

Promoting Better Practice Program

improvement

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capability

POST INVESTIGATION REVIEW REPORT

CESSNOCK CITY COUNCIL

DECEMBER 2010



Division of Local Government
Department of Premier and Cabinet

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EXECUTIVE SUMMARY

OVERVIEW

During the period April 2008 – January 2009 the (then) Department of Local Government conducted an investigation under section 430 of the *Local Government Act 1993* (the Act) into the operations of Cessnock City Council. The investigation report was issued in January 2009.

The investigation found that Council did not have a well defined governance framework. In particular, a number of critical internal controls and reporting systems were lacking which impacted on Council's capacity to govern at an optimum level.

Leadership was found to be lacking in some areas and the Senior Executive Team required rebuilding. At the time of the investigation only 5 of the 25 recommendations of the Promoting Better Practice Review undertaken in 2006 had been completed. Notably, most recommendations to improve the workforce relations and human resource areas remained incomplete.

Council also failed to ensure that private works were being managed in accordance with standard project and contract management principles and procedures.

The Division of Local Government, Department of Premier and Cabinet has conducted a post investigation review on Council's operations using its Promoting Better Practice Program methodology.

Council has recently undertaken a comprehensive and innovative community engagement process to develop the Cessnock 2020 Community Strategic Plan.

The organisation appears to be committed to establishing a stronger and more robust governance framework. The former General Manager, in consultation with Council, has established a new Senior Executive Team. In early October 2010 Council appointed a new General Manager.

The executive team is currently reviewing governance frameworks to implement at Cessnock City Council. This includes consideration of the Business Excellence Framework.

Council has also worked hard to address the governance issues identified in the section 430 investigation and has strengthened its internal controls. Councillors and staff at all levels are commended for their focus and diligence which has resulted in a number of significant achievements in this area.

Overall, Council's performance in the community and consultation area appears reasonably sound. Some examples of better practice have been noted in the body of this report.

Council's planning and regulatory functions require ongoing improvement. The terms of reference of the section 430 investigation did not cover land use planning matters. However, the Promoting Better Practice Review 2006 asked Council to consider the establishment of an Independent Hearing and Assessment Panel (IHAP) to assess large and contentious applications.

Although Council decided not to proceed with such a panel, this has been superseded by the recent appointment of a planning panel by the Minister for Planning.

Additionally, the reviewers noted that the development of the 2010 Local Environment Plan (LEP) and supporting plans/controls has taken almost four (4) years to date and is yet to be finalised.

Council's regulatory systems have undergone significant review and improvement. Council needs to continue to focus on development application processing and it is noted that Council has already identified some systems improvements that will improve processing times. There has been significant improvement in the area of compliance and enforcement stemming from the finalisation of the review recommendations.

Council will face some significant financial challenges given the identified liabilities, including the tip refurbishment obligation and asset condition report, and will need to carefully manage its commitments during the life of its 2020 strategic plan.

Council has conducted a review of its human resource policies as part of its Human Resources Plan and has noted areas for improvement and development. Council now needs to progress those improvements while devoting resources to the

preparation of a Workforce Strategy as part of the Integrated Planning and Reporting framework due for completion by 1 July 2011.

While it is too early to determine the full extent of the impact of these changes on the organisation, a number of positive indicators were noted. With a stronger governance framework and improvements across a range of operational areas, Council is now better placed to deliver on the vision and strategies set out in its Cessnock 2020 Community Strategic Plan.

Examples of better practice and areas requiring further development are summarised on the following page.

COUNCIL'S STRATEGIC POSITION

What is better practice?

- Council has undertaken a comprehensive and innovative community engagement process to develop the Cessnock 2020 Community Strategic Plan. It included a community survey, eight (8) community workshops, an online forum, a phone hotline, a debate, a drawing competition, and postcards advertising the ways for community members to become involved.

Areas requiring further development

- Council is required to implement the provisions of the *Local Government (General) Amendment (Planning and Reporting) Regulation 2010* as of 1 July 2011.

GOVERNANCE

What is better practice?

- Council's revised Code of Meeting Practice.
- The former General Manager formed the Managers Advisory Team to improve leadership at the middle management level and communication with the Senior Executive Team.
- A suite of initiatives have been introduced to strengthen Council's capacity in terms of risk management.
- A range of information technology initiatives were implemented during 2008/2009 to increase organisational efficiencies.

Noteworthy practice

- A number of initiatives have been introduced to aid the efficient conduct of Council's meetings.
- Improvements have been made to the process to develop Council's management plan and budget.
- The development and use of a calendar of corporate events.

- The interim customer service strategy which contains a number of actions to move Council toward operating as a best practice customer service organisation.

Areas requiring further development

- A training and professional development program is required for all councillors.
- Further improvements to the conduct of Council meetings is encouraged, particularly the use of committee of the whole, when appropriate.
- The Senior Executive Team should pursue the establishment of appropriate governance and leadership frameworks such as the Business Excellence Framework.
- A system or process needs to be implemented to ensure that Council's legislative and regulatory obligations are met.
- An audit program to ensure that the delegations register remains accurate and that delegations are exercised appropriately.
- The draft Business Continuity Plan should be finalised.
- Council should finalise its internal audit plan.
- A more effective Electronic Document Management System is required.
- Further work is required in relation to procurement and disposal practices as identified in the Probity and Internal Audit Report.
- A review of internal controls in relation to the allocation of work to Council's legal panel is encouraged.
- Organisational values should be developed as part of establishing the Business Excellence Framework.
- The management and financial reporting of Councils committees (section 355 and other) require review and remediation.
- All councillors must ensure that they engage in appropriate interactions with Council employees as set out in Council's Code of Conduct.

PLANNING AND REGULATORY

Areas requiring further development

- Improvement in development application process and processing times
- Expand the Ranger Enforcement Policy to cover whole of Council compliance and enforcement operations.
- Reconsider the use of an Independent Hearing and Assessment Panel.
- Companion Animals facilities need to be renewed to meet community needs.
- State of Environment report structure to reflect Divisional Guidelines.

ASSET AND FINANCIAL MANAGEMENT

Areas requiring further development

- Review and improve Council’s “Work for Outside Bodies and Persons” policy.
- Improve Council’s financial position from operating deficit to surplus as part of the Integrated Planning and Reporting Resourcing Strategy.
- Complete Plans of Management for all community land under Council’s control.
- Complete a strategic Asset Management Plan as part of the Integrated Planning and Reporting Resourcing Strategy.

COMMUNITY, COMMUNICATION AND CONSULTATION

What is better practice?

- Cessnock Pick of the Bunch - an initiative to promote economic development in the area.
- Free public wireless internet access in the Cessnock central business district.

Noteworthy Practice

- The Social and Cultural Plan 2009-2014 is a well developed and well structured Plan.

Areas requiring further development

- The issues and strategies contained in the Cessnock City Council Social and Cultural Plan 2009 – 2014 should be integrated with the Community Strategic Plan to ensure that they are delivered and monitored as part of the new planning and reporting framework.

WORKPLACE RELATIONS

Areas requiring further development

- Develop and implement a management plan for Occupational Health & Safety matters.
- Review and improve Council's Equal Employment Opportunity Management Plan.
- Council needs to develop a Workforce Strategy as a priority.

PART I. BACKGROUND

1. SECTION 430 INVESTIGATION

1.1 ABOUT THE INVESTIGATION

During the period April 2008 – January 2009 the (then) Department of Local Government conducted an investigation under section 430 of the *Local Government Act 1993* (the Act) into the operations of Cessnock City Council. The investigation report was issued in January 2009 and is available on the ‘Publications’ page of the Division’s website at www.dlg.nsw.gov.au.

Firstly, an investigation became necessary due to serious concerns regarding Council’s past performance and its capacity to meet its responsibilities under the Act.

Secondly, the (then) Director General had regard to Council’s failure to adequately respond to the recommendations of the Promoting Better Practice Review undertaken during 2006.

1.2 TERMS OF REFERENCE

The Terms of Reference authorised for the investigation were:

1. Whether the Council is able to meet its responsibilities under the Act. In particular, whether:
 - a. The conduct of councillors and council staff results in the provision of efficient, effective and appropriate standards of governance of Cessnock City Council.
 - b. The internal controls and reporting systems of Council reflect a good governance framework.
 - c. Council staff are efficiently and effectively managed and supervised.
 - d. The Council has effectively managed and carried out its private works activities. In particular, the works Council carried out for Hightrade Constructions Pty Ltd.

2. Any other matter that warrants mention, particularly where it may impact upon the effective administration of the area and/or the working relationships between the council, councillors and its administration.

1.3 SUMMARY OF SECTION 430 INVESTIGATION FINDINGS 2008

The investigation found that Cessnock City Council did not have a well defined governance framework. In particular, a number of critical internal controls and reporting systems were lacking which impacted on Council's capacity to govern at an optimum level.

Some councillors did not fully understand Council's Code of Conduct; and there appeared to be an inappropriate culture within Council around accepting gifts and benefits of value. Council's decision making processes and meeting practices were in need of improvement.

Leadership was found to be lacking in some areas. For example, Council's Senior Executive Team had shown signs of instability and dysfunction since late 2006. All three Directors of that team were found to have engaged in improper conduct, which was in breach of their employment contracts and Council policies. The employment contracts of two of the Directors were terminated in 2007.

Council's internal investigations and disciplinary processes leading to the dismissal of those senior staff was considered to be lengthy and could have been handled more effectively or efficiently in a number of respects.

A revised organisation structure adopted by Council in March 2008 created a new senior position. Council did not externally advertise the position but rather made a direct internal appointment. This was in breach of sections 348 and 349 of the Act.

It was found that Council for some time neglected to make urgent and significant improvements to the operation and culture of the ranger's unit.

At the time of the investigation only 5 of the 25 recommendations of the Promoting Better Practice Review undertaken in 2006 had been completed. Notably, most recommendations to improve the workforce relations and human resource areas remained incomplete. Many of Council's human resource policies were in draft form and others had not been updated for some time.

Council also failed to ensure that private works were being managed in accordance with standard project and contract management principles and procedures.

1.4 SECTION 430 INVESTIGATION RECOMMENDATIONS

The report made 16 recommendations to assist Council to improve its performance. Council was required to take action in relation to recommendations 1 to 14 of the report.

As per recommendation 1 and in accordance with section 434 of the Act, Council provided an action plan by 31 March 2009 of the things done and proposed to be done to give effect to the recommendations in the report.

Since that time Council has submitted regular progress reports indicating that it has made significant progress toward completing the recommendations of the investigation report (including those outstanding from the 2006 Promoting Better Practice Review Report – see Recommendation 11).

Recommendation 15 asks that consideration be given to issuing a circular to all councils in NSW with information and resources to assist with their enforcement activities. This issue was canvassed with the NSW Ombudsman’s Office, which has a range of resources (including Enforcement Guidelines for Councils) available on its website. Councils have previously been made aware of the availability of such resources. A further circular was not considered necessary.

This post investigation review is being undertaken in response to recommendation 16.

2. THE POST INVESTIGATION REVIEW

2.1 POST INVESTIGATION REVIEW OBJECTIVES

The primary objective of this post investigation review is to “*seek to confirm the implementation of the recommendations of this investigation and review their impact on improving Council’s capacity to meet its responsibilities under the Local Government Act 1993*” (Recommendation 16 - s430 report).

In carrying out this review the Division of Local Government, Department of Premier and Cabinet (the Division) has drawn heavily upon the objectives and methodology of its Promoting Better Practice Review Program.

Promoting Better Practice Reviews aim to promote good governance; ethical conduct and foster a culture of continuous improvement. By identifying and sharing better practice, these reviews may also have a broader developmental impact across the local government sector.

This post investigation review assesses the level of progress toward achieving each recommendation of the section 430 investigation and the 2006 Promoting Better Practice Review. However, it goes beyond the scope of the terms of reference of the section 430 investigation to consider and comment on other key operational areas. Similar to a Promoting Better Practice Review, this review intends to act as a broader "health check", giving confidence about what is being done and helping to focus attention on key priorities.

2.2 POST INVESTIGATION REVIEW PROCESS

The review team comprised Ms Caroline Egberts, Senior Investigations Officer and Mr Grant Astill, Senior Investigations Officer.

As well as assessing Council's progress toward completing the recommendations arising from the investigation, the reviewers evaluated the effectiveness and efficiency across a range of operational areas. This essentially involved five steps - preparing, assessing, checking, analysing and reporting.

The completion of a comprehensive self assessment checklist by Cessnock City Council was a key element of the review. Four (4) councillors completed a survey specifically designed to seek their views. The responses to these tools and a range of other documents were examined in order to gain a preliminary understanding of the status of Council operations prior to a visit to Council.

The on-site component of the review took place from 3 to 7 May 2010. The visit involved initial interviews with the Mayor and the General Manager, interviews with individual councillors, a cross section of staff and other relevant stakeholders. The team also observed a Council meeting and analysed Council policies and other documents.

While the methodology was broad it was not possible to examine every aspect of Council's operations in detail. A risk based approach was used to target resources to areas identified as core matters to be examined and those matters considered to be important having regard to the local circumstances.

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.

The primary legislation which sets out minimum requirements and standards for councils in NSW is the *Local Government Act 1993* (the Act) and the Local Government (General) Regulation 2005 (the Regulation). Unless otherwise stated, this report refers to that legislation.

2.3 POST INVESTIGATION REVIEW REPORT

The review culminates in a report which is provided to the elected council, the Minister for Local Government and the Chief Executive - 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, development control and 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 section 430 investigation and the 2006 Promoting Better Practice Review. An overall status ranking (as described below) will be provided followed by a commentary of significant observations.

STATUS	DESCRIPTION
Completed	<ul style="list-style-type: none"> All aspects of the recommendation are completed and no further work is required.
Completed – of an ongoing nature	<ul style="list-style-type: none"> 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	<ul style="list-style-type: none"> The recommendation has commenced but needs further work before it is complete.
Not commenced	<ul style="list-style-type: none"> No work has commenced on the recommendation.

The report identifies those initiatives or processes that may represent better practice. For easy identification, these have been displayed in a text box. Alternatively, where a recommendation has not been completed to a satisfactory standard the reviewers have (where appropriate) made a further recommendation(s) to encourage further development of that priority area.

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

may have some aspects that require fine tuning.

Council was invited to provide written comment on the draft report before it was finalised. Council held a briefing on Wednesday 3 November 2010 to consider with the draft report. This briefing was attended by 11 of the 13 councillors. Councillors were also allowed to provide any comments separately to the General Manager.

Upon receipt of this final report Council is required to table it. As a public document it will be made available on the Division's website at www.dlg.nsw.gov.au. Council is also encouraged to display the report on its website.

ABOUT THE CESSNOCK AREA

2.1 LOCATION AND DEMOGRAPHICS

The Cessnock local government area is a sub-region of the Hunter Valley spanning an area of 1,950 square kilometres. It is located 120 kilometres north of Sydney and lies between Sydney, the Hawkesbury and the Hunter.

Map 1 Cessnock local government area



Cessnock is one of thirteen (13)

local government areas that make up the area known as the Hunter Region and is the largest local government area located on the fringe of the urban-based Lower Hunter Sub-Region.

Approximately 50,000 people live in the area. Cessnock and Kurri Kurri are currently the two main population hubs but there has also in recent years been increased residential and commercial development in the Branxton area.

Cessnock is the traditional home of the Darkinjung Aboriginal people.

2.2 THE COUNCIL – THE ELECTED BODY

Local government was introduced to the area in 1926 when Cessnock was proclaimed a municipality. In 1956 the area was named the City of Greater Cessnock and was given its current name, the City of Cessnock, in 1984.

In 1995 the Council reduced its councillor numbers from sixteen (16) to thirteen (13). The Mayor is elected by popular vote and three (3) councillors are elected from each of the four (4) wards.

2.3 COUNCIL – THE ORGANISATION

Cessnock City Council currently employs around 258 equivalent full-time staff.

Council's reported an operational deficit of \$674k in the 2008/09 financial year after the inclusion of an extra \$1.5M in Financial Assistance Grants. However, the general trend of Council's operating result is between a \$1.5 and \$2M deficit per annum.

