. **(Recommendation 11)**

Complaints Handling

Council does not have a complaints handling policy or procedure in place. It uses its service request system that has procedures for recording of complaints that relate to service requests. Copies of policies have been obtained from other councils and it would be good business practice to assign a high priority to council developing a policy, based on the *Ombudsman's Toolkit* and *Complaint Handling Manual*. It should ensure it provides training for staff in its use. **(Recommendation 12)**

6.2 Regulatory Functions

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

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

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

What is working well

Strategic planning instruments

Council does not have its own strategic land use strategy as a framework for its land use planning. However, council is a member of the Upper and Northern Hunter Regional Environmental Management Strategy (UNHREMS) for Local Government (along with Singleton, Upper Hunter, Dungog, Gloucester and Great Lakes councils).

The strategy has the following aims:

- To develop integrated environmental management practices and regional co-operation
- To develop partnerships between member councils, State agencies and the communities of the region, and
- To facilitate a regional approach to planning and decision making that brings together social, economic, environmental and equity considerations.

The UNHREMS was formed in 2002, meets on a monthly basis, and has developed an action plan that includes land use planning, sustainable agriculture, biodiversity, water quality and quantity, air quality and information management. The UNHREMS strategy and action plans are included on council's website.

Council has a single current local environmental plan (LEP) for its area, which was gazetted in 1985. This plan has been reviewed. Council has prepared a new draft LEP that complies with the requirements from the Department of Planning.

Council's LEP and DCPs have recently been taken off the website due to one DCP technically corrupting the others, as per information received from the Department of Planning. It would be appropriate to have them reviewed, updated and reinstated on the website, as soon as practicable. **(Recommendation 13)**

Council integrates and links its management plan with its LEP, DCPs, State of the Environment report and other planning policies by including those activities and stated objectives in the management plan and reporting progress towards achievements in monthly/quarterly reviews.

Section 94

Council has prepared and adopted section 94 plans for its area. There are also guidelines available for the making of assessments under section 94 of the Environmental Planning and Assessment Act. Council maintains a section 94 register that ensures that section 94 contributions are monitored and spent within a reasonable time and in an area to which they relate. Council has also been innovative in developing a community enhancement program, which includes section 94 development funding from coal mines and major industry in the LGA.

BASIX

Council has put in place measures that ensure compliance with the BASIX certification system. Information and educational material is available during the assessment process about the requirements of complying with BASIX. During pre-lodgement discussions, applicants are advised that they must comply with BASIX legislative requirements.

Swimming Pools

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

Muswellbrook Shire Council has a compliance audit program in place to ensure it is notified of all new swimming pools in its area, and that swimming pools comply with the *Swimming Pools Act 1992*. The results are reported to council on an annual basis.

Companion animals

Council does have a companion animals committee. However, it does not have a companion animals management plan. The adoption of a companion animals management plan is recognised as good practice. Council does not run community education programs on companion animals. It would be good practice for its committee to prepare a management plan, and make provision for a community education program. **(Recommendation 16)**

Challenges to improve

Enforcement

Council does not have an enforcement and prosecutions policy or a local orders policy under section 159 of the Local Government Act. It does not have a separate system for reporting and investigating reports of non-compliance or unauthorised development. It would be appropriate to develop these policies as soon as practicable. **(Recommendation 17)**

However, council is working closely through its coal mine consultative committee to deal with complaints received over mine operations. It is working through its environment committee to finalise an audit program arising from the Upper Hunter Cumulative Impact Study by the Department of Planning.

Graffiti Removal

Graffiti is not a significant issue in the Muswellbrook Shire at present. Council does not have a register of graffiti removal pursuant to section 67A (2) of the Local Government Act. A register should be established in due course, should council be involved in the removal of graffiti on private land. **(Recommendation 18)**

However, council has been proactive in identifying black spots for litter dumping and has improved community awareness with progress reports to council.

State of the Environment Reporting

Council shows a commitment to managing its environment through the emphasis it has on sustainability. It is tackling the pressures faced by the LGA.