2.4 LOCAL ISSUES

Coal mining, wine growing and tourism are key industries. With approximately 2.5 million visitors per year, the area has become the second most popular tourist destination in NSW.

Unemployment and public transport remain some of the priority issues for the community.

PART II. PLANNING A SUSTAINABLE FUTURE

This part of the review focussed on Council's strategic intent and how it has involved its communities and other stakeholders in developing long term strategic plans. Monitoring and reporting progress to promote continuous improvement was also an integral consideration in regard to Council's performance in this area.

1. 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 to streamline reporting to the community.

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

Diagram 1 Planning and reporting framework



The *Local Government (General) Amendment (Planning and Reporting) Act 2009* and the *Local Government (General) Amendment (Planning and Reporting) Regulation 2010* set out councils' obligations in this area.

2. CESSNOCK CITY COUNCIL STRATEGIC POSITION

2.1 OVERVIEW

The section 430 investigation in 2008 found that Cessnock City Council had clearly articulated its vision, goals and charter in its strategic plan titled “*Our People, Our Place, Our Future*”. The *Cessnock City Management Plan 2009-2012, Planning for Our People, Our Place, Our Future* sets out actions Council intends to carry out to implement its strategic plan.

The new strategic planning provisions will be phased in over a two (2) year period. Council has nominated itself to Group 2 which means the provisions of the *Local Government Amendment (Planning and Reporting) Act 2009* and the Local Government (General) Amendment (Planning and Reporting) Regulation 2010 will apply from 1 July 2011. Council is required to comply with the requirements in the *Planning and Reporting Guidelines for local government in NSW* (see DLG circular to councils 10-01). A supporting Manual is also available to assist councils to implement the new Council requirements. The Guidelines and Manual are available on the Division’s website at www.dlg.nsw.gov.au.

2.2 SUMMARY OF PROGRESS TOWARD ACHIEVING RECOMMENDATIONS

No.	Section 430 investigation recommendations	Status
1.	That Council review its strategic plan in consultation with the newly elected Councillors, Council employees and the Community to ensure that it continues to be relevant to the Community as a whole.	Completed

No.	Promoting Better Practice Review 2006 recommendations	Status
	The Promoting Better Practice Review did not make any recommendations related to strategic planning	Not applicable

2.3 ASSESSMENT OF PROGRESS

2.3.1 Cessnock 2020 Community Strategic Plan (Recommendation 2)

Under the new Planning and Reporting Framework, the development of a Community Strategic Plan covering a minimum period of 10 years has become a statutory requirement.

The review of “*Our People, Our Place, Our Future*” is well underway and is occurring to align with the legislative changes recently introduced. Council undertook a comprehensive and creative program of community consultation activities to complete its 10 year *Cessnock 2020 Community Strategic Plan*. The plan was adopted by Council on 6 October 2010.

Council has engaged consultants to undertake an inclusive consultation and engagement process to work toward developing the plan. At the time of the site visit work had commenced on the draft plan which Council intended to complete by 30 June 2010.

This recommendation is now complete.

2.3.2 Community engagement in strategic planning

Council has undertaken an extensive community consultation and engagement to ensure that the community strategic plan is appropriate to community needs. A Community Engagement Strategy adopted in February 2010 has provided the community with ample opportunity to become involved and have a say about their future.

The process involved a certain degree of continuity for the local community by building on the themes identified through previous consultation activities related to the existing plan. From that foundation participants were encouraged to “focus on our future.”

Better practice example

The community engagement process stands out as an example of better practice by virtue of a range of innovative ways in which Council encouraged the community to become involved. Key components of the process included:

- A community survey completed in August 2009.
- Eight (8) community workshops.
- An online forum where residents were able to post comments on their views about what is important in the future planning for Cessnock.
- The Cessnock 2020 hotline where community members could leave a

recorded message of their views.

- A debate entitled "We should let the future of Cessnock look after itself".
- The Drawing 2020 Competition invited local primary school students to draw what they would like the Cessnock LGA to look like in the year 2020. More than 50 drawings were submitted.
- Easy to read postcards advertising the ways for community members (as outlined above) to become involved were distributed widely.

Council has demonstrated its commitment to successfully completing the Community Strategic Plan by allocating \$250,000 in its 2009/2010 Budget to cover costs associated with its preparation.

2.3.3 Other components of the Planning and Reporting Framework

Developing and then successfully implementing the other components of the framework (such as a Delivery Program, Operational Plan and supporting Resourcing Strategy) will present a significant challenge for Council. It will require effective leadership and commitment from the Mayor, General Manager and all councillors. The specific roles of each of these officials are highlighted in the *Integrated Planning and Reporting Manual*.

In particular, the General Manager has a pivotal role to play in mapping out Council's approach to the planning process and ensuring Council staff and the community receives the information it needs to participate in a meaningful way. The General Manager is also responsible for guiding the implementation of the Community Strategic Plan and Council's response to it via the Delivery Program.

Overall, support and enthusiasm was expressed in terms of establishing the framework. In particular, the approach and progress toward developing the community strategic plan was seen as very positive by councillors, senior executive team members and staff.

Area requiring further development

Work on the other components of the Planning and Reporting Framework have commenced and will be discussed in *Part III. Delivering and Achieving*. These components need to be completed in accordance with the Act and the Regulation.

Recommendation 1

The General Manager, in consultation with the Senior Executive Team and the elected body, should continue working together to establish the new planning and reporting framework within Council.

PART III. DELIVERING AND ACHIEVING

1. INTRODUCTION

Successful implementation of council's vision, strategic directions and the stated outcomes of its management plan relies on a healthy organisation that has efficient and effective structures, systems and processes.

This part of the review focussed on considering the means by which Council:

1. Governs its day to day operations
2. Undertakes its planning and regulatory obligations
3. Manages its assets and finances
4. Provides for and involves the community, and
5. Recruits and retains its workforce.

The progress toward completing the recommendations of the section 430 investigation report in each of these areas was the primary focus. However, the reviewers also looked at a range of practices, policies and systems in each of these areas that was beyond the scope of the investigation conducted in 2008.

As previously mentioned, this report documents significant observations only. Consistent with the Review Program's objectives this report focuses on progress made and identifies areas which represent better practice, are noteworthy or in need of improvement or further development. A definition of each of these categories is provided earlier at *Part I, section 1.3 The report*.

2. GOVERNANCE

2.1 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.

2.2 SUMMARY OF PROGRESS TOWARD ACHIEVING RECOMMENDATIONS

No.	Section 430 investigation recommendation	Status
3.	In accordance with section 333 of the Local Government Act 1993, re-determine its organisation structure.	Completed
4.	That Council aligns the manner in which it conducts its meetings with the provisions prescribed under the Local Government Act, 1993 and the Local Government (General) Regulation 2005, in particular that : i Council review its current meeting and committee structure and implement ways to make its meetings more efficient and effective such as holding one integrated Ordinary Council Meeting (including officer's reports).	Completed
	ii Council reviews its Code of Meeting Practice to ensure that it incorporates the required regulatory changes introduced by the Local Government Act, 1993 and the Local Government (General) Regulation, 2005.	Completed
	iii Council provide training on the Revised Code of Meeting Practice. All Councillors should abide by this Code and also strive to keep abreast of any subsequent regulatory changes.	Completed - of an ongoing nature.
	iv Council consider formally acknowledging the traditional owners of the land at the beginning of its meetings.	Completed - of an ongoing nature.
	v Council consider reviewing the wording of its opening prayer in line with other NSW Councils to embrace broader denominations and beliefs.	Completed
	vi Council implement a clear and transparent process to allow Councillors and Council officials to declare pecuniary and non pecuniary conflicts.	Completed - of an ongoing nature.
	vii Council consider adopting the practice of including an item on the agenda titled "Matters Determined without Further Debate" to assist in the smoother operations of Council Meetings.	Completed - of an ongoing nature.
	viii Council, when it has determined that a matter should be dealt with in closed session, comply with section 10 of the Local Government Act, 1993 and the Local Government (General) Regulation, 2005.	Completed - of an ongoing nature.
	ix Council consider amending its adopted Code of Conduct to prohibit binding caucus votes in relation to development applications or other matters where there are specific statutory issues for each Councillor to consider.	Completed
	x Councillors abide by the provisions relating to Giving Notice of Business in its Code of Meeting Practice and use more efficient means of gaining answers about operational matters such as the customer complaints system.	Completed - of an ongoing nature.

No.	Section 430 investigation recommendation	Status
	xi Council consider, where appropriate, the option of moving into Committee of the Whole under section 259 of the Local Government (General) Regulation, 2005.	Area for improvement
	xii Council review its policy “Requests for Verbal Submissions to Council” to incorporate the improvements suggested in this report.	Completed
5.	That the newly elected Council review all of its delegations during the first twelve (12) months of its office in accordance with section 380 of the Local Government Act, 1993.	Completed
7.	That the GM rebuilds a strong Senior Executive Team who can demonstrate leadership in achieving the critical changes recommended as a result of this investigation. Appropriate management frameworks such as the Australian Business Excellence Framework to enhance Council’s leadership and organisational capacity should be explored.	Completed - of an ongoing nature
11.	That Council implement all 25 recommendations of the Cessnock City Council Review Report 2006 – Local Government Reform Program Promoting Better Practice in accordance with the action plan it adopted in July 2008.	See table below
13.	<p>That Council extend and resubmit its Promoting Better Practice Review Action Plan to address the following necessary improvements as identified in this report and summarised as follows:</p> <p>i That Council provide information and training to all Councillors and Employees about their obligations in relation to:</p> <ul style="list-style-type: none"> • Council’s electronic document management system and the State Records Act, 1998. • Council’s adopted Code of Conduct. 	Completed
	ii That Council review its Councillors – Access to Staff and Information Policy (to align with recently revised Model Code); it’s Handling of Conflict of Interests Policy; and develop a Confidential Information Policy as recommended by IAB Services.	Completed
	iii. That Council review its system for recording delegations to address the issues raised in this report and ensure that its electronic and hard copy version of its delegation register are consistent and current. This should be complemented with an audit program to ensure delegations remain accurate and are exercised appropriately.	Completed - of an ongoing nature
	iv That Council develop a consistent standard for the disclosure of gifts or personal benefits and maintain a more centralised online register which gathers consistent and sufficient information to ensure maximum transparency and accountability. That the GM delegate responsibility for the oversight, maintenance and monitoring of the gifts register to Council’s Public Officer.	Completed - of an ongoing nature
	v That Council ensure that its Fraud and Corruption Risk Assessment and Management Action Plan be amended to address any additional internal controls referred to in this report and submit a progress report to the Department of Local Government by 31 March 2009.	Completed
	vi That Council implement its Information Technology Strategy and monitor	In progress

No.	Section 430 investigation recommendation	Status
	the ongoing progress against the action plan adopted at its meeting of 16 July, 2008.	
	vii That Council's planned review of its procurement and disposal practices (particularly in the area of fraud and corruption) to align with the provisions of the Local Government Act, 1993 and the Local Government (General) Regulation, 2005 also consider its Goods Disposal Policy and its E-procurement system. The review should also include an independent representative from another branch within Council on its tender assessment panel and the use a tender checklist.	In progress
	viii That Council tender for its legal services and establish a legal panel	Completed
	ix That Council finalise and issue its Leaseback Vehicle Manual and Leaseback Vehicle Agreement and implement effective controls to ensure that replacement occurs according to the manual.	Completed

No.	Promoting Better Practice 2006 recommendation	Status
1.	Council's statement of business ethics and code of conduct should be made more prominent on council's website, and council should examine how to better organise its "Codes Policies and Procedures" to make them more accessible and user friendly.	Completed
2.	Council should include the requirements of the Protected Disclosures Act 1994 and internal reporting procedures in on-going training programs for staff and councillors.	Completed - of an ongoing nature
3.	Council should establish a Risk Management Committee to draft a Risk Management strategy and then develop a council-wide structured and integrated plan to cover all risks – financial, operational, customer service oriented, safety, security, environment, technical, commercial business activities (lawn cemeteries, swimming pools and residential land development) et al.	Completed
4.	Council should develop a fraud policy and carry out fraud and corruption prevention risk assessments on a regular basis.	Completed - of an ongoing nature
5.	Council should develop a system for the internal reporting of legislative non-compliance or prosecutions against council.	In progress
6.	Council should finalise its plan to manage the impact of a disaster/critical incident on its operations and test it, as soon as practicable.	In progress
7.	Council should conduct a risk analysis of its procurement and disposal practices to ensure controls are adequate.	Completed
8.	Council should develop an internal audit plan based on a risk assessment to cover all council-wide risks and seek to add value to council.	Completed

9.	To ensure that any internal audit program is cost effective, council should consider any opportunity to share resources with other Hunter regional councils, including forming a Regional Audit Committee.	Completed - of an ongoing nature
10.	<p>To ensure that councillors properly carry out their duties and allow them to be effective members of council's elected body, council should provide them with induction training to cover the following:</p> <ul style="list-style-type: none"> • the legal and political context of local government (including a familiarisation with the relationships between the three tiers of government) • governance and conflict of interest issues, including case studies • meeting practice • the ethical responsibilities of an elected member, including maintaining confidentiality outside of council, and • teamwork skills (including conflict resolution). 	Completed
18.	Council should adopt a formal information technology strategy to meet the business needs, standards and strategic directions of council.	Completed

The Promoting Better Practice Review 2006 recommended a number of improvements for Cessnock City Council in the governance area. The section 430 investigation found that these improvements had not been completed and that overall Council did not have a well defined governance framework.

Since the issue of the section 430 report Council has been able to demonstrate that it has worked hard to build a stronger and more robust governance network. It is acknowledged that the demands of achieving such significant change over a relatively short period placed pressure on the organisation's resources and at times competed with other core functions. For example, tasks associated with preparing the new Local Environmental Plan created real demands on resources as well. Councillors and staff at all levels are commended for their focus and diligence which has resulted in a number of significant achievements in this area.

It is too early to determine the full extent of the impact of these changes on the organisation. However, initial observations indicate a positive result. Some indicators cited by councillors and staff included improved frameworks, procedures and systems; improved leadership; clearer focus and direction; and improved morale.

With a stronger governance framework, Council is now well placed to deliver on the vision and strategies set out in its evolving Cessnock 2020 Strategic Plan.

2.3 ASSESSMENT OF PROGRESS

2.3.1 Organisation structure (s430 investigation recommendation 3)

The section 430 investigation recommended that Council should “*re-determine its organisation structure*” for two reasons. One, the Council which was elected in 2008 must in accordance with section 333 of the Act re-determine its organisation structure within 12 months of its election. Secondly, Council had reviewed its structure to create a new position of Director Infrastructure Services. The direct appointment of the former Director of Works to that position appeared to be contrary to sections 348 and 349 of the Act. Under these sections Council is required to advertise all new senior positions in a particular manner and recruit on merit. There is no evidence that this occurred for the Director of Infrastructure Services position at that time.

Council re-determined its organisation structure on 11 March 2009. A new Director of Infrastructure Services was appointed on 15 June 2009 following a recruitment process which appears to have been conducted in accordance with sections 348 and 349 of the Act. This recommendation is considered completed.

2.3.2 Decision making (s430 investigation recommendation 4i-xii)

Council meetings are the primary means by which Council makes its decisions. The Departmental Representatives found that two pre September 2008 Council meetings they attended were not in compliance with a number of provisions prescribed under the Act and Regulation. Recommendation 4 set out a number of areas for improvement. The progress in relation to each of these areas is considered below.

Meeting and committee structure (Recommendation 4i)

Council had three (3) committees comprised of all councillors. This structure appeared inefficient due to the unnecessary repetition of meeting procedures such as apologies, questions without notice, closing and opening of meetings. It was recommended that one integrated ordinary Council meeting could streamline matters.

Council has advised that since October 2008 it has moved to conduct its meetings in an integrated manner. This is reflected in the revised Agenda that Council has

adopted for its Ordinary meetings. This part of recommendation 4 has been satisfactorily implemented.

Code of Meeting Practice (*Recommendation 4ii*)

At the time of the section 430 investigation, the copy of Council's Code of Meeting Practice available on its website was last amended in June 2000 prior to the introduction of the Regulation. Council's meeting practices observed at the two Council meetings were out of date and confirmed that Council had not kept abreast of current legislative requirements.