Council's State of the Environment Report (SoE) 2004-2005 is a useful, quite well-developed document. However, there is no reference to consultation with environmental groups. It is not fully integrated with council's management planning process and the results of strategies and actions are not always included in the annual report. For example, on page 15 of the SoE it is recommended council adopt a tree preservation policy, but this is not included in the annual report or draft 2006-2009 Management Plan. Discussions with senior management indicated that council has never had a tree preservation policy and does not want one. The above-mentioned matters should be addressed in the next SoE report. **(Recommendation 19)**

6.3 Asset & Financial Management

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

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

- Financial management
- Asset management.

Overview of financial position

Council's operating results before capital items have varied between surplus and deficit over the last five years. After a surplus of \$1.4M in 2003/04, council returned a deficit of \$1.1M in 2004/05. Similar deficits were recorded in 2000/01 and 2001/02 and a surplus of \$900K was earned in 2002/03.

Results after capital items ranged from a deficit of \$322K in 2000/01 to surpluses of around \$2M for all years except 2003/04 (when council achieved a surplus of \$6.3M, after receiving \$4.9M in grants and contributions).

Council also has a history in recent years of underestimating operating revenue and grants and contributions budgets. While it is acknowledged that grants and contributions are sometimes difficult to predict due to decisions outside of council's control, senior management also advised that they did not fully budget for section 94 contributions, as these are not definitive commitments.

Liquidity and cash position

Council's unrestricted current ratio (UCR) in 2004/05 was very good at 4.71. This was down from 5.87 in the previous year. The UCR measures the adequacy of working capital and the ability to satisfy obligations in the short term. It does not include externally restricted activities such as water, sewer or specific grants. A good UCR is considered to be greater than 2.

Council's unrestricted cash in 2004/05 was \$2.04M. Rates and annual charges outstanding percentage (RACO%) was very good at 2.35%. The RACO% assesses the impact of uncollected rates and charges on liquidity and the efficiency of debt recovery. A benchmark for rural councils such as Muswellbrook is less than 10%.

Council had a low debt service ratio (DSR) of 3.06% in 2004/05. This indicator assesses the degree to which revenues from ordinary activities are committed to the repayment of debt. A DSR of less than 10% is good.

Total loans outstanding at 30 June 2005 amounted to \$4.87M. No new loans were raised in 2004/05. Council applied for loans of \$5.9M in 2005/06, which was made up of \$3.6M for water supply, \$1.3M for sewerage works, \$500K for waste management and \$470K for buildings.

Employee leave entitlements (ELE) are cash funded to 46% by internal restricted reserves. This is considered to be high, as the Department considers 20-30% to be reasonable. This was discussed with senior management, who indicated that long service leave was funded to 75% due to an ageing workforce.

What is working well

Financial monitoring

Council's overall financial position is satisfactory, even though it incurred a deficit of \$1.1M before capital amounts for 2004-2005. A financial review at 31 March 2006 indicated a small surplus for the third quarter and revenue and expenses are being monitored closely to ensure that the 2005-2006 result shows improvement on the prior year.

Council has been active in investigating options to increase its revenue base from sources other than rates. It is currently in negotiations with Upper Hunter Shire Council to deposit Council waste at Muswellbrook's depot.

Council also closely monitors its working funds balance and debt servicing levels.

Council has a program of quarterly financial reviews, which are presented to the budget review committee and then to council. These reports analyse variances in income and expenditure, movements in restricted assets and the performance of their two Category 1 businesses, the water and sewer funds.

Business Activities

The water supply business had a surplus result before and after capital amounts in each of the last three years. In 2004-2005 it returned a surplus from ordinary activities of \$2.2M, a return on capital of 9.5% and with no subsidy from council.

The sewerage business has also had a surplus before and after capital items in each of the last three years. In 2004-2005 it returned a surplus from ordinary activities of \$0.8M, a return on capital of 1.8% with a subsidy of \$0.3M from council.

Debt Recovery and Investments

Council has a debt recovery policy including sundry debtors, write-offs and credit adjustments. Council has resolved to set the amount of \$200 as the minimum that can be written-off by the general manager without its approval.

Council does not have a pensioner rates and charges reduction policy under section 582 of the *Local Government Act 1993*. However, it does have a hardship policy for ratepayers that has been utilised only three times in the past three years.

Council has an investment policy with objectives to undertake authorised investment of any surplus funds after assessing credit risk. The policy includes diversification limits and involves obtaining three quotations from authorised institutions. The best quote of the day is deemed successful after allowing for administrative and banking costs.