Council has advised that its Code was reviewed in late 2008. A draft Code of Meeting Practice went out to the community for comment in December 2008. The revised Code was adopted by Council in February 2009. This recommendation has been achieved.

Better practice example

Council's revised Code of Meeting Practice is considered an example of better practice. Developed in accordance with the Act and Regulation, the Code is well presented and easy to read. A comprehensive index makes the document easy to navigate and access. Other features that set it apart are its cover page which links the document to Council's Strategic Plan as well as a clear amendment history.

Training on Revised Code of Meeting Practice (*Recommendation 4iii*)

Council engaged an external provider to conduct training for all councillors on its revised Code of Meeting Practice in March 2010. It was reported that several councillors did not attend the Code of Meeting Practice training session. A view was also expressed that despite the induction program for councillors being of a good quality, Council appears not to support a culture of ongoing training and learning for councillors. In particular, it is perceived that external training courses are not promoted.

The Division of Local Government is currently implementing a Councillor Development Strategy to ensure that all NSW councillors elected in September 2008 have timely access to the information needed to understand and undertake their

roles and responsibilities effectively. The Strategy also aims to facilitate ongoing professional development for councillors.

The Strategy has been developed in partnership with the Local Government Association of NSW and the Shires Association of NSW (the Associations) and comprises a number of components. These are:

- Councillor Information Seminars (including a package of resources). Councillors of Cessnock City Council attended these regional sessions.
- A Councillor Guide which has been distributed to all NSW councillors on CD and is also available on the Division's website.
- A Web-based Directory of Information for Councillors which includes the Directory of Information for Councillors and the Councillor Induction and Professional Development Guide.

Council's induction program is also considered at section 2.3.5 – (2006 Promoting Better Practice Review recommendation 10).

Area requiring further development

While this recommendation is considered complete, ongoing training and development has emerged as an area where improvement is required. Council and councillors are encouraged to use the resources the Division has produced to facilitate ongoing professional development for councillors.

Recommendation 2

Council should develop a training and professional development program for all councillors.

Acknowledgement of the traditional owners of the land (Recommendation 4iv)

A clause has been inserted into the Code of Meeting Practice (clause 20.7) to demonstrate Council's commitment to acknowledging the traditional owners of the land. The acknowledgement occurs at every meeting as a result of a standard item

(item 2) on the Agenda for Council meetings. This part of the recommendation is considered complete but is of an ongoing nature.

Opening Prayer (Recommendation 4v)

Council considered this recommendation as part of its review and updating of its Code of Meeting Practice. Council decided to stay with the current prayer and inserted its wording into its Revised Code of Meeting Practice (clause 20.6). This part of the recommendation has now been completed.

Declaration of pecuniary and non pecuniary conflicts of interests (Recommendation 4vi)

Council was asked to implement a clear and transparent process to allow councillors and other council officials to declare pecuniary and non pecuniary conflicts.

In response, Council has introduced a new form which allows councillors and other council officials to declare pecuniary and non-pecuniary interests. This is in addition to the need for oral disclosures at meetings. The form provides some guidance on how to fill the form out correctly. In addition the revised format for Council's Agenda and business paper has a standard item titled disclosure of interests. The item includes a summary of the relevant provisions of the Act to remind councillors of their obligations.

Since 2008 Council has maintained a Register of Disclosure of Interests at Meetings. This spreadsheet documents the information councillors have included in the pecuniary and non-pecuniary interests declaration form and records what action was taken to manage the conflict.

During the Council meeting attended by the reviewers on 5 May 2010, it was noted that the Mayor and several councillors disclosed conflicts of interests in relation to specific Agenda items. Each identified the nature of the conflict, reasons for declaring and how they were to manage these conflicts. No anomalies were apparent to the reviewers in respect of these disclosures.

However, one councillor challenged another councillor to disclose an interest in a matter before council which he hadn't disclosed. The Mayor declared this

questioning out of order. She explained that it is up to individual councillors to determine if they have a conflict of interest and that it was not appropriate to debate the matter in this forum. This ruling was consistent with clause 7.2 of the Model Code which states *“the onus is on you [the public official] to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.”*

In the event that a councillor does not disclose a conflict of interests that another councillor is aware of, that councillor can lodge a code of conduct complaint to the General Manager for examination and referral to the conduct committee/reviewer, if warranted.

Irrespective of this isolated instance, a clear and transparent process to disclose pecuniary and non pecuniary conflicts has now been established and this part of the recommendation is complete. Councillors are encouraged to continue to meet their responsibilities in this area.

Matters Determined Without Further Debate (Recommendation 4vii)

Council was asked to consider adopting an item on its meeting agenda relating to “matters determined without further debate”. This was considered as part of Council’s review of its Code of Meeting Practice. The Code now allows councillors to consider information reports in three ways: individually, by nominated exception or englobo. Item 7 of the Agenda of the Ordinary Council Meeting is the *“Consideration and adoption of information reports either individually or with nominated exceptions”*. The en globo function allows for reports to be moved as a group where the item is for information or there is no need to discuss or debate it. Managing Council reports in this way has made its meetings more efficient and has effectively met the requirements of this part of recommendation 4.

The reviewers noted the use of all three mechanisms to consider information at the Council meeting they attended and agree that certain efficiencies were evident.

Closed sessions (Recommendation 4viii)

The section 430 investigation revealed Council’s practice of closing its meetings in a manner which did not comply with the provisions of section 10 of the Act and

represented an example of where Council continued to use meeting practices set out in the repealed *Local Government Act 1919*.

Council reports that this practice has been discontinued. Council now includes a report in the agenda which deals with confidential items and has advised that it complies with section 10 of the Act when closing its meetings. This part of the recommendation has been addressed. However, ensuring Council complies with the provisions of section 10 is an ongoing obligation.

Caucusing (*Recommendation 4ix*)

A caucus is a closed meeting of a group of persons belonging to the same political party or faction of a political party. A vote in line with a caucus decision on matters before Council is referred to as a binding caucus vote.

The *Guidelines for the Model Code of Conduct for Local Councils in NSW* refer to caucus votes in the *Optional better practice section* and state that councils may wish to consider including the following specific provision on caucusing in their codes of conduct:

“Engaging in binding caucus votes on matters is inconsistent with the obligation of each councillor to consider the merits of the matter before them. Political group meetings must not be used to decide how councillors vote on matters like development applications where there are specific statutory considerations for each decision maker to consider.”

The section 430 investigation found there was a perception by some that ALP councillors were at times engaging in binding caucus votes. Council considered this issue as part of the review of its Model Code of Conduct. Council’s revised Code of Conduct was adopted on 2 September 2009 and incorporates sections on development decisions and lobbying of councillors.

However, Council opted not to include the above clause related to binding caucus votes. The current political make up of the elected body is such that no political group has a clear majority. Within this context it is less likely that the practice of binding caucus votes could bind the decisions of Council. Councillors should still be mindful that the practice of binding caucus votes is inconsistent with the obligation of each councillor to consider the merits of the matter before them. Notwithstanding

this, it is considered that this part of the recommendation has been adequately resolved.

Dealing with operational matters at Council meetings (*Recommendation 4x*)

The section 430 investigation reminded councillors that questions during a Council meeting should be in relation to the business before Council and councillors should avoid raising business that can be discussed under other items of business on the agenda, pursuant to clause 241 of the Regulation.

Councillors were also reminded that the Act provides a number of other methods for councillors to bring matters to Council, such as using notices of motion, holding councillor information sessions on significant matters or raising a matter of urgency at the consent of the Mayor and council. Councillors can also put forward questions on notice, similar to a motion on notice and include such questions in Council's business paper.

Council has advised that it has used Council's Quality Assurance System to streamline Notices of Motion and Questions in accordance with the adopted Code of Meeting Practice. Council's Director, Corporate and Community has reported that councillors are now using Questions With Notice. These are required to be submitted on the Tuesday prior to the Council meeting week. The Director also indicated that councillors are more frequently asking their questions via telephone or email prior to Council meetings. The reviewers observed fewer questions of an operational nature at the Council meeting they attended.

While it is noted that councillors have improved their practices in this area, they are encouraged to continue seek information about operational matters by using the means set out in Council's Code of Meeting Practice.

"Committee of the whole" (*Recommendation 4xi*)

The section 430 investigation recommended that *Council consider, where appropriate, the option of moving into "committee of the whole"*. This is permissible under section 373 of the Act and clause 259 of the Regulation. In doing so the council meeting becomes a committee meeting (consisting of all councillors). This allows greater flexibility by not restricting the limits on the number and duration of

speeches normally required by virtue of clause 250 of the Regulation. The meeting remains open to the public unless a council closes it under section 10A (2).

However, the “committee of the whole” may not pass a Council resolution. It makes recommendations to Council in the same way as any other committee of Council. Once the “committee of the whole” has completed its business and the Council meeting has resumed, Council considers any recommendations made during its deliberations.

Council has advised that it has held training for councillors on meeting procedure. Correct use of “committee of the whole” was part of the training. It has indicated that it will use this option when warranted.

At one point during the meeting attended by the reviewers on 5 May 2010, the Mayor appeared to move a motion for “everyone to speak”. This seemed to indicate that all councillors were to be given the opportunity to speak on that particular item. This procedure is not covered in the Act or Regulation. A provision relating to this motion could also not be located in Council’s Code of Meeting Practice.

Area requiring further development

While greater input at meetings by all councillors is viewed as a positive feature of the current elected body, it must occur within the provisions of the Act. Rather than moving a motion for “everyone to speak”, Council can resolve to move into “committee of the whole” for that item. This legally provides the flexibility for all councillors to speak on the matter. This is an area where improvement is required.

Recommendation 3

In instances where the elected body wishes to have greater flexibility and not be restricted by the limits on the number and duration of speeches normally required by virtue of clause 250 of the Regulation, Council should resolve to move its meeting into “committee of the whole”.

Requests for Verbal Submissions to Council (Recommendation 4xii)

Council allowed members of the public to make an address to Council meetings in accordance with its Requests for Verbal Submissions to Council policy. The section 430 investigation asked Council to review the policy to incorporate some suggested improvements.

Council has subsequently reviewed the policy and it has been incorporated into the Code of Meeting Practice. Members of the public can ask to address Council and its committees. Request forms are available on Council's website.

A standard Agenda item now allows for an address by all invited speakers at the commencement of the meeting. Each address must be in relation to a matter included on the agenda for consideration at that meeting.

This part of recommendation 4 has been completed.

Additional observations regarding meeting procedure

As previously mentioned, the reviewers attended Council's ordinary meeting of 5 May 2010. It was noted that a number of initiatives have been introduced to aid the efficient conduct of Council's meetings. These include:

- A running sheet folder which provides information aligned to relevant items of the Agenda has been developed to assist the Mayor in the smooth running of the meeting.
- An improved recording procedure for its meetings. All names are now recorded to show who voted for and against each motion.
- A large screen is used to display the motion under discussion, resolutions and which councillor voted for and against the motion. This made it much easier for members of the gallery to follow the proceedings.
- An electronic resolution tracking system has been introduced so each resolution can be monitored through to completion. Councillors are able to access progress being made from meeting to meeting.

In terms of meeting procedure, the reviewers made the following observations:

- Proceedings were generally of an orderly nature with councillors generally participating in accordance with the Code of Meeting Practice.
- At times there was some confusion about correct meeting procedure particularly around putting of motions. On a few occasions comments were not directed through the chair. However, the Mayor and councillors appeared to respectfully coach or correct each other to reinforce correct practice.
- Despite some signs of inexperience, the Mayor maintained control for the duration of meeting.
- A unique feature was that the Mayor appeared to encourage discussion by all councillors. In fact, the proceedings or debate involved the spectrum of councillors. Debate was not dominated by any individual or group.

As indicated above, the use of the “Committee of the whole” would legally provide the flexibility for councillors to discuss items on the agenda prior to voting on a motion.

2.3.3 Delegations (*s430 investigation recommendations 5 & 13iii*)

Section 380 of the Act requires each council to review all its delegations during the first twelve (12) months of its office. Cessnock City Council has demonstrated that it has reviewed and updated its delegations accordingly. An external service provider was engaged to establish a new delegations register. All delegations were reviewed as part of this process. The register was inspected on site and this recommendation is considered complete.

Recommendation 13iii of the section 430 report also requires that Council’s review of its delegations be complemented with an audit program to ensure that they remain accurate and are exercised appropriately. Council has not provided information about how it intends to do this.

Area requiring further development

While delegations have been reviewed and improvements have been made to the delegations register, further work is required.

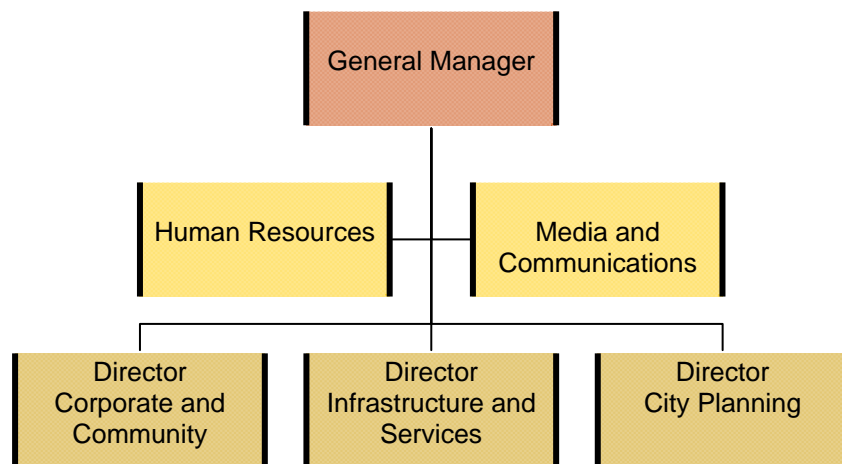
Recommendation 4

Council should establish an audit program to ensure that the delegations register remains accurate and that delegations are exercised appropriately.

2.3.4 Leadership (s430 investigation recommendation 7)

Council’s Senior Executive Team consists of the General Manager and three (3) Directors. The General Manager has also direct responsibility for the Human Resources and Media/Communications functions.

Diagram 2 Cessnock City Council Senior Executive Team



Since the section 430 investigation, the General Manager, in consultation with Council, established a new executive team. New appointments were also made to each of the three (3) Director positions in accordance with the requirements of the Act.

On 7 April 2010 Council decided to advertise the position of General Manager upon the expiry of each of the current incumbent’s contract.

During the on site visit, the Mayor and General Manager expressed the view that they had worked well together over the first 18 months of the new Council to introduce many positive changes. This has ensured that Council is open and transparent in its operations. Their focus had been on achieving the section 430 investigation recommendations and beyond.

The General Manager appeared to have demonstrated positive leadership in an environment requiring major change. Councillors and staff interviewed indicated that the appointment of a new Senior Executive Team was positive. It was commented that the new team had helped to stabilise the organisation and brought the necessary skills, knowledge and expertise to implement necessary changes.

The Directors reported that they meet regularly. Meetings are well structured and deal with key strategic and operational matters. The minutes of these meetings are available on the intranet.

In early October 2010 Council appointed a new General Manager. The executive team is currently reviewing governance frameworks to implement at Cessnock City Council. The Australian Business Excellence Framework will be included in such considerations.

This Framework “*provides organisations with a systematic and structured approach to assess and improve the performance of its leadership and management systems.*” (The Australian Business Excellence Framework, www.saiglobal.com.) A decision on the framework to be used at Cessnock City Council will be made by the Senior Executive Team by February 2011.

Better practice example.

In June 2009 the Management Advisory Team (MAT) which consists of managers was formed. A charter to guide the functioning of the MAT has been prepared. The Chair of the MAT briefs the Senior Executive Team once a month at their meeting. The Chair reported that the MAT *“was evolving as a useful management tool and positive feedback from departments has been received.”* (Senior Executive Team minutes, 8 December 2009)

Managers and other staff confirmed this overall perception. Providing the opportunity for active involvement of the MAT in the development of the management plan and budget for 2010/2011 was also viewed as positive move forward for stronger leadership of the organisation.

Area requiring further development

It is acknowledged that the former General Manager successfully established a new Senior Executive Team and a new Management Advisory Team. The new General Manager is encouraged to continue this work by establishing a governance/management framework such as the Australian Business Excellence Framework.