Information technology

Council adopted an Information Technology Strategy in 2003, which incorporates plans of action for hardware, software, communications/web, security and disaster recovery and staffing.

A review of this Strategy document indicated that it is comprehensive but requires updating as to current projects being undertaken, training needs of staff, etc. **(Recommendation 20)**

Asset management planning

Council in its self assessment checklist advised that it did not have an asset maintenance program, had not developed long-term asset management plans and that there was no link between asset management to financial modelling.

However, the on-site review examined the following:

- Daily and fortnightly maintenance programs at the works depot
- A 2006-2009 capital expenditure program
- A strategic plan for road management
- A community infrastructure risk management plan 2005
- An active infrastructure committee that reviews priorities for forward expenditure programs for all assets, quarterly management plan progress reports, conducts customer surveys and reviews implementation of programmed works
- A strategic business plan for water supply including financial modelling
- A strategic business plan for sewerage services
- A community enhancement program (section 94) to help offset the negative impacts of the development of coal mines and major industry in the LGA, and
- Draft water and sewerage development servicing plans (section 64).

These plans and programs indicate that the basis for asset management planning is in place.

Council also maintains a register of infrastructure, and has a comprehensive asset register that includes asset ID, valuation and depreciation. Council conducts regular condition audits of all significant assets.

Council recently won the AMEX Regional Award at the Newcastle Engineering Excellence Awards for its Acacia Reservoir project.

Challenges to improve

Infrastructure Maintenance

The written down value/total valuation % (WDV%) of council's assets for 2004-2005 period are as follows:

- Roads, bridges and footpaths at 19%
- Stormwater drainage at 53%
- Water supply network at 53%
- Sewerage network infrastructure 51%.

The department considers that WDV below 50% may be cause for concern. In this sense, the WDV for roads, bridges and footpaths at 19% are in poor condition. However, the condition of these assets as disclosed in schedule 7, condition of public works, in the annual report 2004-2005 is rated as “good” or “satisfactory”. This is at odds with the WDV%.

In 2003-2004 estimated costs to bring these assets to a satisfactory standard was \$35.3M and in 2004-2005, it was \$22.2M. This matter was raised by the Department in its financial review for 2004-2005 and council agreed to consider revaluing roads for 2005-2006.

Discussions with senior management indicated that these assets have been significantly revalued for 2005-2006 as the economic life of its roads, for example, has been extended.

Based on the above, it would also be good business practice for council to consider reviewing the economic life of all other infrastructure assets approaching 50% WDV%, eg. its sewerage network, in due course. ***(Recommendation 21)***

6.4 Community & Consultation

A council's charter requires that a council:

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

The review of council's activities in this area looked at:

- The methods council uses to involve and determine the views of its community
- Access to information
- Interaction between councillors and staff
- Social and community functions of council
- Annual reporting
- Cultural planning
- Ethnic affairs obligations
- Reporting to the community and keeping the State Government informed about its activities.

What is working well

Social and community planning

Muswellbrook Shire Council's social plan 2005-2010 is well structured and includes a thorough assessment of the LGA's demographics and issues/needs for all of the social justice target groups. Community consultations in developing the plan would appear to be thorough, with ongoing review mechanisms identified and actions listed for all target groups. The plan also contains a good review of the previous social plan and reports on what was achieved.

However, there is a need to focus more on reporting on what has been achieved and the performance indicators being used in the management plan and the annual report. The 2005-2008 and 2006-2009 management plans only speak of implementing the social plan but do not identify funding or resources considerations available to implement actions in that plan. The 2004-2005 annual report does not include any information on what social plan actions have been implemented. Council should be clearer in its management plans and annual reports whether the actions of the social plan are actually being implemented. **(Recommendation 22)**

In June 2005 council adopted the principles supporting the National Framework for Women in Local Government and has noted this in its draft 2006-2009 management plan.

Memorandum of Understanding with local Aboriginals

Council has a statement of principle on reconciliation with Aboriginal and Torres Strait Islander People, an Aboriginal reconciliation committee, and respectfully acknowledges at the start of each council meeting and in the business papers that the local Aboriginal people are the traditional owners and custodians of the land where each council meeting takes place.