Recommendation 5

Council should establish a governance/management framework such as the Australian Business Excellence Framework and monitor its ongoing implementation

2.3.5 Promoting Better Practice Review 2006 (s430 investigation recommendation 11)

The Cessnock City Council Promoting Better Practice Review Report 2006 contains 25 recommendations to improve aspects of Council’s operations. Council did not adopt an action plan to implement these recommendations until July 2008. The

section 430 investigation report reinforced the need to implement these recommendations (*recommendation 11*).

Recommendations 1 to 10 and 18 of the Promoting Better Practice Review relate to governance matters. Council's progress in relation to each is explored below.

Accessibility of corporate documents/policies (*PBP recommendation 1*)

Council was requested to better organise and make more prominent certain documents/policies on its website. This recommendation was completed in December 2008. As a result, Council's Statement of Business Ethics and Code of Conduct are more prominently displayed on its website under Key Governance Policies and Codes. Other documents have been organised alphabetically according to category and are easy to access.

Protected disclosures (*PBP recommendation 2*)

The review recommended training for councillors and staff members in this area. Council carried out relevant training in this area during February to June 2009. This included training on the Model Code of Conduct and the *Protected Disclosures Act 1994*. An update Whistleblower Policy and Procedure was adopted in June 2009. Training about this policy was provided to Protected Disclosure Officers. Training related to this area has been provided as part of the induction program for all new employees since April 2009. This recommendation is considered complete but ongoing training is encouraged.

Risk management (*PBP recommendation 3*)

This recommendation has been completed. Council has demonstrated better practice by undertaking significant work to introduce a suite of initiatives. These are described in the following table.

Better practice example

The following key initiatives have greatly strengthened Council's capacity in terms of risk management.

- Risk Management Workshops to establish a risk register for significant organisational risks were held with all Managers and key stakeholders in April 2009.
- An Enterprise Risk Management Framework was operational across Council by end May 2009. The integrated framework covers the whole organisation and is structured to cover significant organisational risks.
- A Risk Management Policy and Strategy was adopted in June 2009.
- Risk management initiatives are linked to Council's internal audit functions through the Internal Audit Charter.
- A Fraud and Corruption Risk Assessment Action Plan (see below)
- Council will consider the Governance Committee in the next three to four months. Part of such a committee's Charter role would be to ensure that the risk management framework and associated procedures remain effective and that Council is taking appropriate action in relation to emerging risks.

Fraud Policy and risk assessment (PBP recommendation 4)

This recommendation has been completed. Council adopted a Fraud Control Strategy in January 2009. Fraud and corruption risk assessments are scheduled to occur on a quarterly basis.

Legislative compliance (PBP recommendation 5)

Council does not currently have a comprehensive system to ensure that Council complies with its legislative obligations. It intends using the Guardian Risk Management System (computer package) that it has purchased to complete this recommendation.

Area requiring further development

While work has commenced on this recommendation, further development is required.

Recommendation 6

Council should complete its work toward introducing a comprehensive system to ensure that it complies with all its legislative obligations.

Business Continuity (PBP recommendation 6)

Council has established a project team to prepare a draft plan to manage the impact of a potential disaster or critical incident on its operations by the end of December 2010.

Area requiring further development

While work has commenced on this recommendation, further development is required.

Recommendation 7

Council should finalise and test its draft Business Continuity Plan to manage the impact of a potential disaster/critical incident on its operations.

Tendering and Procurement (PBP recommendation 7 & s430 recommendation 13vii))

Recommendation 7 of the Promoting Better Practice Review 2006 recommended that Council “*carry out a risk analysis of its procurement and disposal practices to ensure controls are adequate*” The section 430 report made further suggestions to guide this review and improve additional controls (see recommendation 13vii).

A Probity and Internal Audit Report on Council’s procurement disposal practices (including fraud and corruption risks) has been finalised. Council has advised that it

adopted an action plan to implement the 22 recommendations on 23 June 2010. The estimated date for completion of all recommendations is 31 December 2010.

Council has also advised that an E-procurement system was introduced in June 2008. The use of a tender checklist and the inclusion of an independent representative on tender assessment panels have been incorporated into standard procedure.

Area requiring further development

While a comprehensive review of Council's procurement disposal practices has been finalised, implementation of recommended actions were outstanding at the time of this post investigation review.

Recommendation 8

Council should implement the action plan to address the 22 recommendations of the Probity and Internal Audit Report on Council's procurement and disposal practices.

Internal Audit (PBP recommendations 8 and 9)

Council engaged Internal Audit Bureau Services (IAB Services) as its consultant internal auditor until 30 June 2010. A Governance Committee and Internal Audit Charter have been completed. As stated earlier, Council will consider the establishment of a Governance Committee in the next three to four months.

An internal audit plan was being developed at the time of the draft report.

Area requiring further development

While work has commenced on these recommendations, further development is required.

Recommendation 9

Council should finalise its internal audit plan.

COUNCIL'S RESPONSE

This recommendation is complete. In August 2010 a three year internal audit plan was developed in conjunction with IAB Services.

This recommendation [*Recommendation 9 of the Promoting Better Practice Review Report*] is complete. Cessnock City Council is committed to work regionally with Maitland City Council and Singleton Council as well as other regional councils through Hunter Councils Inc. to look for opportunities to share resources.

Induction training for councillors (*PBP recommendation 10*)

An induction program for councillors was conducted in October. Training covering a range of areas including the legal and political context of local government, governance, code of conduct, meeting practice was covered both in house and by external providers.

Councillors in their survey responses and interviews indicated that induction training was of a good quality and useful. In the case of the training presented by Hunter Councils Inc, one councillor commented that the sessions were detailed and very well presented. This recommendation is considered complete.

Information Technology Strategy (*PBP recommendation 18 & s430 recommendation 13vi*)

An Information Systems Strategic Plan 2010 to 2012 was adopted in late 2009. The plan defines a strategic vision and goals in the information systems area to establish business priorities and ensure alignment with the Council's strategic and management plans. The Information Systems Operational Plan 2010 implements the annual priorities. This recommendation has been achieved.

Better practice example.

Information technology is an area in which Council's achievements since the Promoting Better Practice Review 2006 and the section 430 investigation 2008 have been significant.

Improvements in this area are coordinated by the Information Systems Steering Committee. This Committee is comprised of all members of the Senior Executive Team or their nominees, the IS Manager and the Finance Manager. Its primary role is to develop corporate strategies, review current and future technologies, monitor progress on the operational plan and provide direction on arising significant issues.

Initiatives implemented during 2008/2009 which contribute to a range of operational efficiencies include:

- Council's Internet and Intranet site have been completely upgraded
- The management of Internet access by staff has been improved by implementing WebMarshal.
- All staff PCs and all public computers in the Libraries were upgraded. Upon expiration of their leases 80% of the servers were replaced.
- The Virus Protection on all systems were replaced to reduce costs and improve efficiency.
- To cater for growth and improve performance, the configuration of the Council Wide Area Network was redesigned.
- The ageing phone system was also upgraded.
- A Trainee has been added and recruited to the Information Systems section.

Council has also adopted an action plan to implement its Information Technology Health Check Report of which it has implemented 80% of the recommendations. See *section 2.3.6 Other governance improvements (s430 report recommendation 13vi)* below for further comment.

2.3.6 Other governance improvements (s430 report recommendation 13)

Council has also introduced the following necessary improvements in the governance area as required by recommendation 13 of the section 430 investigation.

Records management (Recommendation 13i)

Council has a records management policy, procedures and disposal plan which relate to both electronic and paper based records. Information about the document management has been provided to existing staff members and is included in the induction process for new employees. Training about councillor obligations under the *State Records Act 1998* and a procedure for storing documents was provided to councillors in July 2009. Training in relation to Council's Code of Conduct occurred in January and February 2009. This recommendation is considered complete.

Access to staff and information policies (*Recommendation 13ii*)

Policies in relation to councillor access to staff and information as well as information about how to handle confidential information were reviewed and incorporated into the Council's revised Code of Conduct adopted in September 2009. This recommendation is considered complete.

Delegations (*Recommendation 13iii*)

This matter has been discussed above at 2.3.3 and has been satisfactorily resolved.

Gifts Register (*Recommendation 13iv*)

Council's Gifts and Benefits Policy has been incorporated into its Code of Conduct to create a single point of reference for conduct issues. A more centralised register which gathers sufficient information in a consistent manner has been established. An inspection of the register reflects a marked improvement since the section 430 investigation.

The responsibility for the oversight, maintenance and monitoring of the gifts register has been delegated to the Public Officer. This recommendation is considered complete.

Fraud and Corruption Risk Assessment Action Plan (*Recommendation 13v*)

Council has provided the Division with a copy of the Fraud and Corruption Risk Assessment Action Plan covering the period of 1 July 2008 to 30 June 2010. A copy of the action plan which records progress up to 30 April 2010 has also been received. Additional internal controls have been included as required. Substantial progress has been made toward implementation of the actions plan.

This recommendation is considered complete.

Information Technology Health Check Action Plan (*Recommendation 13vi*)

Council adopted an action plan from 1 July 2008 to 30 June 2012 to implement its Information Health Check Report which it adopted in 2008. Most of the 22 recommendations of the report have been completed.

The major outstanding recommendation of the Information Health Check Report is the establishment of a more effective Electronic Document Management System to support its expanding business requirements. The project has been included in the budget for 2010/2011. As a major project, it is anticipated that it will take Council two (2) years to implement the project properly.

Area requiring further development

While substantial progress has been made toward implementing the Information Health Check Report Action Plan, some actions have not been scheduled for completion until 2012.

Recommendation 10

Council should implement all recommendations of the Information Health Check Report Action Plan 2008-2012 including the establishment of a more effective Electronic Document Management System.

Review of procurement and disposal practices (*Recommendation 13vii*)

This recommendation is linked to recommendation 7 of the Promoting Better Practice Review 2006. Progress in relation to both of these recommendations has been outlined above. See section 2.3.5 Promoting Better Practice Review 2006 - Tendering and Procurement (*PBP recommendation 7*).

Legal services (*Recommendation 13viii*)

The contracting of Council's legal services has been aligned with a key principle of its purchasing policy which strives for value for money, probity, equity and effective competition. Council has tendered for legal services and nine (9) months ago established a legal panel of five (5) legal firms. The panel will operate for a period of five (5) years.

Some concerns were raised about the equity of allocating work. The reviewers were not provided with sufficient information or evidence to determine the validity of such claims.

Area requiring further development

While it is acknowledged that Council has completed this recommendation, further improvements are suggested below.

Recommendation 11

- a) Council is encouraged, if it hasn't already done so, to assess whether sufficient internal controls exist to ensure that its allocation of legal work to members of the legal panel is consistent with the principles of its purchasing policy.*
- b) Council should develop a policy to guide the allocation of legal work. For example, work could be allocated by order in the list or by issue and relevant expertise.*

COUNCIL'S RESPONSE

Council in its response indicated that one councillor expressed the view that the Division should indicate the nature of the evidence in relation to inequitable allocation of legal work and queried why the Division was making this recommendation.

REVIEWER'S COMMENT

As stated, the reviewers were not provided with sufficient information or evidence to verify the concerns raised. Whether the allegations were founded or not is not the primary concern here. Rather, it would seem prudent for Council to ensure that it has sufficient internal controls to ensure compliance with its purchasing policy and prevent instances of possible fraud and corruption.

Such controls would represent the base level of protection in this area. Better practice would be to develop a specific policy to guide the allocation of legal work.

Leaseback Vehicle Agreement and Manual (*Recommendation 13ix*)

A Leaseback Vehicle Policy was endorsed by the Senior Executive Team in August 2009. This recommendation has been achieved.

2.4 OTHER AREAS REQUIRING FURTHER DEVELOPMENT

This post investigation review also identified the following areas (not covered by section 430 recommendations) as requiring attention and/or improvement.

Organisation values

Council as an organisation does not have an explicit set of values. Corporate values define the acceptable standards which govern the behaviour of individual employees within the organisation.

An articulated statement of values could help to draw the organisation together and provide a framework for the collective leadership of an organisation. Council's values should align with its vision and mission, and the vision that it is trying to achieve.

As mentioned earlier, the Senior Executive Team plan to establish a Business Excellence Framework. Developing and promoting shared organisational values would be critical to the success of this Framework.

Recommendation 12

The Senior Executive Team should develop and promote shared organisational values as part of establishing the Business Excellence Framework.

Council committees (section 355 and other)

As at 30 June 2009, Council had 38 committees to which it had delegated various powers and functions under section 355 of the Act. These committees are provided with a constitution/charter setting out their membership and guiding principles. However, they are not provided with a code of conduct; a documented procedures or operations manual or relevant training.

The balance of funds controlled by these committees totalled \$286,000 (as at 30 June 2008). It was reported in Council's 2008/2009 audit report that 27 of these committees had not submitted their financial returns to Council. As it is ultimately Council's responsibility to effectively account for and manage the assets for which it is responsible, the failure to receive and review these financial reports presents a

risk to Council.

In addition to this, while Council can delegate certain functions and powers to these committees, section 377 of the Act expressly excludes delegating the function of *“the voting of money for expenditure on its works, services or operations.”*

Council has acknowledged that the management and financial reporting of its committees as a priority area requiring attention. It has been programmed for review during 2010.

Recommendation 13

Council, in its review of the operation of its committees, should address the issues identified in this post section 430 investigation review to ensure that the practices of its committees comply with the Local Government Act 1993.

Councillor staff interaction

Council’s policy in relation to councillor interaction has been included in its Code of Conduct. Councillors who responded to the review survey provided positive feedback regarding their relationship with staff. Two councillors described the relationship as excellent.

However, some staff reported instances of a few councillors who do not comply with the interaction policy and approach staff directly.

Recommendation 14

All councillors must ensure that they engage in appropriate interactions with Council employees as set out in Council’s Code of Conduct.

2.5 NOTEWORTHY PRACTICES

2.5.1 Management plan and budget process

In the past Council has prepared the management plan and budget as separate activities with separate timeframes. They were presented to Council in separate reports for adoption.

The Senior Executive Team consolidated the management plan and budget into a single report for the first time in September 2009.

The process and timetable for the 2010/2011 Management Plan and Budget were integrated. The process was also enhanced by starting the process earlier, providing more detailed instructions and providing managers with greater opportunity to provide input. Managers expressed support for continuing this level of consultation.

Greater input was also sought from councillors with three evenings allocated for discussion prior to adoption of the draft for public exhibition. Two councillors specifically provided positive feedback on the new process.

The structure of the plan was also reviewed. The draft plan provided to the reviewers appeared much easier to read than the previous management plan. It is well integrated with the goals of Council's current strategic plan. Clear strategies and targets are set out under each goal.

2.5.2 Corporate calendar

While Council has not adopted a system for ensuring that it complies with its legislative obligations, the Senior Executive Team have developed a corporate responsibilities timetable. The spreadsheet provides a timeline for key corporate projects that require completion.

2.5.3 Interim Customer Service Strategy

Following a comprehensive review of customer service (including complaints handling), Council has recently adopted an Interim Customer Service Strategy. It aims to move Council toward operating as a best practice customer service organisation.

The review did not cover customer service delivery provided in external locations such as the libraries, pools and pound. These customer service activities will be considered and addressed within 12 months of the adoption of the interim strategy. Some key elements of the strategy are:

- A new position called Customer Service and Communications Manager to provide strong leadership in implementing the strategy and fostering an improved customer service focus.
- Development of customer service values/Customer Service Charter and adoption of the International Customer Service Standard.
- A Customer Service Excellence Rewards Program to better engage staff and change culture.
- Retain and strengthen its existing Customer Service Centre.
- Establish an independent call centre environment.
- Planning and building staff to be permanently assigned to provide expertise within the Customer Service Centre.
- Redevelopment of the Customer Service Centre to address design deficiencies.
- Improved technology to assist in achieving best practice in this area.

When implemented these initiatives would represent better practice.

2.5.4 Governance Health Check

In January 2009 Council undertook the Local Government Manager's Association (LGMA) Governance Health Check. Council received an assessment of 50 across the 26 categories.

A further Health Check was undertaken in November 2009 with an assessment of 66 across 26 categories. This demonstrates significant improvement in Governance issues and practices during the year.