Cultural planning

Council has a draft cultural plan, along with various committees managing cultural activities. It consults with thirty-three focus groups to undertake the following cultural planning activities:

- Support for the historical society
- Support for the local eisteddfod and shire band
- Support for the local Conservatorium of Music
- Operating a regional art gallery
- Operating two branch libraries
- Facilitating NSW Coal Rail Heritage Centre, and
- Supporting NAIDOC Week, Seniors' Week, Youth Week, International Day of People with a Disability, Harmony Day, etc.

Community participation and consultation

Council consults with Aboriginal communities, people with disabilities, young and older people, people from culturally diverse backgrounds and people in rural areas. A community survey has recently been completed and a report is being prepared on actions arising. This is considered good practice.

Council has specific programs for rural families with children and Aboriginal people who utilise community services.

The Mayor also appears on a regular radio program. In addition Council communicates with the community through regular forums, newsletters, newspaper articles and direct mailouts to residents.

Tourism and economic development

Council has a formalised tourism and economic development plan entitled *Making Muswellbrook Shire Strategic Plan*. It also has a Making Muswellbrook Shire Committee and a Shire Heritage Committee. The Plan's main actions include:

- Identify diverse and complementary businesses/industry seeking to expand, relocate or invest in the LGA
- Supporting local events
- Marketing the benefits of living and working within the LGA (eg. attracting medical practitioners)
- Survey and identify skills gap in the LGA (to inform future trainee/apprenticeship schemes)
- Brand promotion including promotional videos
- Media liaison and signage
- Coal Rail Heritage Centre
- Obtaining funding for a community centre at Denman (\$300K achieved)
- Video conferencing for educational purposes (\$200K funding achieved)
- Event sponsorship program, and
- Regional marketing programs eg. attend Country Week in Sydney.

Discussions with the Economic Development Officer indicated that progress against all of the above plans had either been completed or were well advanced.

6.5 Workforce Relations

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

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

- Consultative committee processes
- Job descriptions and job evaluation
- Recruitment and selection processes
- Employee remuneration
- Equal employment opportunity
- Staff development
- Grievance management
- Occupational health and safety
- Secondary employment.

Overview of the organisation

The executive management team is made up of the general manager and three directors: Community Infrastructure, Corporate & Community Service, and Environmental Services.

Council's organisational structure has been reviewed during the last twelve months. The overall structure has remained unchanged but there have been adjustments to sections and positions within departments. The council employs 154 staff. A total of 72.3% of the workforce is aged 25-54 and 16.9% is aged 55 and over. Women represent 61% of staff.

The total salary expenditure for 2004-2005 was \$6.2 million, which was 10.1% above budget due primarily to award increases of 4%, annualisation of salaries at the swimming pool, backpay as competencies are assessed, and additional staffing. The value of overtime paid during the last financial year was \$320K.

What is working well

Human Resources policy framework

Council has a solid policy framework across its human resources area, including a HR policy and procedure manual, staff handbook, recruitment and selection procedures, an equal employment opportunity (EEO) management plan, committee and EEO survey, an induction manual, dispute and grievance resolution policy, dealing with harassment and workplace bullying procedures, a critical incidents procedure, alcohol and other drugs policy, occupational health and safety (OH&S) committee, policy and procedures, a return to work policy and a secondary employment policy.

All positions have written job descriptions and council has a documented salary system.

Council currently does not have a formal human resource strategy for all activities. In its 2006-2009 Management Plan, it also acknowledges that it does not have a formal staff performance management system, a staff development system or a succession plan. Most concerning is that it has no OH&S system. These are planned to be developed during the plan period. It is important that council complete these plans and systems as a matter of high priority. (**Recommendation 23**)

Succession planning, in particular, is of high importance as Muswellbrook, like many other councils, is exposed to a number of workforce planning issues, such as:

- shortages of specialised skills in certain areas, such as engineers and planners
- an ageing workforce
- a change in workload for certain sections as council's and government priorities change and
- increases in career opportunities outside the area.

This matter was discussed with senior management who indicated that, in addition to the eight management trainees they have strategically employed across council, they were also reviewing options for introducing deputy director positions.

Recruitment and selection

Council ensures that selections are made on the basis of merit, as required by section 349 of the *Local Government Act 1993*, by the following:

- all advertisements and job descriptions clearly outline the qualifications, and both essential and desirable criteria required and
- all applicants are selected for interview based on a culling process.