COUNCIL'S RESPONSE

In addition to specific highlighted Council responses, minor comments and corrections suggested by Council have been incorporated in the above text.

3. PLANNING AND OTHER REGULATORY FUNCTIONS

3.1 OVERVIEW

Council exercises planning and regulatory functions in relation to a range of activities within its local government 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.

3.2 SUMMARY OF PROGRESS TOWARDS ACHIEVING RECOMMENDATIONS

No.	Section 430 investigation recommendation	Status
14	To continue improvement of the operation of the Ranger unit, Council should implement all recommendations of its three (3) action plans that respond to the issues identified in the Promoting Better Practice Review, the WorkCover improvement Notice 7 – 110028 and the Price Waterhouse Coopers agreed upon Procedures Report.	Completed - ongoing

No.	Promoting Better Practice 2006 recommendation	Status
11	Council should investigate the costs and benefits of establishing an Independent Hearing and Assessment Panel (IHAP) to consider development applications of a significant or contentious nature (including matters where council is the applicant).	Complete
12	Council should formalise its swimming pool program to ensure compliance with the Swimming Pools Act 1992, as soon as practicable.	Completed ongoing
13	The local companion animals management plan should be completed and implemented as soon as practicable.	Completed - ongoing
14	Council should ensure it reports all dog attacks to the department as required (refer to departmental circular 04/26).	Completed - ongoing
15	The issues noted in the current State of Environment report regarding Hexham Swamp, drinking water, noise and waste and progress with identified gaps should be addressed by council and progress reported on in the next report.	Incomplete

3.3 ASSESSMENT OF PROGRESS

3.3.1 *Improvements in the Rangers Unit (s 430 Recommendation 14)*

There have been extensive changes in both personnel and systems within Council's ranger services in line with the action plans mentioned in the recommendation. The s430 report outlined 4 matters that had yet to be concluded; an ongoing training manual for rangers, a best practice review of the animal pound, a policy for the disposal of euthanised animals and a delegated authority policy for rangers.

In addressing the four outstanding issues, Council retained a consultant to develop a Ranger's Manual. The reviewers examined the manual and noted that it addresses many of the issues and functions of the role of local government rangers. The reviewers also examined the Council developed Ranger Enforcement Policy. Both documents contain guidance on the procedure for the disposal of euthanised animals. Both documents detail the use of delegated authority, including certificates of authority, by authorised staff in the execution of their Council functions.

The manual contains material relating to delegations and certificates of authority and meets the requirements of the s.430 recommendation regarding a training manual for rangers.

The reviewers noted that Council has been liaising with the RSPCA to ensure that the operations of the pound meet benchmark industry standards and that staff are appropriately trained and resourced. Council engaged both the RSPCA and the Department of Primary Industries to examine processes to ensure best practice within the limits of the current facility. Further comment is made later in this report.

This recommendation is considered completed, however, requires ongoing continuous improvements to ensure best practice in compliance and enforcement activities.

There is room for further improvement of the Ranger Enforcement Policy and Ranger's Manual. The current Ranger Enforcement Policy and Ranger's Manual contain both policy statements and procedural material that may confuse the reader. In addition, the principles outlined in the Policy and Manual readily transfer to other compliance areas such as noxious weeds and building/development compliance.

Council should consider reviewing these documents with a view to separating the policy matters while retaining the procedural information.

Area requiring further development

Council needs to develop an organisation wide compliance and enforcement policy and procedure. The application of such policy and procedures coupled with suitably trained and experienced compliance staff should create a robust system for compliance and enforcement activities across Council's regulatory functions. A comprehensive enforcement policy would articulate the processes, standards and decision mechanisms around complaint handling and assessment, investigative processes and outcome mechanisms that would apply to all Council compliance and enforcement processes.

Recommendation 15

Council should develop an organisation wide compliance and enforcement policy and procedure.

3.3.2 Independent Hearing and Assessment Panel (2006 PBP Recommendation 11)

Council considered a report on 21 January 2009 "that Council give consideration to the establishment of a minimum four member Independent Hearing and Assessment Panel (IHAP), with full costing and benefit analysis, in its deliberations on the adoption of the 2009/10 budget". The motion was unanimously rejected.

The report on this matter outlined the purpose and structure of an IHAP and how it could benefit Council. The report commented on the possible costs to Council for establishing such a panel. As the panel was not included in the budget at that time Councillors did not support the motion.

Although recommendation 11 of the 2006 PBP Review is considered not to be completed, it is no longer considered to be necessary given the recent appointment of a planning panel by the Minister for Planning. Additionally, the change in legislation since the 2006 Promoting Better Practice review to introduce joint regional

planning panels has also provided another mechanism by which contentious and Council's own development applications can be reviewed.

3.3.3 *Swimming Pool Compliance Program (2006 PBP Recommendation 12)*

Circular 09/41 reminds councils of their general duties under section 5 of the Swimming Pools Act 1992 to:

- take appropriate steps to ensure that they are notified of the existence of all pools in their areas to which the Act applies,
- promote awareness within their areas of the Act's requirements,
- investigate complaints about breaches of the Act when required to do so.

Council's city planning staff are responsible for ensuring private pool compliance with the requirements of their development consents and the provisions of the Swimming Pools Act. Council is implementing a management and compliance plan that includes a community education and 'approved pools' inspection regime to monitor compliance. Council also provides a down-loadable swimming pool safety check list on its website. Council also has a program to identify all existing private swimming pools in its area using the Map Info system. Council should continue with these actions.

This recommendation is considered completed.

3.3.4 *Companion Animals Plan (2006 PBP Recommendation 13)*

Council has developed and implemented a Strategic Companion Animals Management Plan (SCAMP) that was adopted on 10 December 2008. The updated SCAMP won a national award from the Australian Institute of Animal Management in 2009 "Recognising and applauding those who have contributed creatively and enthusiastically to improve Animal Management service delivery"¹. A number of features of the implementation of the SCAMP reveal a high level of community engagement on companion animals issues through free micro chipping days, educational pamphlets and 'dog clean up' give away items.

¹ Australian Institute of Animal Management website <http://www.aiam.com.au/pages/award.htm> accessed 19 May 2010

This recommendation is considered completed, however, this action requires ongoing monitoring and support.

Council's successful change agenda within the ranger's unit is highlighted by the success of the SCAMP. The unit has seen significant improvements in compliance with Council's responsibilities under the *Companion Animals Act and Regulation*. Council has a relatively high number of restricted breeds in its area (75) and Council's rangers appear to be monitoring these dogs as there have been amendments to the register with 20 records showing the details marked as out of date.

In addition to restricted breed monitoring, Council is also actively pursuing the registration of its identified but unregistered companion animals through mail outs and registration 'drives'. Divisional records reveal that there are 2038 cats identified, but not yet registered, and 7739 dogs identified and not yet registered in accordance with the Act, equating to 65% of cats being non-compliant and 39% of dogs being non-compliant. Council's rangers are actively contacting non-compliant owners.

The combination of Council's companion animals management plan and the activities of the revitalised ranger services indicate a more positive and structured approach to companion animals management.

The reviewers found that the management of companion animals at Cessnock City Council pound has been reviewed and endorsed by both the RSPCA and the Department of Primary Industries. Both agencies endorse Council's operations as being of a high standard and at or above industry best practice. It was noted however, that Council's pound is quite old and quite small and may not be able to meet the near future needs of Council and the community.

Area requiring further development

Given the history of the current location of the pound and its facilities, it may be in Council's short term interest to consider the construction of new facilities designed to meet Council's legislative responsibilities under the Companion Animals Act, the Prevention of Cruelty to Animals Act and industry best practice in companion animal management.

Recommendation 16

Council should consider updating and expanding the facilities for the future needs of companion animal management in the Local Government Area.

3.3.5 Dog Attack Reporting (2006 PBP Recommendation 14)

The Division's Companion Animals unit provided the reviewers with a synopsis of Council's reporting statistics to gauge a level of compliance with the requirements of the *Companion Animals Act and Regulation*. Council has reported an increasing number of dog attacks over the past 5 years but little change in the numbers of companion animals. Statistics show a high number of incidents reported by ranger services staff particularly in the area of dog attacks. The high number does not necessarily indicate that there are significant problems with companion animals rather that Council officers are diligent in reporting instances that may meet the legislative definition. An analysis of the statistics reveals that the latter is more likely the case.

This recommendation is considered completed.

3.3.6 State of Environment Reporting (2006 PBP Recommendation 15)

The 2005 - 2009 State of the Environment report was reviewed. Council has now produced a report that refers to its responsibilities within its own LGA. The report now effectively utilises the pressure, state and response model as the base structure however still does not properly separate the necessary environmental sectors in the report.

Council appears to have taken a more robust approach to the State of Environment Report (SoE) than that reviewed in 2006. The 2005/2009 report details Council's programs and projects to address the issues identified in the SOE report. For example, Council is working in partnership with Hunter Water on water recycling, water re-use systems and water saving programmes to address the 10% increase in water consumption in the 2008/2009 year. Council has recently established an environmental committee, part of whose charter is to monitor changes in the local environment as part of the SoE reporting regime.

The reviewers note that the SoE report is a well written document. However, there is room to strengthen the noise and heritage sections. There is good evidence of community consultation. The results of this consultation could also be included in the findings of the report. There are additional opportunities to link the SoE report to the Management Plan and comment on the effect of Council's operations on the environment including any remedial measures.

This recommendation is considered not to be completed.

Area requiring further development

The latest Cessnock SoE report still has waste and noise environmental sectors rolled into the category of human settlements. These should be separately reported.

Recommendation 17

The specific environmental sectors of waste and noise are headings in the next SoE report and addressed in accordance with the Division's Environmental Guidelines, State of the Environment Reporting by Local Government, Promoting Ecologically Sustainable Development publication.

COUNCIL'S RESPONSE

Council's interpretation of the current version of the SoE Reporting Guidelines (1999) is unclear as the guidelines do not provide details on the grouping structure of issues that need to be reported on. To maintain regional consistency, Council has utilised the template developed by HCCREMS in 2003, along with the majority of other Lower Hunter Councils.

REVIEWER'S COMMENT

The Division's Environmental Guidelines, State of the Environment Reporting by Local Government, Promoting Ecologically Sustainable Development publication establishes the specific environmental sectors to be addressed. Council should take notice of the advice in the Guidelines.

3.4 OTHER AREAS REQUIRING FURTHER DEVELOPMENT

This post investigation review also identified the following areas (not covered by section 430 recommendations) as requiring attention and/or improvement.

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

Council conducted a review of its Development Services Area in 2007 and is implementing the recommendations of that review. Council reports that it has ceased the use of external consultants to assist its development services teams to deliver outcomes and has realigned its staff to better meet increasing demands in strategic and regulatory areas. Council states that there are still core systems challenges to be faced such as a more effective Electronic Data Management System. This issue is commented on under the development assessments heading below.

3.4.2 Planning Instruments and Policies

Council currently undertakes its planning function in accordance with a 1989 Local Environment Plan (LEP) last amended 9 October 2009.

Council has been developing its new LEP since 2006. Despite this, Council has undertaken a very substantial community consultation programme to align its LEP, Development Control Plan (DCP) and its revised City Wide Settlement Strategy (CWSS) with its management plan to meet the identified needs of the Cessnock community.

The 2009 draft LEP has been on public exhibition and submissions have been invited. Council has received 928 submissions on the Draft LEP and has incorporated some changes and clarified some areas with the Department of Planning. The LEP is again being exhibited after changes were made in response to community feedback on heritage and environment issues. Council made changes to the plan to take advantage of the Department of Planning's environmental overlay provision for RU2 zones and decided to re-exhibit the plan before submitting it to the Department of Planning for review and adoption. Council expected to have the process finalised by September 2010.

It was apparent to the reviewers that Council's land use planning, development assessment and regulatory systems are becoming increasingly important given the expected growth and development pressures on the area. Council will need to ensure that the systems that are currently under development, such as improved electronic document management and the 2010 planning framework are finalised in the shortest possible timeframe to meet current and emerging needs.

It is significant that the development of the 2010 LEP and supporting plans has taken almost 4 years to date and is yet to be finalised.

Recommendation 18

Council must ensure that it delivers integrated strategic planning documents to ensure effective guidance for planning matters and efficient planning decision making as a high priority.

3.4.3 Development Assessments

The NSW Department of Planning (DoP) produces a statistical report of council performance on a financial year basis. The 2008 – 2009 Local Development Performance Monitoring Report shows the state gross mean processing times for development applications and complying development certificates was as 74 days

and 12 days respectively. This report also states that the mean development applications per equivalent full time (EFT) staff member per annum is 58 applications. Cessnock City Council is categorised in the DLG group 4 councils. The group councils' average gross mean determination time for development applications is 68 days. Cessnock City Council's development assessment performance will be assessed using this data.

According to the NSW Department of Planning 2008-09 report, Council determined 750 development applications and issued 59 complying development certificates. The average number for the group councils was 556 and 80 respectively. The gross mean determination times for Council's development applications was 101 days. The group councils' average was 68 days.

It is evident from the Department of Planning report data that Council has a high level of referral of its development applications. Figures in the 2008-09 report show that Council undertakes a referral process for 52% of its development applications compared to the group councils' average of 16%.

Approximately 97% of development applications were determined under delegation. The Department of Planning 2008-09 report indicates that the average number of development applications determined per Equivalent Full Time (EFT) staff member at Cessnock City Council was 44.1. This is below the state average. According to the Department of Planning data, Council has more EFT staff positions for development assessment than the group councils' average of 8. However, Council advises that the current specialist planning positions equates to 6 positions within the planning structure. Nevertheless, given Council's growth estimates and plans, staffing efficiency may be an issue that Council will need to consider to maintain and improve development consent output.

It appears that Council's development assessment processes are not as efficient as other group 4 councils. It is unclear why Council undertakes referral processes on such a large proportion of its development applications. This is an area that Council needs to review in order to improve its efficiency in processing development applications.

One of the effective methods of reducing processing times is to ensure that there is a high quality application presented to Council. To this end Council has developed a

document package for applicants seeking a development application. A review of this material revealed that it was clear and concise in outlining the application process, fees, charges and expectations. Council has implemented an online DA tracking facility and should consider the value of an online application process.

It is apparent that there are some support systems issues, such as an effective electronic data management system (EDMS), which impact the ability of planning staff to efficiently process applications. It is noted elsewhere that document management systems were examined as part of an IT review and remedial action is planned.

Additionally, Council advised that it intended to undertake an independent review of its development assessment processes. Council advised that this was due to commence by the end of June 2010. However, it is noted that at the time of writing, no specification for such a review had been issued or circulated.

Recommendation 19

Council must commence and complete the planned independent review of its development assessment processes to ensure the timely determination of development applications as a high priority.

3.4.4 Councillor Involvement in Planning and Development

Councillors are required to consider development applications with reference to applicable law, adopted policy, plans and the relevant heads of consideration outlined in the Environmental Planning and Assessment Act 1979. Newer councillors sometimes require additional training and information when considering development matters. One of the ways staff currently inform councillors is to use councillor briefing sessions. Such briefing sessions require effective communication between councillors and staff to explore any areas of concern. This flow of information facilitates the efficient use of time during the formal meetings where the decisions are to be made.

In seeking information to enable effective decisions at Council meetings, councillors require information and sometimes access to staff. Council has included a policy and procedure to manage the interactions between councillors and operational staff in its Code of Conduct as of November 2009. The reviewers were informed that

occasionally some councillors have been ignoring this policy and directly approaching staff (as discussed under staff interaction in the Governance section). The General Manager should remind councillors of their responsibilities under the Code of Conduct and staff should seek to enforce this policy by referring councillors to their authorised councillor contact officers.

The reviewers were also informed that some councillors were accompanying development applicants to meetings with Council's development staff. Councillors must be aware of the possibility of a conflict of interests or perception of a conflict of interests when these matters come before Council for a decision. Councillors need to be aware of their obligations under the Code of Conduct when accompanying applicants to pre-lodgement development meetings between applicants and Council's development staff.

A recommendation relating to this has been made in section 2.4.3 councillor staff interaction.

COUNCIL'S RESPONSE

Council in its response indicated that it is disappointed that the Division did not use the statistics Council provided to show an improvement in its development processing times. One councillor contends that the Department of Planning statistical data is obsolete and out of date and is not a reflection of Council's performance. The councillor is concerned that the Division's report closely resembles statements from the Department of Planning at a time when the Planning Minister was considering the removal of Council's planning powers.

Council is concerned that the report does not seek to examine the reasons for the high number of planning referrals and advises that the high volume is locality specific.

REVIEWER'S COMMENT

Council's comments have been noted.

4. ASSET AND FINANCIAL MANAGEMENT

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

No.	Section 430 investigation recommendation	Status
10	That Council prepare a policy and guidelines for approving and managing private works to be undertaken by the Council to ensure that its exposure to risk is minimised and that projects are well managed. Regular progress reports relating to significant private works should be submitted to Council.	Completed

No.	Promoting Better Practice 2006 recommendation	Status
16	Council should implement strategies to improve its low unrestricted current ratio (UCR) as a matter of priority.	Completed
17	Council should review as a priority, the discrepancy in valuations between the assessment of the estimated costs to bring assets to satisfactory condition of \$8.1 million in the financial accounts and the \$40.1M for the same items in Special Schedule No. 7 in the Annual Report 2004-2005.	Completed

4.1 ASSESSMENT OF PROGRESS

4.1.1 Private Works by Council (s430 recommendation 10)

Council adopted a “Work for Outside Bodies and Persons” policy on 22 October 2008. The policy sets out the process for engaging in the kinds of works set out under section 67 of the *Local Government Act 1993*. This policy is currently under review.

This recommendation is considered completed.

Area requiring further development.

The reviewers found that Council’s Private Works policy requires further development if it is to facilitate Council’s ability to conduct works in accordance with the provisions of section 67 of the *Local Government Act 1993*. The restrictions of this policy are onerous and act to constrict Council’s ability to service its community.

Recommendation 20

Council should consider a more workable policy to enable it to engage in works on private land on at least a cost recovery basis.

4.1.2 Unrestricted Current Ratio (2006 PBP recommendation 16)

Council's unrestricted current ratio (UCR) has improved from 1.7 in 2004/2005 to 2.1 in 2008/09 meaning Council has adequate reserves to meet its short term financial obligations.

This recommendation is considered completed.

Area requiring further development.

While the financial ratios appear to have improved slightly over the past three years, it does not appear that Council's financial position will remain satisfactory in the long term, especially given the tip restoration liability.

Council's operating position led to a reported loss of \$674k in the 2008/09 financial year after the inclusion of an extra \$1.5M in Financial Assistance Grants. Without this extra payment, Council would have incurred a deficit of approximately \$2M in the 2008/09 financial year. This result would be consistent with the previous decade where Council appears to have operated with substantially the same loss each year.

While it is fair to say that there was a period of surplus culminating in the 2004/05 financial year, the surpluses were brought about through asset sales boosting the operating result. The general trend of Council's operating result is between a \$1.5 and \$2M deficit per annum.

A review of Council's audit report shows that it has a tip restoration liability of \$11M falling due in 2011. The liability is partially offset by a waste depot rehabilitation internal restriction of \$4.2M (current) leaving a funding deficit of \$7M that must be found over the next two financial years.

Council has developed a balanced budget for the 2010/11 financial year. Council should work towards obtaining operating surpluses in order to ensure its sustainability.

Recommendation 21

Council should work towards creating operating surpluses as part of a longer term financial plan within the Integrated Planning and Reporting Framework.

4.1.3 Asset Valuation Discrepancy (2006 PBP recommendation 17)

The reviewers noted that there is now no discrepancy between Council's annual and financial reports regarding the condition of public works. Council states that it requires \$8.384M to maintain the assets of the Council in their current condition. In 2008/09 Council spent \$6.638M on maintaining its assets. This may mean that Council currently needs to spend a further \$1.746M per annum on asset maintenance.

Council also states that \$62.988M is required to bring its assets up to a satisfactory standard. This imposes a considerable impost on Council's ability to operate and Council will need to take this into account when preparing asset management plans, long term financial plans and delivery programs in accordance with the Integrated Planning and Reporting framework.

This recommendation is considered completed.

Area requiring further development

Council appears to be allocating increased resources to the maintenance of its assets. Council holds over \$419M in assets as reported in the 2008/09 financial reports. Council needs to ensure that sufficient recognition is given to asset maintenance in the strategic planning process.

Council states that it has yet to develop a long term asset management plan for those assets recorded in its register. Council does have a process in place for the regular inspection of assets and there is provision in the budget for unplanned maintenance expenditure. It is clear from both the asset maintenance program and

the financial statements that monies are allocated and spent on the maintenance of community assets. Council also has a policy and process in place for the replacement of plant and equipment based around commercial expediency and useful life measures.

Recommendation 22

Council develop and implement a strategic asset management plan including funding sources as part of its Integrated Planning and Reporting Framework.

4.2 OTHER AREAS REQUIRING FURTHER DEVELOPMENT

This post investigation review also identified the following areas (not covered by section 430 recommendations) as requiring attention and/or improvement.

4.2.1 Plans of Management- Community Land

Council does have a register of land assets under its care but has yet to develop comprehensive plans of management for all of its community land. The reviewers examined the Drain Oval Plan of Management finding that this document provides clear guidance for the management of this open space in accordance with the provisions of the *Local Government Act 1993*. Council should endeavour to compile and implement management plans for all its community land as a matter of priority.

Recommendation 23

Council should compile and implement management plans for all community land under its control.

COUNCIL'S RESPONSE

Council did not have any comment in relation to this section of the report

5. COMMUNITY AND CONSULTATION

5.1 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
- keeps the local community and State Government informed about its activities.

5.2 SUMMARY OF PROGRESS TOWARD ACHIEVING RECOMMENDATIONS

No.	Section 430 investigation recommendation	Status
11.	That Council implement all 25 recommendations of the Cessnock City Council Review Report 2006 – Local Government Reform Program Promoting Better Practice in accordance with the action plan it adopted in July 2008.	See table below

No.	Promoting Better Practice 2006 recommendation	Status
19.	The social and community plan should include a contents page, an executive summary and an outline of the methodology used in its development.	Completed
20.	Council should continue to try and formalise an agreement or memorandum of understanding (MoU) with the local Aboriginal community.	In progress

This area of Council's operations was not expressly covered by the terms of reference of the s430 investigation. However, the final report recommended that all 25 of the Promoting Better Practice Review Report 2006 recommendations be implemented. The two recommendations in the community and consultation area have since been completed (see section 5.3 below for details).

Overall, Council's performance in this area appears reasonably sound. Council successfully manages a range of local services to cater for the needs of all ages.

5.3 ASSESSMENT OF PROGRESS

5.3.1 Social and community plan (s430 report recommendation 11 – PBP report recommendation 19)

As recommended a contents page, an executive summary and an outline of the methodology used in its development have been added to the 2004-2009 Social and Community Plan.

This plan and the cultural plan have since been reviewed and combined. Council has now adopted a Social and Cultural Plan 2009-2014. The document is well presented, meets legislative requirements and appears to be integrated with Council's strategic plan. This recommendation is considered complete.

Better practice example

The Social and Cultural Plan 2009-2014 is a well developed and well structured Plan. It is a comprehensive document which includes a solid demographic profile. A commitment to community consultation during the preparation of the Plan and its ongoing implementation is evident.

Area requiring further development

From 2011, as a result of the new planning and reporting requirements, Council will no longer be required to prepare five year social plans. The Social and Cultural Plan 2009-2014 should be integrated with the Community Strategic Plan which is currently being prepared.

Recommendation 24

Council should ensure that the issues and strategies contained in the Cessnock City Council Social and Cultural Plan 2009-2014 are integrated with the Community Strategic Plan to be delivered and monitored as part of the new planning and reporting framework.

5.3.2 Memorandum of Understanding (s430 report recommendation 11 – PBP report recommendation 20)

Consultation and engagement with representatives of the local indigenous communities has been undertaken as part of their input to the Social and Cultural Plan 2009 -2014.

While a Memorandum of Understanding has not been achieved, a key strategy of the social plan is to, in consultation with the indigenous communities, “*adopt the most appropriate means for ongoing constructive dialogue and engagement between the indigenous community, Council and the broader communities*”.

Area requiring further development

It is acknowledged that developing and entering into a formal understanding with the indigenous communities involves building meaningful relationships which take time. Council is encouraged to continue its efforts in this area.

Recommendation 25

Council should continue its efforts toward achieving ongoing constructive dialogue and engagement between the indigenous community, Council and the broader communities of the Cessnock local government area.

5.4 ADDITIONAL BETTER PRACTICE

The broader review of the community and consultation area identified the following examples of better practice.

Better practice example – Cessnock Pick of the Bunch

Council is fostering economic growth by forming strategic partnerships and developing joint projects with local business. Council undertakes, encourages and participates in various economic development and tourism projects under its Economic Development Framework and via its Economic Development Plan 2009.

The Cessnock Pick of the Bunch initiative uses clever branding to capitalise on the

area's image as a longstanding wine region. A glossy well presented booklet (also available in a cd e-book version or slide show on Council's website) declares "*Cessnock is ripe for development*" and describes key features of the area which make it attractive as a business base or as a place to live. Another brochure promotes the employment and lifestyle opportunities of the area.

Better practice example – Free wireless internet

Free public wireless internet access is available in the centre of Cessnock central business district. Council established this service at minimal cost. It is anticipated that this is a useful service not only for residents but also to visitors to the area.

COUNCIL'S RESPONSE

Council did not have any comment in relation to this section of the report.

6. WORKFORCE RELATIONS

6.1 OVERVIEW

Council has a number of legislative responsibilities in relation to its role as an employer. Council is required to conduct itself as a responsible employer.

Council has 281 council staff distributed across three main directorates with approximately 160 indoor and 110 outdoor staff. Council female staff comprise 38% of the workforce (30% in 2006). Council reports that it has no indigenous or disabled staff. Council has an ageing workforce with approximately 40% of staff aged between 45 and 54. Council will need to address its workforce diversity and age issues.

Council's directorates are led by three executive directors. The Director City Planning is responsible for all aspects of Council's development and land use functions. The Director Corporate & Community is responsible for financial services, records management, information technology and corporate governance. The Director Infrastructure and Services is responsible for all aspects of Council infrastructure and asset management systems. This current structure was re-adopted by Council on 11 March 2009.

The Human Resources Manager reports directly to the General Manager. The Human Resources Manager oversees 2 payroll officers, 2 human resources officers and 1 occupational health and safety officer. These 6 staff are responsible for all the human resources functions at Cessnock City Council including industrial relations, managing/overseeing recruitment and selection, occupational health and safety and payroll.

It was noted during the review that Council approved a further staff member for the Human Resources team to bring the numbers employed to 7 staff. This will improve the team's ability to service the needs of Council while developing a more cohesive human resources system.

6.2 SUMMARY OF PROGRESS TOWARDS ACHIEVING RECOMMENDATIONS

No.	Section 430 investigation recommendation	Status
6	That Council conduct regular reviews of the GM's performance. The Mayor and the GM's Employment Arrangements Committee must document the grounds upon which it assesses the GM's performance and agree upon appropriate strategies with the General Manager to further develop his leadership and management skills.	Completed
8	That the GM takes a more proactive role in the performance management of her Directors to improve the rigour and transparency of the process. The process should clearly document assessment of achievement as well as define specific areas and/or performance indicators to foster improvement in performance.	Completed - ongoing
9	That the Director of Infrastructure and Services as a matter of high priority work with the General Manager to determine and implement strategies to improve his relationship with outdoor employees including Union representatives. Those strategies should form part of the Director's performance agreement which is to be monitored closely by the General Manager.	Completed
13x	That the General Manager reviews relations between the Occupational Health and Safety Committee and management to ensure all concerns are investigated and acted upon appropriately and consistently.	Completed ongoing

No.	Promoting Better Practice 2006 recommendation	Status
21	Council should formalise its human resources plan and recruitment kit as soon as practicable.	Completed
22	Council should consider adopting a formal policy covering internal appeals available to applicants for positions who are not happy with post-interview feedback from a panel convenor.	Completed
23	Council should conduct another employee attitude survey within the next year and take action to implement the actions identified based on the survey's findings.	Completed
24	As the consultative committee's aim should be to provide for two-way communication between management and staff, council should nominate alternative management representation to replace the two councillors currently on the committee and should revise the constitution to comply with	Not completed

No.	<i>Promoting Better Practice 2006 recommendation</i>	Status
	clause 27 of the Local Government (State) Award 2004.	
25	Council should develop a formal succession plan for key personnel and positions in the next twelve months.	Completed ongoing

6.3 ASSESSMENT OF PROGRESS

6.3.1 *Senior Executive Performance Review Systems (s.430 Recommendations 6 & 8)*

Council has engaged Local Government Employment Solutions to provide advice and assistance regarding senior executive performance review systems. Council has formed a Performance Review Panel and has an external facilitator from Local Government Employment Solutions assisting with the evaluation of the General Manager’s performance. A copy of the recent review of the General Manger’s performance was provided and it provides clear guidance to the General Manager on those areas that may need improvement and those that are functioning well. The current system adopted by council is in accordance with Local Government General Manager Performance Guidelines August 2007.

The previous General Manager had adopted a similar appraisal system to his own for use with the Directors. This system allows for self appraisal prior to holding a review meeting. The documentation supports the generation of performance indicators and standards to guide the Directors. There is evidence of review and feedback documented in the Director’s performance monitoring sheets from March 2010. The General Manager conducts these reviews with a facilitator from Local Government Employment Solutions.

These recommendations are considered completed.

6.3.2 *Infrastructure Director and Outdoor Workers (s430 Recommendation 9)*

Council has employed a new Director of the Infrastructure and Services Department who has a different management style to the previous Director. The reviewers met with the current Director who stated that he is encouraging staff to use their delegated authority to take action on the tasks before them. He is actively meeting with outdoor staff to listen to their needs on the work site. He states that he is developing a more respectful and productive relationship with the outdoor workforce.

Staff relationship management is a key performance indicator in the Director's performance management plan. The Director has received praise from councillors and the General Manager regarding increased staff morale in his recent performance appraisal. Staff also reported a significant improvement in relations with the new Director.

This recommendation is considered completed.

6.3.3 Occupational Health and Safety (s430 Recommendation 13x)

The reviewers met with the Occupational Health and Safety (OH&S) Committee. It was apparent that the Committee members have undergone training on their OH&S roles and responsibilities. The OH&S Committee members have attended other councils to observe other OH&S system operations. The OH&S Committee Chair is now a regular invitee to the Senior Executive Team briefings and thus gains the opportunity to directly represent ongoing issues with the General Manager and the Directors.

The reviewers noted that Council's OH&S Committee members appeared unsure of their roles and responsibilities as committee members. It was particularly noted that the OH&S Committee members are confused about the committee process of reporting and actioning the matters that are reported to them. It was clear that the Committee Chair was unsure of the mechanisms to action matters and also unsure of how to follow up on matters raised. This should improve with further attendance at Senior Executive Team meetings.

Area requiring further development

Overall, there was a demonstrated understanding from both management and Committee representatives of the requirements of the Occupational Health and Safety Legislation. However, it was admitted that Council could act more expeditiously on the matters raised by the OH&S Committee. The reviewers also noted that Council has not yet included OH&S responsibility levels in the position descriptions for all staff.

Council reports high numbers of safety incidents, time lost as a result of injury and compensation claims by employees. The development and implementation of an

OH&S Management Plan combined with increased commitment to safety would reduce both the risks to staff at all levels and costs to Council. There is room for improvement and development in this regard.

Council should, as a high priority, implement a cohesive system of managing, reporting and actioning occupational health and safety concerns in a transparent and accountable way by developing and implementing an Occupational Health and Safety Management Plan.

Recommendation 26

Council, as a high priority, should develop and implement an OH&S Management Plan.

6.3.4 Human Resource Plan and Recruitment Kit (2006 PBP Recommendation 21)

Council's Human Resources Plan was adopted as a staff policy by Council's Senior Executive Team (SET) on 19 May 2010. Council's new Recruitment Kit formed the procedural part of the Recruitment and Selection Policy that was also adopted by SET on 19 May 2010. These policies are now formalised.