Council has a policy that if at least two competent, suitably qualified employees already exist within council, an internal advertisement is all that is required. Council should ensure the assessment of decisions to apply this policy is properly documented and can withstand scrutiny.

Job descriptions and evaluation

All positions within the council have written job descriptions and all employees have copies of their respective job descriptions. Council has a policy and practice for the review of job descriptions.

Job selection

Council does not have an internal appeal process for unsuccessful applicants and there are no formal provisions for obtaining post-interview feedback from the selection panel convenor. The matter is not covered directly in council's grievance handling policy. Discussions with management indicated that there had been no internal selection appeals in the last twelve months. However, it would be good business practice for council to adopt a specific formal policy covering internal appeals. **(Recommendation 24)**

Occupational Health and Safety

Council has a well-developed OH&S policy and procedural framework and has a practice of conducting systematic OH&S site risk assessments.

Council has recently drafted an Asbestos Management policy and procedures and is undertaking an inspection of all council controlled buildings.

During this review council also took over management of its waste depot from a contractor and discussions with staff on-site indicated that they had not received specific detailed training on asbestos identification for all types of waste loads. This matter was discussed with management, who indicated that an in-house training package was currently being developed on asbestos and that the matter would be followed-up at the waste depot, as soon as possible. **(Recommendation 25)**

Challenges to improve

Consultative Committee

The constitution of the consultative committee includes one councillor nomination, seven employee representatives and three senior executives. As the committee's aim should be to provide for two-way communication between management and staff, the department suggests that councillors should not be on the committee, consistent with clause 27 of the *Local Government (State) Award 2004*. **(Recommendation 26)**

The Consultative Committee has met 11 times in the last twelve months and keeps appropriate minutes of all its deliberations.

7. COUNCIL'S RESPONSE

Muswellbrook Shire Council

ENQUIRIES

PLEASE ASK FOR Steve McDonald

DIRECT 02 6549 37

OUR REFERENCE 430 001

YOUR REFERENCE



MUSWELLBROOK SHIRE COUNCIL
ADMINISTRATION CENTRE
MUSWELLBROOK NSW 2333
ABN 86 664 180 944

13 November 2006

**Director General
Department of Local Government
Locked Bag 3015
NOWRA NSW 2541**



Dear Sir,

Re: Promoting Better Practice Review

Council would like to thank the Department of Local Government for inviting Council to participate in the Promoting Better Practice Review. Council appreciates Mr. Steve Woods for conducting the review between 3 and 7 July, 2006, and notes that very minimal impact was placed upon Council's operations whilst the review took place.

Council accepts the accuracy of the Draft Review Report.

Prior to receiving the report, Council set priorities for several projects. These projects are in stages of development, and many of them were mentioned as recommendations in the report. Council will incorporate any other recommendations made by the review that have not yet been addressed in the Action Plan.

The recommendations proposed by the Department are of value and have helped to reinforce many of Council's current priorities. Council looks forward to completing the Action Plan.

Yours faithfully

Steve McDonald
GENERAL MANAGER

(gs)

8. SUMMARY - WHAT'S WORKING WELL & CHALLENGES

COUNCIL'S PRIORITIES AND FOCUS

What is working well

- vision and goals integrated throughout council's principal activities
- tourism and economic development focus

Challenges to improve

- establishing a longer term strategic horizon

GOVERNANCE

What is working well

- Ethics and values
- Protected disclosures
- Management Plan
- Risk management and internal control
- Procurement and disposal

Challenges to improve

- Fraud control
- Section 355 committees
- Privacy
- Complaints handling

REGULATORY

What is working well

- Strategic planning
- Section 94 and BASIX
- Swimming pools
- Companion animals

Challenges to improve

- Enforcement
- Graffiti Register
- State of Environment reporting

ASSET AND FINANCIAL MANAGEMENT

What is working well

- Financial Management
- Asset Management Planning

Challenges to improve

- Infrastructure maintenance

COMMUNITY AND CONSULTATION

What is working well

- Social and community planning
- MoU with local Aboriginals
- Cultural planning
- Community participation
- Tourism and economic development

WORKPLACE RELATIONS

What is working well

- Human resource policy framework
- Recruitment and selection and job descriptions
- Occupational health and safety

Challenges to improve

- Performance management
- Succession planning
- Consultative committee