This recommendation is considered completed.

Area requiring further development

Council provided a copy of its Human Resources Plan. The Human Resources Plan is not a workforce strategy as required under the Integrated Planning and Reporting Framework. However, the document does outline the history of the 2006 Promoting Better Practice Review, the s430 investigation and report and an Internal Audit Bureau Report and their recommendations. There is a discussion of the role of the human resources team in these processes and an acknowledgement of the operating environment. The document includes a table matching 2009/10 Management Plan objectives to human resources team goals then linking those goals to specific human resources team strategies.

The Human Resources Plan indicates that a review of Human Resource Policy was scheduled for completion by December 2009. It was noted that this review has informed the specific human resources team strategies that were adopted in the Human Resources Plan on 19 May 2010. Many of these strategies are using such terms as “develop and implement” and “strengthen and improve”. The human resources team strategies reveal that Council comprehends the nature of the issues facing the human resources system and is taking action to improve performance.

Council is yet to develop a Workforce Strategy under the Integrated Planning and Reporting framework. The restructuring of the human resources team as a direct report to the General Manager will align the human resources team with the strategic direction of Council. This alignment will provide the strategic focus the human resources team will require to meet the demands of developing the Workforce Strategy required under the Integrated Planning and Reporting Framework.

Recommendation 27

Council, as a priority, should provide the resources to ensure the development of the Workforce Strategy.

6.3.5 Internal Appeals Policy (2006 PBP Recommendation 22)

Council has included an internal appeals framework in its recruitment policy setting out the process for appealing an employment decision. The process is clearly defined in the recruitment policy and cites the Local Government (State) Award 2007.

This recommendation is considered completed.

6.3.6 Employee Attitude Survey and Results (2006 PBP Recommendation 23)

Council conducted a staff survey on 16 June 2009 and a report to Council for its information was made on 20 October 2009. Major issues identified included communication, bullying, strategic input and supervision. Council has since undertaken diversity training, instituted suggestion boxes, ensured access to meeting minutes via electronic means and a new intranet site. The formation of the

Management Advisory team has allowed more direct involvement of middle management in the overall operations of the Council.

This recommendation is considered complete.

6.3.7 Consultative Committee (2006 PBP Recommendation 24)

The aim of the consultative committee is to provide a forum for consultation between Council and its employees. The functions of the consultative committee are about day to day management issues such as award implementation, training, job redesign, performance management systems and hours of work.

The reviewers found that Council's Consultative Committee considered recommendation 24 and resolved to maintain its current structure, which included councillors, as the committee believed that the structure best suits the needs of Cessnock. The Consultative Committee constitution was reviewed in June 2008 and adopted in July 2008.

This recommendation is considered not to be completed.

Area requiring further development

Council has established a consultative committee as required by the Local Government (State) Award 2007. While it is noted that clause 27 of the Local Government (State) Award 2007 does not specifically exclude councillors from the makeup of the consultative committee, it is the Division's firm view that Council should be represented on this committee by its General Manager or her nominee/s. It is still our view, given the nature of the functions of the Committee and its consideration of day to day operational issues, that it is inappropriate for councillors to be members of Consultative Committees.

6.3.8 Succession Planning (2006 PBP Recommendation 25)

Council has developed and implemented a Critical Position Identification Matrix listing those positions and position holders it deems critical to business continuity. The matrix has been used to prioritise identified positions for succession development. The matrix has identified 4 critical and 21 high risk positions. Action

plans are recorded against those critical positions. Council has also developed an Acting in Senior Staff Positions Policy as a developmental tool for Managers.

This recommendation is considered completed.

6.4 OTHER AREAS REQUIRING FURTHER DEVELOPMENT

This post investigation review also identified the following areas (not covered by section 430 recommendations) as requiring attention and/or improvement.

6.4.1 Equal Employment Opportunity

The reviewers examined Council's Equal Employment Opportunity Management Plan and noted that, while it currently sets some direction and makes some statements about what needs to be done, this document falls short of the requirements of a management plan. The document needs to be reconsidered based on an outcomes framework comprising key results areas, strategies and performance indicators with timelines and measurable goals.

Recommendation 28

Council should review and improve its Equal Employment Opportunity Management Plan.

COUNCIL'S RESPONSE

Council did not have any comment in relation to this section of the report

PART IV. RISK RATING OF RECOMMENDATIONS

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

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

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

PART V. 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. <i>The General Manager, in consultation with the Management Executive Team and the elected body, should continue working together to establish the new planning and reporting framework within Council.</i>	<i>High</i>	<i>Council has resolved to be a group 2 Council. The new planning and reporting framework is due to be finalised by 30 June 2011.</i>	30 June 2011	Director Corporate and Community	Council has a project plan in place to meet the timeframes adopted by Council. The Cessnock 2020 Community Strategic Plan was adopted by Council on October 6 2010.
2. <i>Council should develop a training and professional development program for all councillors.</i>	<i>High</i>	<i>A training and professional development program will be developed for all Councillors.</i>	31 March 2011	General Manager	The Training and Professional Development program will be developed within the timeframe.
3. <i>In instances where the elected body wish to have greater flexibility and not be restricted by the limits on the number and duration of speeches normally required by virtue of clause 250 of the Regulation, Council should resolve to move its meeting into “committee of the whole”.</i>	<i>High</i>	<i>Council will use committee of the whole where it deemed appropriate.</i>	Ongoing	General Manager	Council will use committee of the whole where it deemed appropriate.
4. <i>Council should establish an audit program to ensure that the delegations register remains accurate and that delegations are exercised appropriately.</i>	<i>High</i>	<i>Agreed – Council has established an audit program around delegations.</i>	Ongoing	Director Corporate and Community	Delegations are monitored on a weekly basis for accuracy and completeness.

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
5. Council should establish a governance/management framework such as the Australian Business Excellence Framework and monitor its ongoing implementation.	Medium	Council will implement a governance framework it may not be the Australian Business Excellence Framework however.	31 March 2011	General Manager	The Executive Team is currently reviewing frameworks to implement at Cessnock City Council. The Business Excellence Framework will be included in such considerations.
6. Council should complete its work toward introducing a comprehensive system to ensure that it complies with all its legislative obligations.	Medium	Council intends to introduce a system in the next 3 to 6 months.	31 March 2011	Director Corporate and Community	Scheduled to be finalised by the end of March 2011.
7.. Council should finalise and test its draft Business Continuity Plan to manage the impact of a potential disaster/critical incident on its operations.	Medium	Council has reviewed its current Business Continuity Plan.	30 June 2011	Director Corporate and Community	A new Business Continuity Plan is to be developed by 30 June 2011.
8. Council should implement the action plan to address the 22 recommendations of the Probity and Internal Audit Report on Council's procurement and disposal practices.	High	An action plan was adopted by Council at the 23 June 2010 Ordinary Council Meeting.	31 December 2010	Director Corporate and Community	At 31 October 2010 19 of the original 25 recommendations are fully completed and some action has been taken on a further 2 recommendations. It is expected that the outstanding recommendations (2, 4b, 9,10, 15 and 16) will be completed by 31 March 2011.
9. Council should finalise its internal audit plan.	High	Development of a three year strategic audit plan from 1 July 2010 to 30 June 2013.	30 September 2010	General Manager	Completed in August 2010.

RECOMMENDATION		PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
10.	<i>Council should implement all recommendations of the Information Health Check Report Action Plan 2008-2012 including the establishment of a more effective Electronic Document Management System.</i>	Medium	<i>Council has an ongoing Action Plan which was adopted in 2008. The Action Plan runs from 1 July 2008 to 30 June 2012.</i>	30 June 2012	Director Corporate and Community	There are currently two outstanding recommendations. Recommendation 5.2 - Council's Business Continuity Plan is expected to be completed by 30 June 2011. Recommendation 9.3.1 - the new EDMS project is not scheduled to be finalised until 30 June 2012.
11.	a) <i>Council is encouraged, if it hasn't already done so, to assess whether sufficient internal controls exist to ensure that its allocation of legal work to members of the legal panel is consistent with the principles of its purchasing policy.</i> b) <i>Council should develop a policy to guide the allocation of legal work. For example, work could be allocated by order in the list or by issue and relevant expertise.</i>	Medium Medium	<i>Council will put a process in place to assess this.</i> <i>Council will develop a policy in the next three months.</i>	31 December 2010 31 March 2011	General Manager General Manager	Process to be implemented by 31 December 2010. No action has been taken on this recommendation as yet.
12.	<i>The Senior Executive Team should develop and promote shared organisational values as part of establishing the Business Excellence Framework.</i>	High	<i>The Executive Team will look at developing and promoting shared organisational values in the next few months.</i>	31 March 2011	General Manager	No action has been taken on this recommendation as yet.
13.	<i>Council, in its review of the operation of its committees, should address the issues identified in this post section 430 investigation review and ensure compliance with the Local Government Act 1993.</i>	High	<i>A comprehensive review of all Council Committees is to be conducted in the next 6 months.</i>	30 June 2011	Director Corporate and Community	No action has been taken on this recommendation as yet.

RECOMMENDATION		PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
14.	<i>All councillors must ensure that they engage in appropriate interactions with Council employees as set out in Council's Code of Conduct.</i>	High	<i>Council will schedule additional training sessions on the Code of Conduct in the next 12 months.</i>	31 December 2011	General Manager	<i>Fraud and Governance Pty Ltd ran a session with Councillors on conflicts of interests in September 2010.</i>
15.	<i>Council should develop an organisation wide compliance and enforcement policy and procedure.</i>	High	<i>To be developed in the next 6 to 12 months.</i>	31 December 2011	Director City Planning	<i>No action has been taken on this recommendation as yet.</i>
16.	<i>Council should consider updating and expanding the facilities for the future needs of companion animal management in the local government area.</i>	Medium	<i>Council is currently looking at a range of options regarding the pound and animal management.</i>	30 June 2011	Director City Planning	<i>Options are currently being explored by Council.</i>
17.	<i>The specific environmental sectors of waste and noise should be headings in the next SoE report and addressed in accordance with the Division's Environmental Guidelines, State of the Environment Reporting by Local Government, Promoting Ecologically Sustainable Development publication.</i>	Medium	<i>State of the Environment Report will be finalised in accordance with the division's guidelines.</i>	30 November 2010	Director Infrastructure and Services	<i>State of the Environment Report is on target to be completed within the legislative timeframes.</i>
18.	<i>Council must ensure that it delivers integrated strategic planning documents to ensure effective guidance for planning matters and efficient planning decision making as a high priority.</i>	High	<i>To be assessed as part of the planning process review.</i>	30 June 2011	Director City Planning	<i>Council recently adopted its new Comprehensive Local Environmental Plan, Development Control Plan 2010 and City Wide Settlement Strategy 2010. The City Wide Settlement Strategy is consistent with the Lower Hunter Regional Strategy (DoP). Council maintains a policy review program in relation to the chapters of the Development Control Plan.</i>

RECOMMENDATION		PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
19.	<i>Council must commence and complete the planned independent review of its development assessment processes to ensure the timely determination of development applications as a high priority.</i>	<i>High</i>	<i>An independent review of Council's City Planning Department is about to be performed.</i>	31 December 2010	General Manager	<i>Two firms have been engaged to undertake the review of Council's business processes which commenced on 1 November 2010.</i>
20.	<i>Council should consider a more workable policy to enable it to engage in works on private land on at least a cost recovery basis.</i>	<i>Medium</i>	<i>A revised policy "Work for Outside Bodies and Persons" was adopted by Council at the 6 October 2010 Ordinary Council Meeting. The revised policy provides clearer guidelines to enable works to be carried out for private bodies and reporting such activities to Council. The revised policy enables greater flexibility in carrying out small projects for the community whilst maintaining tighter controls over larger projects that have greater financial risk.</i>	31 October 2010	Director Infrastructure and Services	Completed.
21.	<i>Council should work toward creating operating surpluses as part of a longer term financial plan within the Integrated Planning and Reporting Framework.</i>	<i>High</i>	<i>Council intends to work towards creating more operating surpluses.</i>	30 June 2012	Director Corporate and Community	<i>A long term financial management strategy is being developed as required for the Integrated Planning and Reporting Framework timeframe.</i>

RECOMMENDATION	PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
22. Council develop and implement a strategic asset management plan including funding sources as part of its Integrated Planning and Reporting Framework.	High	Council intends to implement a strategic asset management plan and fund it as part of the integrated planning and reporting framework.	30 November 2010	Director Infrastructure and Services	The development of Asset Management Strategies is underway in accordance with the timeframe for completing the Integrated Planning and Reporting Framework.
23. Council should compile and implement management plans for all community land under its control.	High	Council has identified 32 land assets that require the development of a comprehensive plan of management (POM). Council's current timeline (as detailed in Goal 1.8.1 of the current Management Plan) is to develop 6 of these POM's annually and funding and services have been provided to meet this objective.	30 June 2013	Director Infrastructure and Services	At 30 September 2010 Council adopted 14 POM's. A further 2 are on public exhibition and subject to the outcome of consultation and will be reported to Council by the end of November 2010.
24. Council should ensure that the issues and strategies contained in the Cessnock City Council Social and Cultural Plan 2009 -2014 are integrated with the Community Strategic Plan to be delivered and monitored as part of the new planning and reporting framework	Medium	Council intends to integrate the strategies currently in the Social and Cultural Plan into the 2020 Community Strategic Plan.	31 March 2011	Director Corporate and Community	All strategic plans will be integrated into a strategic framework in the ensuing months.
25. Council should continue its efforts toward achieving ongoing constructive dialogue and engagement between the indigenous community, Council and the broader communities of the Cessnock local government area.	Medium	Council will continue in its endeavours to achieve constructive dialogue and engagement with the indigenous community.	30 June 2011	Director Corporate and Community	No action has been taken on this recommendation as yet.

RECOMMENDATION		PRIORITY	ACTION PROPOSED	TIME FRAME	RESPONSIBILITY	PROGRESS REPORT
26.	<i>Council, as a high priority, should develop and implement an OH&S Management Plan.</i>	<i>High</i>	<i>Council will be developing and implementing an OH&S Management Plan.</i>	31 March 2011	General Manager	<i>No action has been taken on this recommendation as yet.</i>
27.	<i>Council, as a priority, should provide the resources to ensure the development of the Workforce Strategy.</i>	<i>High</i>	<i>An additional resource in the Human Resource section is to be recruited in the next two months.</i>	31 December 2010	General Manager	<i>A team has been setup to drive the Workforce Strategy at Council.</i>
28.	<i>Council should review and improve its Equal Employment Opportunity Management Plan.</i>	<i>Medium</i>	<i>Council will review and improve its EEO Management Plan.</i>	30 June 2011	General Manager	<i>No action has been taken on this recommendation as yet.</i>

APPENDIX A RECOMMENDATIONS – SECTION 430 INVESTIGATION REPORT 2009

No	Recommendation
1.	That Cessnock City Council be given twelve (12) months from the date Council provides its response to this report, as required by section 434 of the Local Government Act, 1993 to take appropriate steps to do such things arising from the recommendations contained in this report.
2.	That Council review its strategic plan in consultation with the newly elected Councillors, Council employees and the Community to ensure that it continues to be relevant to the Community as a whole.
3.	In accordance with section 333 of the Local Government Act 1993, re-determine its organisation structure.
4.	<p>That Council aligns the manner in which it conducts its meetings with the provisions prescribed under the Local Government Act, 1993 and the Local Government (General) Regulation 2005, in particular that :</p> <ul style="list-style-type: none"> i Council review its current meeting and committee structure and implement ways to make its meetings more efficient and effective such as holding one integrated Ordinary Council Meeting (including officer's reports). ii Council reviews its Code of Meeting Practice to ensure that it incorporates the required regulatory changes introduced by the Local Government Act 1993 and the Local Government (General) Regulation 2005. iii Council provide training on the Revised Code of Meeting Practice. All Councillors should abide by this Code and also strive to keep abreast of any subsequent regulatory changes. iv Council consider formally acknowledging the traditional owners of the land at the beginning of its meetings. v Council consider reviewing the wording of its opening prayer in line with other NSW Councils to embrace broader denominations and beliefs. vi Council implement a clear and transparent process to allow Councillors and Council officials to declare pecuniary and non pecuniary conflicts. vii Council consider adopting the practice of including an item on the agenda titled "Matters Determined without Further Debate" to assist in the smoother operations of Council Meetings. viii Council, when it has determined that a matter should be dealt with in closed session, comply with section 10 of the Local Government Act, 1993 and the Local Government (General) Regulation 2005. ix Council consider amending its adopted Code of Conduct to prohibit binding caucus votes in relation to development applications or other matters where there are specific statutory issues for each Councillor to consider. x Councillors abide by the provisions relating to Giving Notice of Business in its Code of Meeting Practice and use more efficient means of gaining

No	Recommendation
	<p>answers about operational matters such as the customer complaints system.</p> <p>xi. Council consider, where appropriate, the option of moving into Committee of the Whole under section 259 of the Local Government (General) Regulation, 2005.</p> <p>xii. Council review its policy “Requests for Verbal Submissions to Council” to incorporate the improvements suggested in this report.</p>
5.	That the newly elected Council review all of its delegations during the first twelve (12) months of its office in accordance with section 380 of the Local Government Act, 1993.
6.	That Council conduct regular reviews of the GM's performance. The Mayor and the GM's Employment Arrangements Committee must document the grounds upon which it assesses the GM's performance agree upon appropriate strategies with the General Manager to further develop his leadership and management skills.
7.	That the GM rebuilds a strong senior management team who can demonstrate leadership in achieving the critical changes recommended as a result of this investigation. Appropriate management frameworks such as the Australian Business Excellence Framework to enhance Council's leadership and organisational capacity should be explored.
8.	That the GM takes a more proactive role in the performance management of his Directors to improve the rigour and transparency of the process. The process should clearly document assessment of achievement as well as define specific areas and/or performance indicators to foster improvement in performance.
9.	That the Director of Infrastructure and Services as a matter of high priority work with the General Manager to determine and implement strategies to improve his relationship with outdoor employees including Union representatives. Those strategies should form part of the Director's performance agreement which is to be monitored closely by the General Manager.
10.	That Council prepare a policy and guidelines for approving and managing private works to be undertaken by the Council to ensure that its exposure to risk is minimised and that projects are well managed. Regular progress reports relating to significant private works should be submitted to Council.
11.	That Council implement all 25 recommendations of the Cessnock City Council Review Report 2006 – Local Government Reform Program Promoting Better Practice in accordance with the action plan it adopted in July 2008.
12.	Given recent staff conduct and management issues, that Council ensure that the Promoting Better Practice Review recommendations 21, 22, 23, 24 and 25 relating to workforce relations and human resource improvements be implemented as a matter of priority. The General Manager should monitor and

No	Recommendation
	drive ongoing progress in this area.
13.	<p>That Council extend and resubmit its Promoting Better Practice Review Action Plan to address the following necessary improvements as identified in this report and summarised as follows :</p> <ol style="list-style-type: none"> i. That Council provide information and training to all councillors and employees about their obligations in relation to: <ul style="list-style-type: none"> • Council’s electronic document management system and the State Records Act 1998. • Council’s adopted Code of Conduct. ii. That Council review its Councillors – Access to Staff and Information Policy (to align with recently revised Model Code); it’s Handling of Conflict of Interests Policy; and develop a Confidential Information Policy as recommended by IAB Services. iii. That Council review its system for recording delegations to address the issues raised in this report and ensure that its electronic and hard copy version of its delegation register are consistent and current. This should be complemented with an audit program to ensure delegations remain accurate and are exercised appropriately. iv. That Council develop a consistent standard for the disclosure of gifts or personal benefits and maintain a more centralised online register which gathers consistent and sufficient information to ensure maximum transparency and accountability. That the GM delegate responsibility for the oversight, maintenance and monitoring of the gifts register to Council’s Public Officer. v. That Council ensure that its Fraud and Corruption Risk Assessment and Management Action Plan be amended to address any additional internal controls referred to in this report and submit a progress report to the Department of Local Government by 31 March 2009. vi. That Council implement its Information Technology Strategy and monitor the ongoing progress against the action plan adopted at its meeting of 16 July 2008. vii. That Council’s planned review of its procurement and disposal practices (particularly in the area of fraud and corruption) to align with the provisions of the Local Government Act, 1993 and the Local Government (General) Regulation 2005 also consider its Goods Disposal Policy and its E-procurement system. The review should also include an independent representative from another branch within Council on its tender assessment panel and the use a tender checklist. viii. That Council tender for its legal services and establish a legal panel. ix. That Council finalise and issue its Leaseback Vehicle Manual and Leaseback Vehicle Agreement and implement effective controls to ensure that replacement occurs according to the manual. x. That the General Manager reviews relations between the Occupational Health and Safety Committee and management to ensure all concerns are investigated and acted upon appropriately and consistently.

No	Recommendation
14.	To continue improvement of the operation of the Ranger unit, Council should implement all recommendations of its three (3) action plans that respond to the issues identified in the Promoting Better Practice Review, the WorkCover improvement Notice 7 – 110028 and the Price Waterhouse Coopers agreed upon Procedures Report.
15.	That the Director General of the Department of Local Government consider the issue of a circular to all Council's providing them with information about resources such as the Enforcement Guidelines issued by the NSW Ombudsman to help them act promptly, consistently and effectively in response to allegations of unlawful activity.
16.	That the Department conduct a post investigation review to be undertaken 12 months from the date Council provides its response to this report, as required by section 434 of the Local Government Act, 1993. The review should seek to confirm the implementation of the recommendations of this investigation and review their impact on improving Council's capacity, its continued capacity to meet its responsibilities under the Local Government Act, 1993.

APPENDIX A RECOMMENDATIONS – SECTION 430 INVESTIGATION REPORT 2009

No	Recommendation
17.	That Cessnock City Council be given twelve (12) months from the date Council provides its response to this report, as required by section 434 of the Local Government Act, 1993 to take appropriate steps to do such things arising from the recommendations contained in this report.
18.	That Council review its strategic plan in consultation with the newly elected Councillors, Council employees and the Community to ensure that it continues to be relevant to the Community as a whole.
19.	In accordance with section 333 of the Local Government Act 1993, re-determine its organisation structure.
20.	<p>That Council aligns the manner in which it conducts its meetings with the provisions prescribed under the Local Government Act, 1993 and the Local Government (General) Regulation 2005, in particular that :</p> <ul style="list-style-type: none"> i Council review its current meeting and committee structure and implement ways to make its meetings more efficient and effective such as holding one integrated Ordinary Council Meeting (including officer's reports). ii Council reviews its Code of Meeting Practice to ensure that it incorporates the required regulatory changes introduced by the Local Government Act 1993 and the Local Government (General) Regulation 2005. iii Council provide training on the Revised Code of Meeting Practice. All Councillors should abide by this Code and also strive to keep abreast of any subsequent regulatory changes. iv Council consider formally acknowledging the traditional owners of the land at the beginning of its meetings. v Council consider reviewing the wording of its opening prayer in line with other NSW Councils to embrace broader denominations and beliefs. vi Council implement a clear and transparent process to allow Councillors and Council officials to declare pecuniary and non pecuniary conflicts. vii Council consider adopting the practice of including an item on the agenda titled "Matters Determined without Further Debate" to assist in the smoother operations of Council Meetings. viii Council, when it has determined that a matter should be dealt with in closed session, comply with section 10 of the Local Government Act, 1993 and the Local Government (General) Regulation 2005. ix Council consider amending its adopted Code of Conduct to prohibit binding caucus votes in relation to development applications or other matters where there are specific statutory issues for each Councillor to consider. x Councillors abide by the provisions relating to Giving Notice of Business in its Code of Meeting Practice and use more efficient means of gaining

No	Recommendation
	<p>answers about operational matters such as the customer complaints system.</p> <p>xi. Council consider, where appropriate, the option of moving into Committee of the Whole under section 259 of the Local Government (General) Regulation, 2005.</p> <p>xii. Council review its policy “Requests for Verbal Submissions to Council” to incorporate the improvements suggested in this report.</p>
21.	That the newly elected Council review all of its delegations during the first twelve (12) months of its office in accordance with section 380 of the Local Government Act, 1993.
22.	That Council conduct regular reviews of the GM’s performance. The Mayor and the GM’s Employment Arrangements Committee must document the grounds upon which it assesses the GM’s performance agree upon appropriate strategies with the General Manager to further develop his leadership and management skills.
23.	That the GM rebuilds a strong senior management team who can demonstrate leadership in achieving the critical changes recommended as a result of this investigation. Appropriate management frameworks such as the Australian Business Excellence Framework to enhance Council’s leadership and organisational capacity should be explored.
24.	That the GM takes a more proactive role in the performance management of his Directors to improve the rigour and transparency of the process. The process should clearly document assessment of achievement as well as define specific areas and/or performance indicators to foster improvement in performance.
25.	That the Director of Infrastructure and Services as a matter of high priority work with the General Manager to determine and implement strategies to improve his relationship with outdoor employees including Union representatives. Those strategies should form part of the Director’s performance agreement which is to be monitored closely by the General Manager.
26.	That Council prepare a policy and guidelines for approving and managing private works to be undertaken by the Council to ensure that its exposure to risk is minimised and that projects are well managed. Regular progress reports relating to significant private works should be submitted to Council.
27.	That Council implement all 25 recommendations of the Cessnock City Council Review Report 2006 – Local Government Reform Program Promoting Better Practice in accordance with the action plan it adopted in July 2008.
28.	Given recent staff conduct and management issues, that Council ensure that the Promoting Better Practice Review recommendations 21, 22, 23, 24 and 25 relating to workforce relations and human resource improvements be implemented as a matter of priority. The General Manager should monitor and

No	Recommendation
	drive ongoing progress in this area.
29.	<p>That Council extend and resubmit its Promoting Better Practice Review Action Plan to address the following necessary improvements as identified in this report and summarised as follows :</p> <ol style="list-style-type: none"> i. That Council provide information and training to all councillors and employees about their obligations in relation to: <ul style="list-style-type: none"> • Council’s electronic document management system and the State Records Act 1998. • Council’s adopted Code of Conduct. ii. That Council review its Councillors – Access to Staff and Information Policy (to align with recently revised Model Code); it’s Handling of Conflict of Interests Policy; and develop a Confidential Information Policy as recommended by IAB Services. iii. That Council review its system for recording delegations to address the issues raised in this report and ensure that its electronic and hard copy version of its delegation register are consistent and current. This should be complemented with an audit program to ensure delegations remain accurate and are exercised appropriately. iv. That Council develop a consistent standard for the disclosure of gifts or personal benefits and maintain a more centralised online register which gathers consistent and sufficient information to ensure maximum transparency and accountability. That the GM delegate responsibility for the oversight, maintenance and monitoring of the gifts register to Council’s Public Officer. vii. That Council ensure that its Fraud and Corruption Risk Assessment and Management Action Plan be amended to address any additional internal controls referred to in this report and submit a progress report to the Department of Local Government by 31 March 2009. viii. That Council implement its Information Technology Strategy and monitor the ongoing progress against the action plan adopted at its meeting of 16 July 2008. vii. That Council’s planned review of its procurement and disposal practices (particularly in the area of fraud and corruption) to align with the provisions of the Local Government Act, 1993 and the Local Government (General) Regulation 2005 also consider its Goods Disposal Policy and its E-procurement system. The review should also include an independent representative from another branch within Council on its tender assessment panel and the use a tender checklist. viii. That Council tender for its legal services and establish a legal panel. ix. That Council finalise and issue its Leaseback Vehicle Manual and Leaseback Vehicle Agreement and implement effective controls to ensure that replacement occurs according to the manual. x. That the General Manager reviews relations between the Occupational Health and Safety Committee and management to ensure all concerns are investigated and acted upon appropriately and consistently.

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30.	To continue improvement of the operation of the Ranger unit, Council should implement all recommendations of its three (3) action plans that respond to the issues identified in the Promoting Better Practice Review, the WorkCover improvement Notice 7 – 110028 and the Price Waterhouse Coopers agreed upon Procedures Report.
31.	That the Director General of the Department of Local Government consider the issue of a circular to all Council's providing them with information about resources such as the Enforcement Guidelines issued by the NSW Ombudsman to help them act promptly, consistently and effectively in response to allegations of unlawful activity.
32.	That the Department conduct a post investigation review to be undertaken 12 months from the date Council provides its response to this report, as required by section 434 of the Local Government Act, 1993. The review should seek to confirm the implementation of the recommendations of this investigation and review their impact on improving Council's capacity, its continued capacity to meet its responsibilities under the Local Government Act, 1993.

APPENDIX B RECOMMENDATIONS – 2006 PROMOTING BETTER PRACTICE REPORT

No	Recommendation
1.	Council's statement of business ethics and code of conduct should be made more prominent on council's website, and council should examine how to better organise its "Codes Policies and Procedures" to make them more accessible and user friendly.
2.	Council should include the requirements of the Protected Disclosures Act 1994 and internal reporting procedures in on-going training programs for staff and councillors.
3.	Council should establish a Risk Management Committee to draft a Risk Management strategy and then develop a council-wide structured and integrated plan to cover all risks – financial, operational, customer service oriented, safety, security, environment, technical, commercial business activities (lawn cemeteries, swimming pools and residential land development) et al.
4.	Council should develop a fraud policy and carry out fraud and corruption prevention risk assessments on a regular basis.
5.	Council should develop a system for the internal reporting of legislative non-compliance or prosecutions against council.
6.	Council should finalise its plan to manage the impact of a disaster/critical incident on its operations and test it, as soon as practicable.
7.	Council should conduct a risk analysis of its procurement and disposal practices to ensure controls are adequate.
8.	Council should develop an internal audit plan based on a risk assessment to cover all council-wide risks and seek to add value to council.
9.	To ensure that any internal audit program is cost effective, council should consider any opportunity to share resources with other Hunter regional councils, including forming a Regional Audit Committee.
10.	To ensure that councillors properly carry out their duties and allow them to be effective members of council's elected body, council should provide them with induction training to cover the following: <ul style="list-style-type: none"> • the legal and political context of local government (including a familiarisation with the relationships between the three tiers of government) • governance and conflict of interest issues, including case studies

No	Recommendation
	<ul style="list-style-type: none"> • meeting practice • the ethical responsibilities of an elected member, including maintaining confidentiality outside of council, and • teamwork skills (including conflict resolution).
11.	Council should investigate the costs and benefits of establishing an Independent Hearing and Assessment Panel (IHAP) to consider development applications of a significant or contentious nature (including matters where council is the applicant).
12.	Council should formalise its swimming pool program to ensure compliance with the Swimming Pools Act 1992, as soon as practicable.
13.	The local companion animals management plan should be completed and implemented as soon as practicable.
14.	Council should ensure it reports all dog attacks to the department as required (refer to departmental circular 04/26).
15.	The issues noted in the current State of Environment report regarding Hexham Swamp, drinking water, noise and waste and progress with identified gaps should be addressed by council and progress reported on in the next report.
16.	Council should implement strategies to improve its low unrestricted current ratio (UCR) as a matter of priority.
17.	Council should review as a priority, the discrepancy in valuations between the assessment of the estimated costs to bring assets to satisfactory condition of \$8.1 million in the financial accounts and the \$40.1M for the same items in Special Schedule No. 7 in the Annual Report 2004-2005.
18.	Council should adopt a formal information technology strategy to meet the business needs, standards and strategic directions of council.
19.	The social and community plan should include a contents page, an executive summary and an outline of the methodology used in its development.
20.	Council should continue to try and formalise an agreement or memorandum of understanding (MoU) with the local Aboriginal community.
21.	Council should formalise its human resources plan and recruitment kit, as soon as practicable.
22.	Council should consider adopting a formal policy covering internal appeals available to applicants for positions who are not happy with post-interview

No	Recommendation
	feedback from a Panel Convenor.
23.	Council should conduct another employee attitude survey within the next year and take action to implement the actions identified based on the survey's findings.
24.	As the Consultative Committee's aim should be to provide for two-way communication between management and staff, council should nominate alternative management representation to replace the two councillors currently on the Committee and should revise the constitution to comply with clause 27 of the Local Government (State) Award 2004.
25.	Council should develop a formal succession plan for key personnel and positions in the next twelve months.